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Dalton Draft Zoning Ordinance Gets Public Airing

Two Views - Preserving Small Businesses And RuralWay Of Life And Attracting New Businesses And Industry

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The town of Dalton held a public hearing on the draft zoning ordinance, which split residents, some of whom want more industry and larger businesses in town and others wanting to focus on and protect its existing small businesses and preserve the town's rural quality of life, such as protecting Forest Lake State Park, pictured here in May 2019. (File photo by Robert Blechl)

Although it got off to a slow start, Wednesday's public hearing on the draft zoning ordinance

lasted beyond two hours and had one resident suggesting adding a designated landfill district.

Another suggested crafting what he said would be a more business-friendly ordinance to balance an improvement of the town's tax base with preserving its essential elements and rural way of life.

The hearing came after voters in July 2019 approved temporary emergency zoning in response to the 137-acre privately owned, a commercial landfill that Casella Waste Systems is proposing beside Forest Lake State Park.

Since that time, the Dalton Planning Board has been meeting publicly and advancing the draft ordinance, which is currently 19 pages.

In comparison, Whitefield's zoning ordinance is 92 pages, Lancaster's ordinance 38, Bethlehem's 74, and Littleton's 82, said Carl Lindquist, chairman of the Dalton Planning Board.

Dalton planners based the draft ordinance on that of the town of Jefferson, which is the most similar to Dalton, he said.

A zoning ordinance, which Dalton never had, would give the town some control and would ensure, for example, that property owners cannot build a house right on the property line of another or landscape their property in such a way that it causes the driveway of another to get washed out, he said.

It would also give a town control over proposals such as the industrial-scale battery storage

facility that was planned for Littleton and drew concerns by scores of residents and town officials about safety and the danger of explosion, he said.

“Without zoning, each of us is essentially on our own with no support from the town,” said Lindquist. “Zoning is a way for us to develop some town-wide standards of what is okay and what isn’t without going so far as to tell someone what color they should paint their house.”

The planning board meets on Wednesday to review comments from last week’s hearing.

Going forward, the board has three options.

The first is to decide if the current draft meets the needs of the town and no big changes are needed. If so, it would become a warrant article for the March 2021 town meeting.

The second is to decide if big changes are needed, after which those changes would be made, another public hearing scheduled, and it would then go on the warrant for March 2021.

The third option is to conclude that the draft doesn’t yet represent Dalton’s needs, but the changes needed could not be done before March, so the select board would submit a warrant article to continue emergency town zoning for a year, during which time town planners would work on the ordinance and find ways to involve more residents in giving feedback.

Dalton resident Adam Finkel suggested adding language specific to landfills, which are not mentioned by name in the draft ordinance, and designate a district in town for them.

Finkel referred to a recent letter sent to the town from Casella regional vice-president Brian Oliver, who said the ordinance as written is either going to allow land-filling as a matter of right or purport to prohibit it.

“That’s not true,” said Finkel.

Although the state in several court cases has authority in landfill siting, design, and even height, municipalities in those same cases are allowed to say where in town a landfill can go, meaning Dalton has authority regarding the question of where he said.

“In 2003, the Grafton County Superior Court decided that ‘the Legislature intended to require

landfill operators to get permission from the local authorities to site or locate landfills within their boundary as long as that control is made in good faith and doesn't violate the overall state plan," Finkel said. "I would urge the planning board to think about designating, just as you've already done with the flood district and central business district, a landfill district. Perhaps the existing transfer station and adjacent tract where I gather there was land-filling done in the distant past. I've roughly calculated that even an area as small as a couple of acres would be sufficient to receive all of our household and construction waste for roughly 75 years. Surely, that acreage would be far more than the good faith effort that state law requires for a town."

He deferred to planners whether such a distinction should be done as part of the ordinance or as a separate warrant article.

Opponents of a landfill in Dalton as well as in Bethlehem, where about one-third of trash dumped is from out of state, have previously voiced concerns about the amount of out-of-state trash imported into the North Country.

"In my view, [designating a district] would have no downside, even for those who have decided that for whatever reason a large, out-of-state multi-regional landfill is a good idea for the town, because all it does is start a process where we've asserted our local authority to designate a district and we can always amend that if in fact, the applicant gives terms and conditions that are so generous and favorable that we decided that was in the best interest of the town," said Finkel. "But without asserting our authority to say where in that town a landfill could be sited, we have no opportunity to make those terms any better than the applicant prefers."

As written, Lindquist said the draft ordinance has one district, rural residential with a floodplain

overlay district, and all current businesses are grandfathered in as long as they don't change the use or expand, after which they would have to apply for a zoning permit.

The town currently has a number of small businesses, among them logging, trucking, repair shops, and general store operations as well as larger ones such as Chick's Sand and Gravel and Team O'Neil Rally School.

The draft ordinance is based on Dalton's 2014 master plan and focuses on small, home-based businesses and preserving the town's natural elements, he said.

Paul Damiano, a part-time Forest Lake resident supports the draft.

"It gives us flexibility," he said. "We don't know what will happen with development in the future. Dalton is such a beautiful place and you'd hate to lose it ... This is an easily reversed step. If something down the road isn't going the way we want it to go, you can always undo things through voting. I don't see any downside for taking this on."

Other Views

Residents Pam Kathan and Brian Fuller, not keen on town zoning, said Dalton has had no zoning for decades and asked why it's being proposed now.

The town's vote for emergency temporary zoning required planners to draft a permanent ordinance for a town vote and planners are operating under that timeline, said Lindquist.

The idea of zoning precedes the Casella proposal and has been desirable for a number of years because it gives the town the ability to have a say over a number of things that would protect residents and property owners from negative impacts, he said.

Fuller said small businesses aren't going to cut it and Dalton needs "an infusion of cash."

Suggesting a balance between improving the tax base and preserving the town's rural character was Jim Dannis, who suggested extending the temporary zoning for a year.

"If you're starting a business, one of the things you ask is are you welcome in the place where you are going to be located," he said. "We would respectfully submit that the way the proposed

permanent ordinance is drafted it almost reeks of a statement that business is not welcome, certainly not larger businesses that would improve the tax base in town.”

Any significant new business other than small ones would have to “go through a lengthy complicated zoning variance process” that would require lawyers and money, said Dannis.

The way the draft is written for existing businesses, it would “close the door to expansion,” create complexity and cost, and would require them to come before the board for a “discretionary, one-off special exception or variance,” said Dannis.

Lindquist said he’s not aware of any operating business in town asking to speak with the board in the past year that the board has been meeting publicly to advance the draft.

Dannis also suggested adding agriculture and forestry as allowable uses as they both are important and said the planning board should involve more stakeholders in town in advancing the draft.

In a written comment during the hearing, Sara Doucette, of Whitefield, said, “It seems if business were concerned they would have come forward in these many months when you’ve asked repeatedly for community input. If they were alarmed at your draft, you would have heard it in this amount of time.”

In another written comment, Dalton resident Gina Damiano said, “It’s important to note the town residents voted for zoning and that is what we are doing ... The majority of town residents voted for this.”

