

**Planning Board Meeting  
7:00 p.m. Town Hall  
Wednesday, August 23, 2017**

**THE JULY 2017 MEETING WAS CANCELLED**

**Members Present:** Darcy Horgan, Kate Murray, Margaret Sofio

**Others Present:** Jane Finn, 169 Portsmouth Avenue, Maggie Kennedy, 99 Campbell's Lane, Ann McAndrew, 27 Steamboat Lane

**Members Absent:** Bill Stewart, Rich Landry, Geof Potter, Tom Hammer

Chair Darcy Horgan called the meeting to order at 7:05 p.m. and noted the presence of a quorum with voting members, Chair Horgan, Ms. Kate Murray, and Ms. Margaret Sofio.

**1. Review and approve minutes of the meeting on June 28, 2017**

*Ms. Murray moved, and Ms. Sofio seconded, to APPROVE the minutes of the June 28, 2017 meeting as written. Motion carried, unanimously.*

**2. Discuss New Castle tree cutting and set up of a committee to look at the issue**

Chair Horgan introduced the suggestion from the Conservation Commission, to convene a committee of residents and Board members to work on a position and ordinance recommendation for tree cutting in the town of New Castle.

The "point system" as described in the Town Ordinance is currently being used, where applicable.

At 7:10 p.m., Chair Horgan opened the meeting for public input.

Ms. Jane Finn stated her concern about practices she's noticed-- clear cutting, building and landscaping too close to the water, and filling in land-- with no repercussions, and noted her preference for tighter regulation, inspection, and enforcement in order to catch violations before they occur.

Chair Horgan sought to clarify that the purview of the Planning Board and Conservation Commission, extends mostly to building projects within the wetlands. Some of the observed clear cutting isn't governed by code or ordinance and is, therefore, allowed.

However, there have been violations within the wetlands. In those cases, the Building Inspector is the enforcement officer, responsible for compliance. When violations are brought to the Building Inspector's attention, he is charged with follow up, including the opportunity to levy fines as defined by the Ordinance. Ms. Finn asked, and Chair Horgan answered, that fines aren't frequently levied, for various reasons, including lack of definitive foreknowledge of conditions. Recently, members of the Conservation Commission have been meeting property

owners on site, even when the permit doesn't require Commission approval, in order to educate and influence the scope of the proposed project relevant to conservation concerns.

As an example, Chair Horgan described that the property at 97 Wentworth Road which appears to be hard up against the wetland, but, in fact, meets the requisite 50 foot setback for a buildable lot, has received significant attention from the Conservation Commission.

Chair Horgan suggested that the members of the public who are concerned about the ordinance and enforcement join the proposed committee.

Chair Horgan consulted Rockingham County Planning Commission Senior Planner, Julie LaBranche, who wasn't aware of any municipal tree cutting regulations in New Hampshire. That answer was consistent with what she had learned months earlier from an attorney with the New Hampshire Municipal Association, that no municipality has tree cutting regulations and if attempted, it should be with extreme caution, if at all.

Ms. LaBranche offered her assistance to the town in crafting regulations as well as two suggestions:

1) to look at an amendment to the town's subdivision regulations to include a requirement for a forested buffer along the property line. While promising, the reach of such would be minimal due to the existence of few subdivisions.

2) to petition for the designation of "Scenic Road" for town roads, which would, by RSA, provide some protection for the road's trees by RSA. The designation process can be initiated with a petition of ten citizen signatures.

Ms. Ann McAndrew, opined that a drawback of a forested buffer is that the trees may impede views, noting that neighbors need to trim trees. Ms. Sofio summarized that this demonstrates the two sides.

It would be relatively easy to amend the ordinance for Site Plan Review (for commercial or multi-family homes) and Subdivision Regulations, but those are not prevalent in New Castle. The majority of the Planning Board oversight is exercised via the wetlands ordinance.

Ms. McAndrew was assured by Chair Horgan of the opportunity for public input on proposed tree and clear cutting measures, either via direct contact with her or Ms. Rebecca Audet, Conservation Commission member.

Ms. Murray expressed concern about the loss of trees, noting the increased potential for erosion into the wetlands, regardless of whether the trees are in the buffer zone. Ms. Sofio endorsed the creation of a tree committee and cautioned that its task will be fraught with issues including those of property rights, water views, wetlands-- which necessitate significant public input. Chair Horgan suggested starting with the suggestions from Ms. LaBranche. Ms. Murray added that

enforcement needs to be included in the policy proposal to address situations in which trees are removed in violation of the ordinance. Chair Horgan noted that Conservation Commission members take pictures on site walks to record the current conditions, but that the town may want to consider drone technology. The Planning Board has current authority to require a tree plan for projects within the wetlands.

At 7:35 p.m., Chair Horgan closed the public portion of the meeting, but indicated willingness to address further public concerns.

### **3. List of proposed ideas for ordinances**

Chair Horgan distributed a list of topics that, over the course of the year, have been flagged by the Board as meriting further exploration and review. This being a slow period for hearings, it is an appropriate time to address some of the items.

Ms. Sofio accepted the charge of studying and proposing a wireless service ordinance to prepare for hearings beginning in February, for the ballot in May, 2018.

Other items listed:

- Add driveways into the lot coverage calculations- wait for input from the full Board
- Define *pervious* and *impervious* surfaced-assigned to Chair Horgan
- Look at Conservation Commission's proposed ordinance changes concerning lot coverage and impervious surfaces- assigned to Chair Horgan
- Possible ordinance prohibition on jet skis in Lavenger Creek
- Determine whether there is the need for a definition of *lot area*, which is mentioned in the ordinance, but not defined
- Fines and enforcement concerns including the amount of the fine and the clarity of the language- Mr. Rich Landry has expressed his willingness to work on these issues
- Consider whether driveway regulations should be added to the ordinance, as they currently aren't addressed
- Consider the need for an ordinance to prevent the building of a garage of boat storage, prior to construction of the primary structure
- Consider whether B & B/Inn ordinances should be added, in addition to the existing hotel regulations- despite the recently constructed inn, it is well to be prepared in the event any new inn proposals follow
- Consider changing the definition of *structure* to not exclude retaining walls and fences

Ms. McAndrew asked, and Chair Horgan responded, that plans to add regulations for short term rentals (Airbnb, VRBO) awaited an expected RSA and guidelines at the state level. Chair Horgan indicated that short term rentals are a separate subject from Inns, B & B's, and hotels, and that the Board will tackle them accordingly after the state acts.

Ms. Maggie Kennedy asked, and Chair Horgan responded, that the to-be-constructed paved driveway area at 350 Wentworth Road is not constrained by current ordinance, and is a matter of property rights.

Members discussed whether all of the proposed topics merited review. Ms. Sofio questioned the Board's authority on the issue of jet skis, but allowed that a review would flush that out. Ms. Murray answered that the Board's authority extended to the water, but not beyond. It might possibly be regulated via noise ordinance.

A few of the topics can be clustered, i.e. driveway issues, lot coverage. Chair Horgan hopes to have the Board-- including those members with building experience and the Select Board Member--determine what issues to tackle and match each topic with a Board member who can shepherd the topic through the review and amendment process.

Ms. Sofio will take on the wireless ordinance and Ms. Murray will think about her assignment.

Ms. Murray updated the Board about the Certified Local Government (CLG) program of the NH Division of Historical Resources for the allocation of at least ten percent of its Historic Preservations Funds from the Department of the Interior to local governments who have been so certified. The town of New Castle is moving forward with the process of certification, via a recent official request for certification from the Select Board. CLGs qualify for professional counsel, potential grant funds, educational projects, and, if requested, a survey of the buildings.

Ms. Murray announced a solar meeting on Friday, August 25 at 4pm.

*Ms. Murray moved to adjourn and Ms. Sofio seconded.* Chair Horgan adjourned the meeting at 7:58 p.m.

Respectfully Submitted,

Anne Miller, Secretary