



**Meeting Minutes
Work Session
North Hampton Planning Board
Tuesday, September 16, 2014 at 6:30pm
Town Hall, 231 Atlantic Avenue**

These minutes were prepared as a reasonable summary of the essential content of this meeting, not as a transcription.

Members present: Shep Kroner, Chair; Tim Harned, Vice Chair; Dr. Joseph Arena, Dan Derby, Barry Donohoe, Phil Wilson and Jim Maggiore, Select Board Representative.

Members absent: None

Alternates present: Nancy Monaghan

Others present: Jennifer Rowden, RPC Circuit Rider, and Wendy Chase, Recording Secretary

Mr. Harned called the meeting to order at 6:36 p.m.

I. Old Business

1. Prioritized Work Order updates

a. Dan Derby & Barry Donohoe – Minor Site Plan and Subdivision Regulations –

The Board was in receipt of Mr. Derby's proposal for minor site and subdivision regulations that included Ms. Rowden's recommended changes. Mr. Derby said that the Board needs to decide whether or not they want to proceed with this. He said that the site plan process can be intimidating especially if the applicant doesn't have a lawyer or engineer helping them through the process. Making the process simpler for the applicant will encourage them to go through the process rather than doing things under the radar and without approvals.

Mr. Kroner said that one way the Board could retain control is to suggest the applicant go through the preliminary consultation process with the Board. Mr. Harned asked if it would be with the full Board or the Application Review Committee (ARC). Mr. Derby said that some towns have the applicant go to the technical review process for minor subdivision and minor site plan proposals.

Dr. Arena said he is absolutely against changing the process. He said that it would be taking the Planning Board's power away degrading what the Planning Board is really

about. The town has given the Planning Board the responsibility to address site plans and subdivisions; not to have the Board delegate it out. Mr. Kroner reminded him that the Planning Board will still approve the plan.

Mr. Wilson asked what the problem was that they are trying to solve.

Ms. Rowden explained that she has been receiving a number of residents with minor site plans and being confused over the process. They are just trying to make the process simpler for these types of proposals.

Ms. Rowden said that by Statute the Planning Board can give the ARC the responsibility to approve minor site plan applications.

Mr. Wilson said that the first question with any site plan application is whether or not a recorded site plan is on file; if not, the applicant would have to submit a recordable Mylar which would require them to employ an engineer and/or surveyor to draw up the plan and help with the process.

Ms. Rowden said that some use the same checklist but split it between a minor and major plan. She said that if the Board requires a recordable Mylar each time then there really can't be a minor site plan and minor subdivision process.

Mr. Derby said that the Board is not hard pressed on this matter. He suggested the Board watch its process over the next six (6) months.

Mr. Donohoe said that they are not arguing one way or the other; they were charged with developing an easier process. He agrees that the Board should monitor the minor applications over the next few months.

Mr. Kroner said that he would like to invite Melvin Lowe from the Rye Planning Board to a Work Session because the Rye Planning Board shares some of the same values that this Town does. He may be able to enlighten the Board on why Rye developed a minor site plan process.

- a. **Shep Kroner & Dr. Arena – Duplexes** –The Board was in receipt of Mr. Kroner's proposed changes that included Ms. Rowden's comments. Mr. Kroner reviewed the Master Plan and some of the recommendations included increases to frontage and setback requirements for structures. He said thought of increasing those setbacks for duplexes. He said that from a use standpoint duplexes were a permitted use to offer different avenues for affordability, but in "today's world" duplexes are not used for a less expensive option for housing, but rather masquerading as a condominium unit allowing the Developer to leap over the two acre lot requirement to allow two units on a 2 ¼ acre lot instead of the required 2 units on 4 acres. Dr. Arena disagreed that duplexes are the same as condominiums. Mr. Kroner said that many duplexes are condominiumized where the owners own common land. Mr. Wilson commented that duplexes are doing nothing to help with affordable housing; they are selling for \$699,000 per unit. Mr. Kroner suggested continuing to permit duplexes in the R-1 zone because it is a high density district and

remove duplexes from the R-2 zone and I-B/R zone, which would include removing it from the table under "permitted uses". Ms. Rowden commented that multi-family is currently defined as more than two units and is allowed in the I-B/R district, so to allow multi-family and not duplexes would be unusual.

Mr. Kroner suggested the following:

- increasing the front yard setback to 50-feet
- increase the frontage requirement from 175-feet to 200-feet
- increase the acreage requirement from 2.29 acres to 3 acres
- The lot shall have a minimum of 60,000 square feet of uplands
- The maximum number of bedrooms is six (three bedrooms per unit maximum)

Mr. Kroner commented that the Building Inspector said that if the setbacks are increased the request for variances will increase.

Mr. Kroner said that there are some towns that don't allow duplexes at all.

Dr. Arena thinks there should be a moratorium on duplexes.

Mr. Wilson said that duplexes should not be allowed in the I-B/R district because commercial businesses generate more tax revenue than a residential duplex would. He agreed with allowing duplexes in the R-1 zone only. He also commented that if duplexes do not promote affordable housing than maybe they should not be allowed in Town.

Ms. Monaghan said there are other towns that don't allow them and agreed that they should be eliminated.

Mr. Donohoe disagreed. He agrees with Mr. Kroner's suggested changes. He doesn't agree they should be eliminate because there is a value to duplexes in Town. It offers a different lifestyle to allow families to live next to each other, or some people want to downsize and still live in town.

Ms. Rowden said it is unusual not to allow duplexes. She said Brentwood is the only town in New Hampshire that doesn't allow them. The wetlands and aquifer protection districts require 50% of the land to be non wetlands, which limits some of the lots for duplexes. She said there is a good chunk of lots in Town that are very wet.

Mr. Harned said that he agrees with limiting duplexes in the R-1 zone, but struggles with the suggested increase in acreage and setbacks; it is hard pressed to meet those requirements in the R-1 zone. He suggested limited in the amount of bedrooms in each unit of a duplex to two bedrooms.

Mr. Kroner said he will write up three better documents with the tables and see what will be removed and added.

Mr. Wilson said that limiting the bedrooms per unit to two and not increasing the acreage requirement will help the Town with affordable housing.

Mr. Donohoe commented that a huge house can be built with only two bedrooms.

Mr. Kroner said that duplexes are permitted in the Inclusionary Ordinance and referred to Section 418.7.C.2 – *minimum lot size for duplexes under this Article shall be one-half(1/2) acre of contiguous upland as long as soil conditions permit the siting of requisite septic systems and wells within the decreased lot size.*

Mr. Kroner left the Work Session at 8:00 p.m.

b. Tim Harned & Nancy Monaghan – Wetlands – Mr. Harned explained the septic system is not correct as stated in the ordinance. It states 75-feet from the Wetland Conservation District (409.8.A). the district is defined to include the wetland buffer (403) which is 100-feet (lots of record), 75-feet or 50-feet (lots of record with less than 16,000 square feet buildable), so the septic setback is 175-feet or 150-feet depending on the case. He said that their suggested changes are an attempt to clean up the section of 409.8 and go back to what he believed is the original intention, to have septic systems, leach fields or on site disposal systems have a 75-foot setback from wetland area boundaries.

Mr. Wilson said that he would be in favor of increasing the setbacks from any chemicals but any changes to increase the wetland buffer will have to be based on the Science.

Ms. Rowden commented, “the bigger the buffer the better the water treatment”. She said the more natural the buffer will better infiltrate nitrates and phosphates.

It was a general consensus of the Board to clarify Section 409.8, that the setback is 100-feet.

Section 409.9.A.2 – Undeveloped lots of record. Mr. Harned’s proposed amendment to this section (when the imposition of 110-feet tidal and/or freshwater wetland buffer setbacks causes the buildable upland acreage to be less than 16,000 square feet the prior wetlands buffer zone setback requirements of 50-feet for wetlands and 75-feet for tidal wetlands shall apply) is to add the clause “within the wetlands buffer zone, the 25-feet closest to the wetland boundary shall be a Vegetative Buffer.

Ms. Rowden suggested adding a clause allowing the mowing of invasive species and haying.

Ms. Rowden said enforcement is difficult on existing develop lots. The Code Enforcement Officer would have to enforce the ordinance.

Mr. Wilson said it is a good thing to do, but it is not practical. The Board could coordinate with the Conservation Commission and try to get voluntary compliance.

Mr. Harned suggested added the proposed 25-feet clause to all wetland setbacks, including the 100-feet.

The Board agreed that would be more palpable.

The Board agreed that a definition of “vegetative buffer” and “buffer” should be drafted and proposed to add under the Definition section 302 of the Zoning Ordinance. Mr. Harned said he would work on the definitions.

Section 410 – Mr. Harned said that the Conservation Commission presented proposed amendments to the Planning Board on this section of the Ordinance last year. The proposal is to change the setback for septic systems from the current 75-foot requirement to 100-feet, which the Board didn't agree to change. The Conservation Commission (CC) also suggested to remove section 414.5.E.6 from applying only to the Aquifer Protection District and move the text to Section 410 also. He said that most of the changes were to update the Section to coordinate it with State standards.

Ms. Rowden went through the proposed changes and compared them with the updated State standards. She went through them:

ZO Section 410.1.c – at least three feet of natural permeable soil – State requires two feet.

ZO Section 410.1.d – at least four feet of natural soil above bedrock – State requires three feet (envwq1014.01).

ZO Section 410.1.f – ZO and the State both require three feet between the bottom of the leaching field and the seasonal high water table, impermeable layer and bedrock.

ZO Section 410.1.g – aerobic pretreatment systems is more specifically used for commercial or industrial properties.

Ms. Rowden said that the Conservation Commission's recommendation to require inspections of septic systems on a regular basis is a much bigger can of worms than increasing some of the soil depths that are required.

Mr. Derby said that last year the Board agreed that they would not be specific with the types of septic systems.

Mr. Wilson said that rather than specifying standards for septic designs that are different from the State's standards because it is helpful to have the State reviewing and approving designs. He said an alternative in dealing with the contamination of water issue in town, they could propose an amendment that all septic systems have to be outside the 100-foot buffer and if someone wants to put it within 75-feet they would have to use a pretreatment system of some sort.

Mr. Harned read an E-mail from Mr. Kroner stating his concern over the constant beach closures and suggested requiring that all those living adjacent to a wetland either be required upon the sale of their home to prove the septic system is functioning and/or have everyone in town be required to show proof that they have had their septic system serviced every three (3) years.

Mr. Wilson said that the contamination issue is the Select Board and Health Inspector duty.

Ms. Rowden said that there are those types of procedures in place mainly in the Lakes Region.

Dr. Arena said that the Town first has to determine whether it is human waste or animal waste contaminating the waters; if it is animal waste there isn't much that can be done about it.

The Board will ask Mr. Maggiore for an update on the water contamination issue at the next meeting.

Jenn couple places in the lakes regions have to prove by showing a receipt that have had septic pumped and if not fine on taxes to help cost.

Section 411 – Ms. Monaghan explained her proposed amendments to Section 411. Her charge by the Board was to find a way to get rid of the odd shaped “tails” of land allowed to make up the one acre of contiguous uplands to create a buildable lot.

411 – Wetlands Minimum Lot Area

(Last sentence) For construction of a dwelling unit on lots of two acres or more, there shall be one contiguous acre of non-wetland soils for the site of a house. ***3/12/91**

It is the intent of this ordinance to prohibit the use of long, narrow strands of land not part of the substantial body of a lot as a means for satisfying minimum lot requirements.

Option 1

Therefore, when any portion of a lot is defined by parallel lines or irregular lines that generally oppose one another, such that the mean distance between points on the lines is less than fifty (50) feet, the land lying within such lines shall be excluded in the computation of minimum lot area. (Dunstable MA)

Option 2

Lot shape shall not be grossly irregular. To avoid deep, narrow lots, a width-to-depth ratio of approximately one-to-three will normally be required. (Canterbury NH)

Option 3

Therefore, no dwelling, building or structure shall be erected, placed, altered or converted on any lot, unless the lot has an upland building area within it which encompasses a minimum 43,560 square feet of contiguous land in the shape of a circle, square or rectangle and in the use of a rectangle, no side may measure less than 100 feet, within which no land is subject to projection under the Wetlands Protection Act and within which at least 75% of the footprint of any dwelling, building or structure, not including accessory structures, shall be located. (Middleborough MA)

Option 4

Therefore, no lot shall be created so as to be so irregularly shaped or extended that it has a “shape factor” in excess of thirty (30) for any lot having area in excess of 80,000 square feet, or in excess of twenty-two (22) for any other lot. The shape factor equals the square of lot perimeter divided by the lot area (before deduction for wetland, etc.). That portion of the lot in excess of the required lot area may be excluded from the computation of the shape factor using an imaginary line, provided that the entire required frontage is included in the portion used for calculation. (Blackstone MA)

Agriculture uses -

409.5 Permitted Uses in the Wetlands Conservation District: The following uses shall be permitted within the Wetlands Conservation District:

B. Any agriculture that will not cause soil erosion or groundwater contamination by pesticides or other hazardous materials **No soil disturbance, manure spreading, or mowing in conjunction with either commercial agriculture or accessory agricultural activities shall occur within the wetland or within seventy-five (75) feet of the reference line of the wetland. Commercial agriculture within the Wetlands Conservation District shall be conducted in accordance with a management plan approved by the North Hampton Conservation Commission as demonstrating Best Management Practices as set forth in “Manual of Best Management Practices for Agriculture” (New Hampshire Department of Agriculture, 1993) and “Best Management Wetlands Practices for Agriculture” (New Hampshire Department of Agriculture, 1993). (DES/Strafford County)**

- Canterbury does not allow manure storage in wetland areas

Fill -

409.7 Additional Permitted Uses in Wetlands and Isolated Non-bordering Wetlands: The following additional uses shall be permitted in Wetlands and Isolated Non-bordering Wetlands: ***3/08/2005**

E. Fill involving less than 3000 square feet of **the lot’s entire surface area. Any lot with fill of 3000 square feet of surface area located on its border may not abut a filled area in a contiguous lot.**

Definitions -

Validly issued building permit – a building permit issued by the Town Building Inspector that has passed the legal time limit for objection and/or one that has been upheld as proper by the Zoning Board of Adjustment

Ms. Monaghan opined that Option one is the cleanest and easiest, that is why so many people use it.

Discussion ensued on creating an algorithm that would prohibit the use of long, narrow strands of land not part of the substantial body of a lot as a means for satisfying minimum lot requirements

Ms. Monaghan said would call the towns listed on “option 1” and “option 4” and see how it is working for them.

Ms. Chase was directed to add this to the October 7th agenda.

Dr. Arena moved and Mr. Donohoe seconded the motion to continue any updates to the wireless telecommunication proposed amendments, Committee updates and approval of the August 19, 2014 and September 2, 2014 meeting minutes to the October 7, 2014 meeting. The vote was unanimous in favor of the motion (6-0).

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301 **The meeting adjourned at 9:45 p.m. without objection.**
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303 Respectfully submitted,
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305 Wendy V. Chase
306 Recording Secretary
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308 Approved October 21, 2014
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