



Meeting Minutes
Work Session
North Hampton Planning Board
Tuesday, October 21, 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; Dan Derby, Barry Donohoe, Phil Wilson and Jim Maggiore, Select Board Representative.

Members absent: Dr. Joseph Arena, Jr.

Alternates present: Nancy Monaghan

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

Mr. Harned seated Ms. Monaghan for Dr. Arena.

I. Old Business

1. Prioritized Work Order updates

- a. Tim Harned & Nancy Monaghan – Wetlands**
- b. Shep Kroner & Dr. Arena – Duplexes**
- c. Jim Maggiore & Phil Wilson – Wireless Telecommunications**
- d. Dan Derby & Barry Donohoe – Minor Site Plan and Subdivision Regulations**

a. Mr. Harned updated the Board on his proposed changes to the Ordinance that he has been working on.

Article IV, Section 409.8. A. and B. currently reads:

409.8 Prohibited Uses in the Wetlands Conservation District:

The following uses are prohibited within the Wetlands Conservation District or within 75' of the district:

A. Septic systems, leach fields, or on site disposal systems.

B. Storage of gasoline, fuel oil, pesticides, hazardous agricultural and other materials or roadsalt stockpiles.

Proposed change:

Article IV, Section 409.8 A. – Prohibited Uses in the Wetlands Conservation District: The following uses are prohibited within the wetland areas or within 75' of the wetland area boundaries: Septic systems, leach fields, or on site disposal systems.

Article IV, Section 409.A.B. - Prohibited Uses in the Wetlands Conservation District: The following uses are prohibited within the wetland areas or within 100' of the wetland area boundaries: Storage of gasoline, fuel oil, pesticides, hazardous agricultural and other materials or roadsalt stockpiles.

Mr. Harned explained that the change basically remedies an error that was carried over from when the Wetlands Conservation District was established. The District itself includes a buffer around the wetlands that can be variable distances between 50' to 100' based on whether it is a new lot or a lot of record, and would basically make the buffer between 125' to 175', and that was not the intent of the Ordinance. This change would basically be correcting the error.

Ms. Rowden said that the buffer does vary, but the definition (Section 409.2) of what the Wetlands Conservation District is, is the boundary starts at the wetland boundary, so the 75' and 100' buffer mentioned begins at that point. She doesn't think there is a problem with the way the Section is currently written.

Mr. Wilson referred to Section 403, the definition of Wetland Conservation District, *The wetland conservation district consists of ...and a buffer zone around all such wetland areas as defined in Section 409.9.* He said that the Sections have to be brought to a consistent definition.

Ms. Rowden said the District itself is just the wetlands; the actual boundaries are the other subsequent buffers that are mentioned.

Mr. Harned said that to avoid discussions like this in the future, the sections have to be "cleaned up".

Mr. Wilson said when drafting the definition of Wetland Conservation District, to make it a district not an overlay district, it was intended to include the wetlands and the buffer area around the wetlands. He explained by adding the buffer into the District it may make it a little more difficult to grant variances.

Mr. Harned said he is comfortable with how Section 403 is written and said that he did amend Section 409.8.B by increasing the 75' setback to 100'. He said he would also like to add, to Section 409.2, *and the associated buffers.*

Discussion ensued on Section 409.12 Conditional Use Permits by the Planning Board. The reason why Applicants seek variances for setbacks to the wetlands is because Section 409.12 involves the Wetlands Conservation District, which is defined as the wetlands under 403, not the buffer.

Ms. Rowden said adding 409.2.d *and all associated buffers* that Mr. Harned suggested, would solve the inconsistencies.

The Board discussed revising Section 409.12 by adding the expansion of use under 409.12.B, because as it is currently written, a conditional use permit is allowed only for new construction in the Wetlands

Conservation District. Ms. Rowden said that would mean that even allowed uses would require a Conditional Use Permit if that were added, for instance expanding an hay field, which is allowed under the Agriculture Ordinance.

Mr. Harned suggested that the Board think these changes through more carefully, but not at this meeting, and come back with a proposed change.

Mr. Kroner agreed, and said the whole of Section 409 should be looked at and determined how to meet the goal of consistency, and the goal to make sure the intent of the ordinance is what is being relayed.

Mr. Wilson explained that there is a disjunction in the first paragraph of Section 409.12; it leaves out that if it is not a vacant lot of record and there is a desire to build a barn not connected to an existing structure, 409.12 doesn't cover it. He said a simple solution is to strike out *on vacant lots of record* from the second sentence under Section 409.12.

Mr. Harned said that the change is reasonable that Mr. Wilson suggested, but he still wanted time to think about it.

Section 409.9 Buffer Zone Restrictions

Mr. Harned suggested adding to Section 409.9.A - Undeveloped lots of record, *within the wetlands buffer zone, the 25' closest to the wetland boundary shall be a Natural Vegetated buffer*. He also presented a draft copy of the definition of a natural vegetated buffer that he copied from Durham, NH and modified it so that it was applicable to North Hampton, and with Ms. Rowden's comments.

Ms. Rowden said the Durham example is too complex for North Hampton. She said Durham has different categories for different wetlands and North Hampton doesn't. She suggested going simpler and implementing a "no cut, no disturb" buffer which means nothing is supposed to be done to the specified area except for invasive species remediation kind of work 25' or more within the boundary of a wetland. She said that Exeter, NH gives a good example of natural vegetated buffer.

The Board discussed "vegetated buffer". It would not be 25-feet added onto a buffer setback; if the wetland buffer setback is 100-feet, the 25-feet would be included in the 100-feet beginning at the edge of the wetland, back.

Mr. Derby asked if the Code Enforcement Officer is the one that would enforce the requirement of a natural vegetated buffer. He asked how the process worked.

Ms. Chase said that the Building Inspector/Code Enforcement Officer needs a written complaint for possible zoning violations in order to investigate. She said that the CEO has the authority to act on his/her own accord if they come across any possible violations of the ordinances.

Mr. Wilson estimated that about a third of the properties in Town border a wetland.

Ms. Rowden said that if the natural vegetated buffer is implemented it would only affect new homes and new subdivisions.

Mr. Harned requested feedback from the Board on the Durham example and said that he will look at Exeter's definition of vegetated buffer again, or other ones, and maybe expand on one of those.

The Board agreed that it should be stated in the beginning that owners would be encouraged to comply; it should be an option. Ms. Rowden suggested adding a purpose statement to the ordinance.

Mr. Wilson suggested changing "or other site considerations" in the third sentence of the first paragraph, to "or other developed areas of the lot"; driveways and patios would fall under that category. He also suggested adding to the end of the paragraph, regarding fertilizers and pesticide use, "or as permitted by NH DES".

Ms. Rowden suggested keeping the amendment simple because the intent is to protect the water and wetlands in as easy a manner as possible.

Mr. Derby said that keeping it simple and understandable also empowers people to know when they see something wrong.

Article IV, Section 411

Ms. Monaghan said that she was unable to get in touch with the City Planner from Middleborough, MA to get a better understanding of "option 3" regarding a calculation that would get rid of irregularly shaped uplands used to satisfy the contiguous upland requirement for development of lots.

Mr. Harned said that option 1 is taking a look at long tails of uplands and drawing a line on either side and if the width of the tail isn't a certain distance (50-feet) then that tail cannot be included in the total square footage of uplands. Option 2 is the shape factor and used in towns that are trying to control the shape of the lots, not just the uplands that are applicable. The ratio used is the length of the perimeter of the upland area, take the number of feet and square it, then divide it by the number of square feet in the area. He said the ratio number 22 has been used by other communities and it has worked out well. Option 3 is to use a uniformed shape (a circle or a square) where the uplands would have to fit into, in order to be used to satisfy the uplands requirement. Mr. Harned struggled with how to come up with a shape and a number and be able to back it up. Mr. Harned said another option would be to apply all the current setbacks to an upland area and come up with a building envelope, and make the building envelope a certain size; a quarter of an acre may be a reasonable size.

Discussion ensued. Ms. Monaghan reminded the Board that the intent is to get rid of the long finger like stretches of land to be included in the 1-acre of uplands requirement.

Ms. Monaghan said she is in favor of the simplest option, which is Option 1. Ms. Rowden said it is the most widely used option.

Mr. Kroner pointed out that the drafters of the current Article may have anticipated that people would use tentacles to make up the upland requirement so that is why they erred on the side of caution and used a larger area of 1 acre.

Mr. Maggiore said that he wished there was a way to "test" these proposed options. He said maybe they can pull some prior plans and implement the options to see how it would work.

The Board agreed that they needed a good definition of “contiguous upland”. They also discussed hiring a graduate student from UNH to come up with an algorithm to find out if it works by going through the files and coming up with samples to use the process on and see if it works.

The original objective for the amendment is to eliminate the finger shaped portions of land in the calculation to satisfy the 1-acre of contiguous upland.

The Board discussed requiring 12,000 square feet of buildable area for a single family residence, and 16,000 square feet of buildable area for a duplex. Ms. Rowden said that the Board will need to come up with a definition of buildable area.

It was a general consensus of the Board to go with option #4. Mr. Kroner said that he wondered if the Zoning Ordinance already presents a restrictive environment with a 2-acre lot requirement and 1-acre of it, contiguous upland. He wondered if they’ve designed an ordinance that actually promotes duplexes being developed. He said he is concerned that if they become too restrictive, how that will play out in the future.

Mr. Harned said he could justify small core building lots easier than the 2-acre lot requirement, and the 1-acre of contiguous upland.

Article IV, Section 406.4.1 – Duplex Requirements

Mr. Kroner said the change from the last meeting was to eliminate the allowed use of duplexes in the R-2 zone, and added “any proposed duplex on an existing lot of record must have 175-feet of frontage in the R-1 district, and 250-feet of frontage in the I-B/R”. He also added, “A duplex may contain a maximum of three bedrooms per unit”.

Mr. Harned said that the Board discussed, at their last meeting, to change the 6 bedroom total to 3 bedrooms per unit.

Mr. Kroner said that he wasn’t sure he wanted to change the original maximum six bedrooms per duplex. Changing it to a maximum of 3 bedrooms per unit eliminates the option of having 4 bedrooms in one unit and 2 in the other. He is not sure if he wants to remove that flexibility, and demand that there shall be a maximum of 3 bedrooms per unit.

Mr. Donohoe said that when there are different numbers of bedrooms, the buildings can have a weird design. It could end up being a colonial design on one side and a ranch style on the other side. He also pointed out that the Board doesn’t dictate the designs of homes.

Discussion ensued regarding the affordability of duplexes. The duplexes recently built on Atlantic Avenue are selling in the \$600,000 range, and duplexes built on Post Road in Greenland are selling much more affordably. Mr. Derby commented that he thought the Board was pushing duplexes into affordable housing and that somehow the Atlantic Avenue duplexes are a bad thing.

Ms. Monaghan said that the concern the Board had is that people are building duplexes to get around the two-acre requirement. There is concern about circumventing the two-acre zoning, and a concern about the plethora of duplexes in the Town, and therefore they wanted some sort of restriction.

Mr. Derby said he didn't understand the restriction, he said it feels elitist.

Mr. Donohoe thought that developers are taking advantage of the 2 ¼ acre requirement and putting two single family homes on one lot; he said it would be reasonable to increase the acreage requirement for a duplex to 3-acres.

Mr. Harned said that the Morgan Lane duplexes, in his mind, were an attempt of the developer to maximize the amount of profit he could get on a lot. He didn't think that was in the best interest of the Town. He said it is a concern that if duplexes are a way to maximize profits is the town eventually going to see 80% of future development as duplexes.

Mr. Derby commented that duplexes may not be traditional in Town, but times are changing.

Mr. Donohoe said that if the acreage requirement is changed to 3-acres then an owner or developer would have to pay more for the land and more for the home and that would push it out of the affordable price range.

Mr. Wilson said that the Town is losing high-end home owners because the property taxes are so high. There are currently at least 5 houses on the market in Cotton Farm Lane. It is forcing people in Town to find ways to pay for the land prices and be able to sell the houses they develop for a profit. They are trying to get a reasonable return on their investment. He said he is not opposed to bringing duplexes into Town, but mathematically, if you bring in duplexes with three bedrooms per unit that are occupied with families with two children then the taxes are going to go up.

Ms. Rowden referred to the Master Plan and the residents of North Hampton want diversity of housing. It is important, but they want to maintain community character, and community character in North Hampton in the rural areas are farm houses and Victorian houses that are, at least aesthetically, single family homes.

The Board discussed moving the proposed duplex zoning amendment and proposed political sign zoning amendment to a Public Hearing.

The last day to hold the first Public Hearing is January 12, 2015 and must be posted by December 31, 2014.

Mr. Harned said that the Board should try to have the other amendments ready for a Public Hearing at the December 17th Work Session.

Mr. Kroner moved and Mr. Wilson seconded the motion to take the proposed zoning amendments to a Public Hearing on November 18, 2014: Article IV, Section 405 Permitted uses table, to remove duplex as a permitted use in the R-2 zone and Article IV, Section 4.1 Duplex Requirements, to read as follows: The minimum lot size for a duplex shall be 100,000 square feet, and the lot shall contain a minimum of 60,000 square feet of contiguous non-wetland area. No additional frontage is required,

other than that specified in Section 406. Any proposed duplex on an existing lot of record must have 175 feet of frontage in the R-1 district, and 250 feet of frontage in the I-B/R. The maximum number of bedrooms allowed per unit is three (3). Each dwelling unit shall have a minimum living area of 720 square feet. An adequate septic system built to standards of the N.H. Department of Environmental Services (NH DES) must be provided.

The vote was unanimous in favor of the motion (7-0).

Article V, Section 506.4.J – Political Signs

Mr. Harned explained that the proposed amendment was requested by the Select Board.

The current ordinance reads: Political signs. Political signs, during periods specified by the Select Board, do not require permits. Political Signs should not be placed in areas where they will create a traffic safety hazard due to the obstruction of the sightlines at intersections or driveways. Political signs are not regulated by this ordinance. Please refer to RSA 664:17.

The proposed amended ordinance reads: Political signs are regulated by RSA 664:17 and do not require permits. Political signs should not be placed in areas where they will create a traffic safety hazard due to obstruction of the sightlines at intersections or driveways. Political signs are not regulated by this ordinance.

Mr. Wilson suggested added the word *otherwise* between the word, not and regulated, in the last sentence. The Board Agreed.

Mr. Kroner moved and Mr. Donohoe seconded the motion to take the proposed zoning amendment to Article V, Section 506.4.J, include Mr. Wilson's suggested change, to the November 18, 2014 Public Hearing.

The vote was unanimous in favor of the motion (7-0).

The proposed amendments to the wireless telecommunications zoning ordinance will be continued to the November 4, 2014 meeting. Mr. Kokernak is scheduled to appear before the Board to request an extension of his approved DAS Conditional Use Permit and to also update the Board on DAS.

The minor site plan and subdivision plan regulation work is tabled.

II. New Business

Mr. Kroner reported that the Town of North Hampton has been noticed as an abutter to the Rollins Farm development in Stratham, NH. The Board is allowed to testify at the Stratham public hearing regarding this case. Mr. Kroner attended a meeting already and said that North Hampton would like the developer to do a hydrological study, and to adhere to dark sky standards in the development. The area is a primary contributor to Exeter, NH's water supply.

Ms. Rowden said if the entire Board intends to attend and testify it has to be noticed properly because there would be a quorum of the Board. She said that RPC will also be commenting on the Rollins Farm Development.

Mr. Kroner will send out the information he has to Ms. Chase and she can distribute it to the other members. The Stratham Planning Board meeting is November 5, 2014.

1. Committee Updates

a. Long Range Planning (LRP) – no updates

b. Capital Improvement Plan (CIP) – Ms. Monaghan said that the CIP has spent a lot of time discussing the Fire Department's apparatus. The Committee was charged with whether the ladder truck could be replaced with a Quint, a specialized fire apparatus. Ms. Monaghan was charged with reporting to the Planning Board, the number of driveways that have difficult access for emergency vehicles. The Fire Department has a list of those problematic driveways. She said the thought was - should the Planning Board consider some regulations regarding clear access ways for emergency vehicles. Mr. Kroner said that it should be a building code. Ms. Rowden said that any changes made to the ordinances would be for any new development, not for what does currently exist. Mr. Kroner said that the Fire Department should reach out to the people on their list and make them aware of their problematic driveway.

c. Rules and Regulations/Procedures – no update

d. Application Review Committee (ARC)- no update

e. Economic Development Committee – no update

f. Select Board – Jim Maggiore – The Select Board has chosen a Construction Manager for the proposed new municipal complex, Ricci Construction. They expect to get the GMP by the end of the month and should be, at or about, the same price as last year, assuming there is a replacement factor of 3%. There will be two warrant articles this year instead of one like last year. The first warrant article is for the new Safety Complex at the homestead, and the second warrant article is the new library located where the fire station is now. If the first warrant article passes, and the second warrant article does not; there is no new library. If the first warrant article fails; there is no new library because the second warrant article becomes moot. This gives the voters the choice of what their priority is. Mr. Maggiore said that 10 or 12 properties were investigated along Route 1 to put the Safety Complex on and it and it came down to two viable options in the center of Town, but ended up being too expensive. One property was in excess of 1 million dollars and had potential land use problems. The other property across from Irving would require a lot of engineering, a subdivision of land, and would end up costing ½ to 1 million dollars. This year there will be a better explanation of what was put into it, and a better explanation of the structural analysis of the current buildings. The structural analysis for the Fire Department comes back that something has to be done. The trusses are not safe. Ms. Monaghan said that the trusses are in the capital planning because if the warrant article doesn't pass there are things like the trusses that will have to be taken care of next year. A presentation was done with PAL and there will be one with the Business Association, and a community meeting at the Town Hall and Library. Mr. Harned said he heard from people that there was no explanation of why a complete renovation would not be cost effective.

III. Other Business

1. ¹ Items laid on the table

a. Proposed Zoning Ordinance amendments/additions and/or Regulation amendments/additions Discussion.

i. NH OEP Correspondence regarding National Flood Insurance Program NFIP regulations and proposed ordinance updates. – Ms. Rowden said that OEP went through the Floodplain Ordinances and Site Plan Regulations and there are proposed new floodplain maps, and in order for the Town to come into compliance with them they should move OEP's suggested recommendations to a Public Hearing. She explained that the new maps are updated to meet current conditions and the changes to the zoning ordinance and regulations can take place without the actual adoption of the proposed maps; the Town just has to be ready when they are finalized to maintain the flood insurance program status within the Town

Mr. Harned suggested the Board Members review it before the next Work Session.

Ms. Rowden said that there are a few properties that are now within the floodplain, but overall there has been a reduction in the floodplain in North Hampton.

ii. Review Public Hearing Dates/Discuss scheduling Public Hearings for proposed amendments.

b. 2015-2016 Planning Board Budget – Special Studies budget line. Mr. Kroner said that he has had communications from David Buber, ZBA Chair that the definitions in the Zoning Ordinance are inadequate and a constant problem for them in the ZBA. He said that the Board should get help, other than volunteers to go through the consistencies and inconsistencies of the entire ordinance. Ms. Rowden estimated an analysis and recommendations of the Zoning Ordinance could cost up to \$8,000. Mr. Kroner suggested soliciting professional help to go through the zoning ordinance even just to reorganize it in an efficient manner. Mr. Wilson reminded the Board of the community survey the Planning Board did in 2005 and 2010; it will be 5 years in 2015 so the Board may need to add money to the budget if they intend on doing a survey next year. Ms. Rowden said the Board can apply for a block grant that would begin in July 2015; it's a match grant of 50/50.

The Board agreed to request an increase to the Special Studies budget line because they need to update the future land use chapter and natural resource chapter of the Master Plan and complete a 2015 Community Survey. The Board will apply for the RPC Block Grant for matching funds, which unfortunately is not guaranteed.

Mr. Maggiore was asked by the Heritage Commission if their budget line could be removed from the Planning Board's budget. The Board had no problem with removing the Heritage line from their budget.

Mr. Wilson said that there are a lot of citations and laws noted in the Wireless Telecommunication Ordinance that should be reviewed to see if they are current. Ms. Rowden said that they are not.

Mr. Maggiore said he would talk to Mr. Apple about getting a legal opinion tomorrow.

C. Minutes

i. August 19, 2014 Work Session

ii. September 2, 2014

iii. September 16, 2014 Work Session

IV. October 7, 2014

Mr. Wilson moved and Mr. Derby seconded the motion to approve the meeting minutes of August 19, 2014, September 2, 2014, September 16, 2014 and October 7, 2014 as written.

The vote passed in favor of the motion (6-0-0). Ms. Monaghan did not vote.

d. Sign Frank Arciandocono Mylar – the Board signed the Arciandocono Lot Line Adjustment Mylar.

Mr. Harned reported that the RPC has requested that the Board change their meetings from the first and third Tuesday of the month to the second and fourth Thursday of the month while Ms. Rowden is out on maternity leave.

Ms. Rowden explained that Cliff Sinnott would fill in on Tuesdays if the Board could not change the date, and Glenn Greenwood would fill in if the Board changed to Thursdays.

After discussing the different options the Board decided to keep the meetings as they are now; the first and third Tuesday of each month.

The meeting was adjourned at 10:40 p.m. without objection.

Respectfully submitted,

Wendy V. Chase

Recording Secretary

Approved November 18, 2014