

City of Keene
New Hampshire

AD HOC LAND USE CODE STEERING COMMITTEE
MEETING MINUTES

Friday, June 7, 2019

4:00 PM

2nd Floor Conference Room,
City Hall

Members Present:

Mayor Kendall Lane, Chair
Councilor David Richards
Councilor George Hansel
Jim Phippard
Douglas Barrett
Katie Cassidy Sutherland
Gary Spykman

Staff Present:

Medard Kopczynski, Economic Development
Director
John Rogers, Health & Code Official/Zoning
Administrator
Rhett Lamb, Community Development
Director/Assistant City Manager
Tara Kessler, Senior Planner

Members Not Present:

Councilor Maggie Rice

1) Call to Order

Mayor Lane called the meeting to order at 4:02 PM.

2) Minutes of May 17, 2019

Councilor Hansel moved to approve the minutes of May 17, 2019, which Councilor Richards seconded and the Ad Hoc Land Use Code Steering Committee carried unanimously.

3) Review Draft Land Development Code Chapters

Mayor Lane noted there were two chapters to review at this meeting. Mr. Kopczynski said staff has attempted to provide highlights to help the Committee understand the layers of changes, most of which are reorganizational but some changes are substantive. The intention was to highlight high-level changes, then get into more complexities on the change form, and then work on in the document itself.

a. Draft Parking Regulations

Ms. Kessler agreed with Mr. Kopczynski and provided a high-level overview of changes to the parking chapter, which she said is unique because it will be the first time there is a designated parking chapter in the Zoning Ordinance. Staff merged parking standards from eight different places into this one chapter. Staff updated and modernized the parking requirements to meet the City of Keene's needs today; the last parking review in the 1960s. She noted increased flexibility for minimum parking requirements. Ms. Kessler said a large portion of this draft chapter is to provide the Zoning Administrator more authority to make decisions around parking requirements. Staff also tried to enhance readability and distinguished single-family driveways from commercial parking requirements. This way, if an applicant is only concerned with driveways, they will not have to sift through the whole text of a Land Development Code. Ms. Kessler

continued explaining that staff tried to consolidate the landscaping requirements into one place. Staff thinks these outlined changes are in-line with the project goal: to make the regulations more user friendly, easy to navigate, modernized, simplified, and more thoughtful, recognizing that not all sites and uses are the same. Ms. Kessler noted there are some remaining questions for this chapter. A significant item yet to be addressed is where the exemption for no onsite parking should be in the downtown and how far it should be either expanded or be reduced with the new downtown Form Based Zoning. Finally, Ms. Kessler said the summary form notes changes that staff are still working on.

Mayor Lane said parking drives development to some degree. In many ways, development follows how much parking is available to avoid needing a Variance. The Mayor echoed the importance of flexibility in determining parking. He said one significant change is the offsite parking increase from 300' to 750', which should ease some stress. In theory, he said despite no onsite parking requirements downtown, developers must now demonstrate there is available parking within 750', which creates more flexibility. The Mayor said he was not comfortable with the description of deficit parking, which Ms. Kessler agreed is confusing and said staff is still working to better communicate this concept. Ms. Kessler said this Committee could decide the topic of deficit parking is too complicated and should be stricken, or could direct staff to continue working to simplify it. Mr. Lamb said this is about change of use and taking advantage of existing parking as much as possible. Before getting into the details of this topic, Mr. Lamb suggested focusing on high-level questions first.

Ms. Sutherland referred to the parking space size requirement (8'x18') and asked if the dimensions could be smaller for compact cars; she has had more clients asking about compact parking spaces. She also said the Committee should be consider provisions for electric cars, e.g. available charging stations, and if there will be incentives. Ms. Kessler referred to page 20 of the meeting packet and confirmed the 8'x18' current requirement, unless the parking space is serving a retail establishment, which is 9'x18'. Ms. Sutherland thought compact cars are smaller than 8'x18'. Mr. Phippard said many cities have 8'x16' spaces for compact cars. Ms. Kessler will research dimensions and the possibility of designating smaller compact parking spaces. Regarding electric cars, Ms. Kessler said the only current incentive built into the regulations is to allow an electric charging station as a parking space. She referenced the electric charging stations in the Commercial Street parking lot off Gilbo Avenue. She said it could be determined that they cannot count toward the minimum because they are designed for charging and not the parking use they are associated with. The new requirements would allow charging stations to count toward that minimum. Car sharing services like Zip Car take up a full space in the lot and this draft proposes counting that toward the minimum as well. Mr. Phippard asked if fueling stations count and Mr. Lamb said these are specific questions that would be based on the Zoning Administrator's interpretation, who will now have more flexibility. Mr. Lamb said it is rare today to find a fueling station without an accompanying convenience store. Thus, a fuel pump does effectively act as a parking space in most cases now.

The Committee continued addressing questions about the parking chapter.

Mr. Phippard referred to page 17 of the meeting packet for Minimum Off-Street Parking Requirements (Table 1) and cited that offices must have four parking spaces per 1,000 sf gross floor area (GFA). He asked if this requirement means an office must start with a minimum of four spaces. Ms. Kessler said this is a ratio of one space per every 250 sf. Mr. Phippard and Mr. Spykman agreed that stating the requirement, as a ratio would be clearer; staff will work to revise.

Mr. Phippard referred again to Table 1 on page 17, specifically the self-storage minimum space requirement. He has worked on four self-storage projects this year and most are single-story and people park in front of the unit to load or unload. He asked if the area in front of a self-storage unit counts a parking space or if there needs to be a separate lined space away from the unit. Mr. Lamb said that is the sort of question for which staff needs guidance from this Committee. He pointed out that just this spring, staff approved two multi-story self-storage units and Mr. Phippard agreed those situations should require striped parking. Ms. Kessler thought the requirement proposed for storage was low to account for how these spaces are typically used.

Mayor Lane asked, if someone came to staff and argued that a storage facility is only a single floor and the office is offsite, could the Zoning Administrator waive the minimum requirements. Ms. Kessler said the draft presented does not allow the Zoning Administrator to waive the minimum requirements completely. In this proposal, the Zoning Administrator would have authority to grant up to a 10% reduction of minimum requirements and the ZBA can grant 10% - 50% reductions. Beyond 50%, an applicant would need a Variance. In the current draft there is no complete waiver for onsite parking requirements.

Mr. Barrett suggested photos in the draft to differentiate between the two types of storage units. Instead of saying single-story or two-story, the draft could specify storage units with individual outdoor access. Mr. Rogers said both scenarios have come to staff in the past: storage units with inside access that require specific parking spaces and others with outdoor access for which the areas in front of the units count as spaces toward the minimum requirement.

Mr. Phippard continued with Table 1 on page 17 of the meeting packet. Industrial uses would require 0.5 spaces per every 1,000 sf. He said any projects he has worked on based parking on the number of employees, which typically far exceeds this calculation; he thinks industrial use parking is almost exclusively controlled by the number of employees. Councilor Hansel agreed and said his business has more than 200 parking spaces and he leases many because he does not have that many employees. These examples demonstrated how some uses need more or less parking spaces based on the number of employees. Mr. Lamb said these requirements are just minimums and if a developer needs more spaces than this calculation accounts for, as Mr. Phippard described, they can build more. Mr. Kopczynski said staff is trying to balance today's parking needs with the future by giving more leeway to the Zoning Administrator.

Mr. Spykman posed the situation if a manufacturer or other business moves in now with few employees and later an owner moves in with many more employees, but there is no land remaining on the lot to increase parking. He suggested current owners could create the number of spaces they need and preserve land to support more later; Ms. Kessler said it is written in the draft for the Zoning Administrator to grant that relief of 10% and one consideration is setting land aside for parking in the future. Mr. Rogers referred to page 18 of the meeting packet, the subsection on Reduction of Required On-Site Parking, which discusses reserve area for future parking needs. Mr. Phippard was pleased with these requirements so developers do not have to build more parking than the current owner needs, which he has had to do in the past.

Mr. Phippard noted several uses not identified in Table 1, such as a repair garage. He asked if uses not listed would be left to negotiation with the Zoning Administrator. Ms. Kessler referred to page 16 of the meeting packet for the subsection on Calculation of Required Parking. She said the minimum requirements listed in Table 1 are intended to be general so a Zoning Administrator or user can interpret where they fit within the broader category the use fits under. If a use is not listed in Table 1, it would be at the Zoning Administrator's discretion, like today. However, the draft provides some factors that would lead to determining a new amount and one of them is to

reference the Institute of Transportation Engineers (ITE) Parking Generation Manual (a national study of parking by use). Mr. Rogers added that Table 1 streamlines the process for users by referencing out to other sources for specific details. Ms. Kessler added that staff is still in the process of testing some of these numbers using current land use scenarios. Staff is studying businesses that have established parking requirements, the parking they have provided, and how they are using parking today. This process should demonstrate if the draft thresholds in Table 1 match what is actually happening on the ground in Keene compared to the national standards.

Mr. Lamb agreed with Mr. Phippard about that particular use of repair garage. He was unsure this whether this was about parking or more so the intention to regulate vehicle storage, which is a different problem than providing adequate parking for the use. Mr. Phippard agreed and referred to motor vehicle dealerships, which are challenging. He cited past experiences and asked if this would also be to the Zoning Administrator's discretion; Mr. Lamb replied in the affirmative.

Mr. Phippard referred to the second bullet under Alternate Parking Requirements on page 18 of the meeting packet: *The number of required accessible parking spaces shall be calculated based on the minimum number of parking spaces required in Table 1, not including any reduction. In no circumstance, shall the number of required accessible parking spaces be reduced.* Ms. Kessler noted there is a proposed edit to this requirement in the next draft to be clearer. Mr. Phippard said she should reference the American National Standard Institute (ANSI) Code as amended. Mayor Lane said this discussion demonstrates a lingering problem that this code must be accessible and consistent enough to for current and future staff. Ms. Kessler said an important goal of the code update was to build in flexibility while providing criteria for decision-making. She anticipates another chapter about Zoning Administrator decision making and documentation of those decisions, so there is a historical record of interpretations.

Ms. Sutherland said it might be easier if there were more use categories included in Table 1. She has worked on a garage and a dealership and it could save time as opposed to multiple meetings with the Zoning Administrator. She noticed that schools were unlisted, which are usually tied to municipalities, but there are private schools. She noticed a lot of building types she has worked on that did not have categories in Table 1. Mr. Lamb said a balance has to be struck to keep Table 1 manageable and reference out to other documents; staff will continue reviewing it. Mr. Kopczynski said the table was supposed to reflect projects that staff sees most often. Mr. Lamb said that adding uses where the calculation itself gets more complicated creates systems within the calculations that do not correspond well. Uses like schools and car dealerships create a question about spaces like hallways and service bays that are not, logically, contributing to parking demand. When things get complicated in Table 1, staff would be forced to use another number like lease area or to subtract from the gross floor area. Mr. Lamb thinks there is some value in the process, which he thinks will be quicker and simpler for all. Mr. Phippard agreed it is definitely simpler and provided an example of the Center of Keene and parking spaces for a change of use.

Councilor Hansel asked if the current minimum off-street parking for a dwelling unit is two spaces; Mr. Rogers replied in the affirmative. Councilor Hansel said he sees more demand for residential housing closer to downtown, such as converting a house into three units. He said a studio apartment does not need two parking spaces and added it is a lot of parking in an area where younger people are relying less on cars. Mr. Lamb said the Councilor's points were good and reflect parking challenges with form-based zoning. If there were a reason to apply residential parking standards, Mr. Lamb asked what the minimum would be. Councilor Hansel said he felt a five-minute walking radius is acceptable; he wants to incentivize house conversions or other denser residential options downtown. Mr. Lamb said the trend Councilor Hansel described is

accurate and staff will review other ways to treat residential downtown parking, perhaps separate from Table 1. Ms. Kessler said some communities designate special parking reductions treated separately from Table 1.

Mr. Spykman noted and Mr. Lamb agreed that parking spaces per dwelling unit does not specify the size, bedrooms, district, or density. Mr. Spykman said parking should be different for homes and apartments. Mr. Phippard asked if stacking would still be allowed in residential driveways, stacking means parking one car in front of others in a driveway. Mr. Rogers believed the applicant would have to demonstrate uniqueness of the lot to allow stacking to occur, which is common for many single-family homes. Ms. Kessler said a statement could be added to allow stacking for residential use. Mr. Kopczynski said there would likely be things to learn when Washington Park opens, where they have designated one space per dwelling unit and they are seeking more parking from the City of Keene. Mr. Lamb this this would likely push demand out into the neighborhoods for nearby parking. Mayor Lane said such situations might require a developer to purchase other adjacent properties to convert as parking lots.

Mr. Phippard raised the topic of parking credit on page 19 of the meeting packet. Ms. Kessler said the premise of parking credits is that if the existing development pattern continues downtown and nearby, there are many lots without enough on-site parking today. Staff considered an alternative for someone redeveloping or changing the use of an already developed lot. The draft regulations state: *When a new use proposed for a site requires the same or more parking than the existing use according to Table 1, and there is an existing parking deficiency on the site, the new use shall be responsible only for the additional parking required. Any existing parking deficiencies of the required parking for the previous use may be credited to the new use at the discretion of the Zoning Administrator, provided that the previous use was legally established and the number of spaces has not decreased.* Ms. Kessler demonstrated how this calculation would work using an example scenario. Recognizing that this is complicated, Ms. Kessler said staff would continue working to simplify the calculation.

Mr. Barrett said it seems like if a property already has an existing deficit, then it is the responsibility of the building owner to ensure the deficit does not get worse. Ms. Sutherland said that downtown and near the Central Business District there is often no space to expand parking with the existing footprint; she asked if the developer could find those remaining spots within the 750' radius. Ms. Kessler said yes, and they can go to the ZBA for a request to reduce the total spaces by 50%.

Mr. Phippard referred to the option for remote parking within a 750' radius; Ms. Kessler said the applicant would have to prove a path of travel within 750'. To avoid ambiguity and crossing onto private property, Mr. Rogers suggested the applicant prove a 750' walking path in the public right-of-way. Ms. Kessler said 750' downtown equates to walking one block (~0.14 mile). Ms. Sutherland asked if there is any reason not to increase the distance from 750' to 1000', for example, to encourage downtown development and walking. Mr. Kopczynski said the increase to 750' was a substantial one and Ms. Kessler added that staff chose it to correspond with the current SEED District allowance for remote parking. Councilor Hansel asked what would happen if there were an off-site parking agreement with another property owner and ownership changes; would the lessee lose those parking spaces, after going through the entire site plan review process. Mr. Phippard said it is common. Mayor Lane referenced a similar situation with Arcadia Hall, where Mr. Phippard said they did not need parking in the Central Business District, so they provided 38 spaces and leased 75 from the Center at Keene. The lease with the Center at Keene still exists today with only half the spaces utilized. Ms. Kessler mentioned the section on remote parking, which includes measures to prevent these situations by recording remote parking

agreements with the Registry of Deeds; a change in ownership would mean renewing the agreement. Mr. Spykman posed a situation if the agreement is not renewed and no one complains; he assumes the owner likely did not need the spaces, so there is no impact. Mr. Lamb agreed that is possible. Ms. Sutherland and Mayor Lane agreed it is worth considering increasing the distance from 750' to 1000'.

Ms. Kessler said staff is planning to relocate some of the driveway standards from Chapter 70 of the City Code to this chapter. This change would consolidate driveway site-specific standards like grading, steep slopes, and length into a driveway section. Mr. Phippard noted inconsistencies such as the maximum driveway width permitted is 10' for driveways longer than 350' on a lot with steep slopes. He referred to the inconsistency on the top of page 20 in the meeting packet, where the driveway maximum width permitted is 12'. Mr. Lamb said staff are still working on this section because it overlaps with the National Fire Protection Association (NFPA) Standards' Rural Water Supply section. He said the premise of a total 12' driveway is to allow for 10' of travel surface with 1' shoulders on either side to comply with the NFPA, though he noted the shoulder makes little sense if it is a gravel driveway to start. Mr. Phippard said he usually provides 18' clear of obstructions (trees, shrubs, and rocks, etc.) but the driveway is not 18' wide. Mr. Lamb said that is reasonable. The logic was to minimize the footprint of driveways and thus mitigate drainage or erosion problems for areas with steep hillsides or run off.

Mayor Lane asked if driveways still must be a minimum 3' from property lines and staff confirmed. Staff also agreed that many in the City likely do not comply with this newer standard, to which the Mayor and Mr. Spykman questioned why the standard exists. Mr. Rogers said part of the reason is to keep drainage from one property's driveway from running off to neighboring properties; it acts as a buffer between single-family homes. Mr. Lamb said this standard is enforced with new construction. Mayor Lane thinks the standard should be eliminated. Ms. Kessler noted most people do not know where their boundary lines are. The Committee debated the merit of this standard regarding development flexibility for property owners versus drainage concerns. Staff will give this standard more attention. Ms. Kessler noted there is no such thing as a driveway in the current zoning ordinance, only parking areas; on many smaller lots today the driveway is the parking area. Mr. Kopczynski explained that this rule developed to reduce problems like parking on lawns and to control or provide space for runoff.

Mr. Phippard presented a scenario: a house on a small lot in the Low Density District with a 15' front setback and a house 18' from the front line, with a driveway straight to the garage, not behind the building line, and parking in the driveway almost entirely within the front setback. He asked if that is permitted still. Mr. Rogers said a new building must provide two parking spaces behind the front of the building or front setback – in this scenario, the garage space would count.

Mr. Phippard asked if there are any exceptions for the fourth bullet under Surface Material and Grade on page 20 of the meeting packet, which reads: *Have a substantial wheel stop of concrete, masonry, steel or heavy timber placed at or near the end of each parking space to prevent vehicles from damaging nearby buildings, lawns, trees or shrubs, or from creating a hazard to pedestrians on any sidewalk or walkway.* As an alternative recently, he has used a 2'- 3' wide stone infiltration strip at the end of the parking space as opposed to a physical barrier. Sometimes people drive into the stone but it is an alternative that helps reduce runoff with a low impact design. Keen requires curb stops so this has not been an option. Mr. Rogers said curb stops help to prevent damage though he can see the stone infiltration option adjacent to lawns possibly. Staff will consider this option.

Mr. Phippard continued referring to the Dimensions section on page 20 and said the 20' minimum width works for most uses that are not high traffic, like most small businesses. Based on his experience 10' per lane is more logical. He asked if this standard could be subject to Code Enforcement review to allow extra width in high traffic areas for safety. Mr. Lamb said 10' lanes are common today for the same reasons.

Mr. Phippard addressed the third bullet under Parking Lot Screening on page 21 of the meeting packet and asked if wood fences are allowed. Ms. Kessler said they are not allowed according to the standard today and staff has yet to discuss the history of that specific standard but will look into it further. Mr. Lamb thinks the logic was to have screening you cannot see through but staff will research further and Ms. Kessler added that graphics would help illustrate this in the final draft.

Mr. Barrett referred to the Landscaping within a Parking Lot section on page 21 and asked if there can be an option not just for minimum trees required, but also to distribute evenly the trees throughout the property. He cited an instance of the developer clustering all the trees in one area to ease things like snow removal, which is not optimal. This is another area that an illustration could help. Staff will look into it further, perhaps within the purpose statement earlier in the chapter regarding infiltration and other elements.

Councilor Hansel returned to the high-level summary of changes to the parking chapter to meet project goals. Ms. Kessler said the standards are flexible, simple, efficient, and thoughtful with today's needs in mind. The standards are streamlined for readability, with all standards in this one location, allowing homeowners and developers to find what they need easily. They are more thoughtful in that the standards have been updated to become more aligned with modern uses and parking demand; and they are more efficient in that there greater flexibility built in for parking requirements. Councilor Hansel advised staff to keep focusing on efforts to meet those goals, which Ms. Kessler will detail more on future change sheets.

b. Draft Floodplain Regulations

Mr. Rogers reported that with this draft, staff used the NH Office of Strategic Initiatives Floodplain Management Program model ordinance, in part, but maintained sections of the City's current ordinance that deal with the floodway and compensatory storage. Based on a conversation with Mr. Phippard, staff removed the three-foot lower elevation limit on compensatory storage, which will allow more location options for developers to create the required storage, while still maintaining hydraulic reach. Staff also removed the reference to the Ash Swamp Brook flood area, which was removed from the FEMA maps in 2006. The floodplain ordinance contains a substantial damage calculation and there was no time associated with that calculation; staff has added a 5-year deadline, which seems to be common with other cities. This will hopefully encourage proper maintenance of properties. There were construction details in the ordinance that are already covered in the state building code, which is now referenced.

Ms. Kessler summarized saying this is more thoughtful by referring to one code and eliminating duplication of process and it increases flexibility and efficiency, such as more options for compensatory storage. The substantial improvement requirement is clearer. Mr. Phippard said this would go a long way toward mitigating things not addressed in the old ordinance, which deterred developers from old buildings that need flood prevention renovations to meet the code. He said just adopting the state code will help a lot to mitigate challenging development in the floodplain.

Ms. Kessler shared the Committee meeting schedule. All meetings occur on Fridays at 4:00 PM on the second floor of City Hall:

June 21, 2019

July 12, 2019

July 26, 2019

August 2, 2019

August 16, 2019

September 13, 2019

September 27, 2019

Ms. Kessler also shared considerations for the next meeting: draft form-based code concept, Historic District, and possibly revisions to the Surface Water and Subdivision regulations—whether they are considered at the meeting depending on time will be up to the Committee.

4) **Next Meeting – June 21, 2019**

5) **Adjourn**

Hearing no further business, Mayor Lane adjourned the meeting at 5:21 PM.

Respectfully submitted by,
Katie Kibler, Minute Taker
June 13, 2019

Reviewed and edited by,
Tara Kessler, Senior Planner