

Zoning By-Law Review Committee
June 6, 2013
Minutes

Present: Patrick Doherty, Ted King, Shirley Smith and Ellen Gould, Chair Agricultural Commission

The meeting was called to order at 7:03 PM. The committee reviewed the minutes from April 2, 2013. Patrick made a motion to accept the minutes as written. Ted seconded the motion. All were in favor and the motion passed.

Housekeeping Amendments

It was suggested at the May 6th public hearing that an explanation of the amendments would help voters to better understand them. Shirley had written out a detailed explanation for why the housekeeping amendments were necessary. She explained that state law does not allow article and/or section numbers to be changed without a town vote. The committee agreed that leaving copies on the table at Town Meeting would be helpful. Patrick pointed out mistakes in the Table of Contents. These do not need a vote and Shirley said she will call Gail's attention to them.

Zoning By-Law Amendments

It was the same situation with the Zoning By-Law amendments that were being proposed. More explanation is necessary. The committee reviewed the amendments one by one:

I. Delete Section 1.02 (a) in its entirety and replace it with the following definition.

This was the definition of accessory use or structure. Although much time was spent on this at the hearing, the committee decided that the hearing attendees did finally understand that the reason for the new definition was to provide additional detail and clarity should any legal questions arise. This amendment was left as is.

II. Delete existing Section 1.02 (g) in its entirety. This was the definition for farm. Since the word "farm" was nowhere to be found in the By-Laws, was archaic, and was in conflict with state law, the committee had decided to delete it. However, at the hearing, this was seen as being anti-farm. After some discussion and valuable input from Ellen, the committee decided to simply replace the definition for farm with the definition for agriculture and cite M.G.L. Chapter 128, Section 1A. Shirley passed around copies of that law and everyone approved of the state definition.

III. Delete Section 1.02 (o) in its entirety. The deletion of the existing definition for piggeries:" The keeping of any number of pigs which are fed collected garbage," had sparked another drawn out controversy at the hearing. Again, this was a definition that predated state law. Ellen related how the law was passed 45 or 50 years ago to deal with a situation that no longer exists. She said state law did not define the kind of garbage fed to pigs and Shirley said that nowhere in state law did it define piggeries by what they are fed. Shirley had concerns that it could be interpreted to prevent a resident from having a back yard pig. After some debate, the committee agreed with Ellen that the definition should be deleted and replaced with a reference to M.G.L. Chapter 128, Section 1A. It was also decided to delete the prohibition against

piggeries. State law allows commercial piggeries and Section 3.01 allows domestic livestock for personal use. Ellen said that the Agricultural Commission was working with the Board of Health and that they were enacting strict and comprehensive animal control rules. Shirley added that, from what she heard at a BOH meeting the night before, this was very true. She also related that she was impressed by the young man they were interviewing for the position of animal inspector.

- IV. Add Section 1.02 (p) Power Plant.** It appeared at the hearing that people wanted the exclusion of wind energy turbines added to the prohibitions rather than included in the definitions. After some discussion, the committee decided to have the definition read, “A building or buildings housing machinery, dynamos, and associated equipment necessary for the commercial generation of electrical power.”

In relation to this, under Prohibitions, it would say: Power Plants, except for wind energy turbines and Large Scale Ground Mounted Solar Photovoltaic Facilities (See Section 1.02, Definitions). The committee agreed that this was the best way to handle this particular item.

- V. Delete Sections 1.05 (c) and (d) in its entirety.** The first paragraph in (c) pertains to accessory uses in connection with scientific research. This is now item #69 in the Table of Uses. There was some discussion as to whether the deletion of (c) should include all of the three other parts. Shirley thought this needed a closer look. Section 1.05 (d) was about non-conforming structures and this had been moved to 3.01 (d) (iii).

- VI. Delete Sections 1.06 (f) (g) and (e) in their entirety.** The first two sections were moved to the Table of Uses so had to be deleted from their original locations to avoid repetition and confusion. 1.06 (e) is a statement that there is no intent in the by-law to discourage, deter or hinder commercial enterprises in Mendon. This could result in legal complications so should be deleted.

- VII. Section 2.04, Non-Conforming Uses. Delete Section 2.04 in its entirety.**

The information in the existing bylaw was lacking in detail and scope. This has been corrected and moved to 3.01 (d) in the proposed bylaw.

- VIII. Section 2.05, Prohibited Uses**

Delete Section 2.05 in its entirety. This section has been moved to 3.01 (b) in the proposed bylaw.

Everyone was in agreement on these last three amendments.

Section 3.01 Uses of Land and Structures

The hearing had only gotten through the first page of Section 3.01. Patrick's notes indicated that it had been brought up at the hearing that the word “maintained” was inappropriately included in 3.01 (a) and should be deleted. Also in 3.01 (b) the words “Without limitation” should be

replaced with "In addition." The changes in Piggeries and Power Plants have been covered above.

(a) General Regulations Applicable to All Allowed Uses:

- (iv) No land or structure shall be used in a manner that is detrimental or offensive, or creates a nuisance by reason of noise, dirt, odor, fumes, waste, sewage, refuse, smoke, gas, chemical contamination, excessive vibration or danger of fire or explosion, except to the extent allowed by Town of Mendon, Massachusetts By-Law, Chapter XXIX, Section 3, Right to Farm By-Law.

This had also been the subject of controversy between Liana and the Agricultural Commission. Liana had advocated for replacing the reference to the Right to Farm By-Law with M.G.L. 111, Section 125A. Evidently the problem was a lack of understanding but after Patrick presented a lengthy explanation of the intent, Ellen was in agreement with the replacement. She would discuss the matter with Liana and Shirley thought the committee would be fine with whatever they agreed upon.

Item # 6, Table of Uses and Notes to Section 3.01

Jack Grenga of the Mendon Board of Health had approached both Ellen and Shirley with a request to add the word "pigs" to the list of several domestic livestock. Ellen and the committee decided that the best option was to eliminate all specific references to individual categories of livestock. Also, in regard to the notes for items 11-17 on Agricultural Uses, Jack wanted to change the distances between manure storage and abutting lot lines and to include distances from existing dwellings. Since each parcel can be different, it was decided that the entire paragraph (1) should be deleted. This would leave paragraph (2) which stated that the use of the property shall conform to all regulations of the Mendon Board of Health and State Health Authorities.

Item # 10 Portable Storage Containers

Since Jack's business required him to keep a permanent storage container on his property, he had requested that the committee change the language in the notes to allow more flexibility. Patrick pointed out that Jack's container would be allowed as it was an existing use. Shirley offered that the note could require a permanent container to be screened from view by shrubbery and fencing. The question of the size of the container was debated. The committee finally agreed that the proposed changes to this particular item were not workable and that the wording should be left as is.

The committee thanked Ellen Gould for her assistance which was very helpful.

Patrick made a motion to adjourn the meeting. Ted seconded the motion, all were in favor, and the meeting was adjourned at 8:45 PM.

Respectfully submitted,
Shirley Smith

