

**TOWN OF WOLFEBORO  
PLANNING BOARD  
November 17, 2015  
MINUTES**

**Members Present:** Kathy Barnard, Chairman, Stacie Jo Pope, Vice-Chairman, Brad Harriman, Selectmen's Representative, Mike Hodder, John Thurston, Paul O'Brien, Members, Dave Alessandroni, Alternate.

**Members Absent:** Vaune Dugan, Member, Chuck Storm, Alternate.

**Staff Present:** Rob Houseman, Director of Planning & Development, Lee Ann Keathley, Secretary.

*Chairman Barnard opened the meeting at 7:00 PM at the Wolfeboro Public Library.*

*Chairman Barnard appointed Dave Alessandroni, Alternate, to sit in for Vaune Dugan, Member.*

**I. Work Session**

**2015 Work Program Update**

The Board reviewed Rob Houseman's memo, dated November 13, 2015 (see attached).

Rob Houseman stated the 2016 budget includes \$10,000 for the Master Plan update.

Referencing the survey conducted by UNH for the previous Master Plan update, Paul O'Brien recommended consideration of other survey agencies for the upcoming update.

Rob Houseman stated the survey needs to be statistically valid and scientifically based.

Brad Harriman asked if an RFQ was done for the previous update.

Rob Houseman replied no.

Referencing Heritage Commission, Rob Houseman stated the proposal is being presented to the BOS on 11/18/15.

Mike Hodder asked how changes to RSA numbers are managed.

Rob Houseman stated there is no system currently in place that addresses such.

John Thurston requested the Board consider reviewing a wireless communications screening ordinance.

Paul O'Brien stated the Board should wait to address the matter when it becomes an issue.

Mike Hodder agreed with Paul O'Brien.

**Shorefront Residential District; Schedule Public Hearing**

The Board reviewed the proposed changes to the Shorefront Residential District and recommended the following change;

- 175-62. Purpose., 1<sup>st</sup> line; insert "the" prior to "existing"

**It was moved by Paul O'Brien and seconded by Mike Hodder to schedule the Shorefront Residential District Public Hearing, including the above noted revision, for December 15, 2015. All members voted in favor. The motion passed.**

#### **Impact Fee Ordinance**

Rob Houseman stated the Town has had two Impact Fee related matters in 2015; the first being the sale of a property prior to the issuance of a Certificate of Occupancy and the second being the issuance of a building permit. He stated the standard practice is prior to the issuance of the building permit, the applicant sign an acknowledgement to pay the Impact Fee as a condition of the issuance of the Certificate of Occupancy and receipt of payment allows for the issuance of the Certificate of Occupancy. He reviewed each of the instances in detail. He noted Section 173.8 (D) of the Zoning Ordinance allows the Board and the property owner to establish a mutually acceptable schedule of payment for impact fees; noting it provides that the Board must require the applicant to post surety, in the form of a cash bond, letter of credit or performance bond to guarantee future payment. He recommended the Board revise Section 173.8 (D) to include the following language; *"In lieu of the fee payer posting security, the Planning Board, or its designee, and the fee payer may agree to a payment plan for the impact fees secured by a lien on the fee payer's property."*

Paul O'Brien asked if there is any other alternative.

Rob Houseman replied yes, that payment is requested at the issuance of the permit. He stated placing a lien on a property allows it to be restricted.

Dave Alessandrone asked if such could be bonded.

Rob Houseman stated such would cost money.

Mike Hodder questioned lien priority.

Rob Houseman stated he would research such. He stated he is looking for a mechanism that goes beyond the ordinance for Staff to address administrative issues relating to the ordinance.

The Board discussed a precedent that could be set by including such a mechanism.

Paul O'Brien stated the Board should do nothing and the Town should not relieve anyone.

Rob Houseman stated the greater risk is that the Town doesn't get paid.

Paul O'Brien verified a change from seasonal to non-seasonal would trigger an impact fee.

Rob Houseman stated he would research such.

#### **Sign Ordinance**

Rob Houseman stated the public hearing for revisions to the Sign Ordinance was tabled until following the determination of a ZBA application. He stated there has been no appeal of the ZBA decision therefore, the Board can now move forward; noting the proposed revisions are designed to bring the sign ordinance up to date with the current Zoning Districts (the Sign Ordinance is not consistent with the redistricting names/titles). He reviewed his memo, dated November 12, 2015 (see attached). He reviewed Town Counsel opinion.

**It was moved by Paul O'Brien and seconded by John Thurston to schedule the Sign Ordinance Public Hearing for December 15, 2015. Kathy Barnard, Stacie Jo Pope, John Thurston, Mike Hodder, Paul O'Brien, Dave Alessandrone voted in favor. Brad Harriman abstained.**

## **Wetlands Ordinance**

Rob Houseman stated the Board requested Staff to research a function based wetland ordinance; noting the Town of Kingston, NH has such. He stated he has requested Jim Rines and Dan Coons review the ordinance and provide comment.

Kathy Barnard stated she feels that wetlands should be protected regardless of its function and value.

Rob Houseman expressed concern regarding manmade wetlands created by logging that adversely impacts development; noting that not all wetlands are equal and a burden is placed on the property owner.

Kathy Barnard requested review and comment from the Conservation Commission.

Rob Houseman reviewed his memo, dated 11/12/15 (see attached).

Brad Harriman asked if Staff's recommendations address and/or include a provision for mitigation.

Rob Houseman replied no, however the recommendations could be amended to include such.

Mike Hodder noted the need to address wetlands on each property.

The Board agreed to the following;

- Review and comment by Jim Rines, White Mountain Survey & Engineering, Inc.
- Review and comment by Dan Coons, ILEX Wetlands Consultants
- Review and comment by the Conservation Commission

## **Town of Wolfeboro Business Retention and Expansion Program Findings**

Rob Houseman stated such will be presented to the BOS on 11/18/15.

Kathy Barnard stated the findings will be presented to the Chamber of Commerce and noted the findings were forwarded to the Board as an informational item.

## **II. Public Comment**

None.

## **III. Informational Items**

Rob Houseman reviewed the following informational items; Notices of Decision.

## **IV. Planning Board Subcommittee Reports**

### **Wayfinding Sign Committee**

The Committee will reconvene following the holidays.

## **V. Approval of Minutes**

**November 3, 2015**

*It was moved by Mike Hodder and seconded by Paul O'Brien to approve the November 3, 2015 Wolfeboro Planning Board minutes as submitted. Kathy Barnard, Stacie Jo Pope, John Thurston, Mike Hodder, Paul O'Brien, Dave Alessandroni voted in favor. Brad Harriman abstained. The motion passed.*

## **VI. New/Other Business**

### **Public Restroom Committee**

Kathy Barnard stated the Committee is reviewing alternatives for additional restrooms in the Downtown core and is proposing two portable toilets at Dockside and one portable toilet at Albee Beach during the winter months.

### **Accessory Dwellings**

Rob Houseman stated SB 146 was introduced on 1/18/15 and a report was presented to the House on 11/1/15. He stated that if it passes, elements of the SB 146 would require a revision to the Town's Zoning Ordinance; noting accessory dwellings would be permitted in the Shorefront Residential District. He stated the statute requires such to be included as a component of Workforce Housing and noted the effective date would be June 2017. He stated he would contact Town Counsel for review and comment.

***It was moved by Stacie Jo Pope and seconded by Mike Hodder to adjourn the November 17, 2015 Wolfeboro Planning Board meeting. All members voted in favor. The motion passed.***

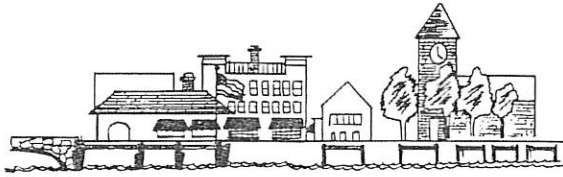
*There being no further business, the meeting adjourned at 8:49 PM.*

Respectfully Submitted,

*Lee Ann Keathley*

Lee Ann Keathley

***\*\*Please note these minutes are subject to amendments and approval at a later date.\*\****



Planning and Development

*Town of*  
*Wolfeboro*

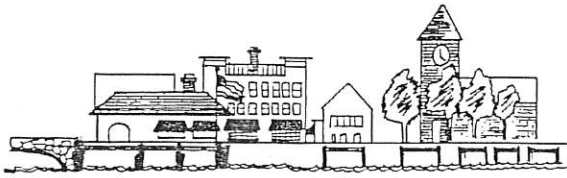
## Memorandum

**To:** Planning Board  
**From:** Robert T. Houseman, Director of Planning and Development  
**Date:** November 13, 2015  
**Re:** 2015 Planning Board Work Program

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The following is an update regarding the Planning Board's 2015 work program:

- Update Wayfinding Sign Ordinance  
*The Board agreed to table further discussion of the sign ordinance until following the ZBA ruling in October 2015*
- Shorefront Residential District (currently in conflict with the State's Shoreline Timber Cutting Regulations)  
*The Board revised such and voted to move the revisions to public hearing*
- Complete annual CIP update  
*CIP approved on 11/3/15*
- Evaluate Steep Slope Ordinance  
*The Board agreed to table revisions to such, see 6/2/15 minutes*
- Complete Historic Buildings survey  
*The Board agreed to table such*
- Evaluate Scenic Roads  
*Existing policy in place, no changes made to said policy*
- Master Plan update to commence in 2016  
*The Board agreed to add a Historical and Cultural Resources Chapter, to form a subcommittee to review each chapter to determine which chapters require updating and retrieve a cost estimate from the survey center to determine funding appropriation*
- Consider subcommittee re: Heritage Commission  
*Subcommittee appointed, the Board agreed to forward their recommendations to the BOS ~ presentation to BOS scheduled for 11/18/15*
- Revise Inn definition to reflect an increase in bed capacity  
*Ongoing; to be placed on the 2016 Work Program*
- Home Occupation; revise to include permitting such in a detached building  
*The Board agreed not to revise the ordinance relating to such, see 6/16/15 minutes*
- Accessory Structures; permit such without the requirement of a primary structure in a residential zone  
*The Board agreed not to pursue the matter, see 6/2/15 minutes*



Planning and Development

*Town of  
Wolfeboro*

## Memorandum

**To:** Planning Board

**From:** Robert T. Houseman, Director of Planning and Development

**Date:** November 13, 2015

**Re:** **Conflict between section 175-51 (Shoreline timber cutting) and the provisions of the Shore Front Residential District**

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Below please find copies of the changes approved for public hearing. It includes deleting 175-51 and allow the current ordinance set the standards for shorefront timber cutting.

*Article IX. Shorefront Residential District*

*§ 175-62. Purpose.*

*The purpose of this district is to maintain the integrity of existing shorefront residential ~~district~~ developments and protect the shorefront from over-development. Further, the Town recognizes the importance of implementing water quality protection standards in order to protect the shorelands within the Town of Wolfeboro, since they are among its most valuable and fragile natural resources, and that the protection of these shorelands is essential to maintain the integrity and exceptional quality of the waters.*

~~§ 175-51. Shoreline timber cutting.~~

~~A. Where existing, a natural woodland buffer shall be maintained within 150 feet of any water body or watercourse as indicated on the United~~

States Department of the Interior, 7.5 Minute Series (Topographic) Ossipee, Sanbornville, Tuftonboro, Wolfeboro and West Alton, New Hampshire - Carroll Co., Provisional Edition 1987.

B. The purpose of this buffer shall be to protect the quality of public waters by minimizing erosion, preventing siltation and turbidity, stabilizing soils, preventing excess nutrients and chemical pollution, maintaining natural water temperatures, maintaining a healthy tree canopy and understory, preserving fish and wildlife habitat, and respecting the overall natural condition of the shoreland. Restrictions are as follows:

- (1) No more than 50% of the basal area of trees as defined by RSA 224:44a, and no more than 50% of the total number of saplings shall be removed for any purpose in a twenty-year period. A healthy, well-distributed stand of trees, saplings, shrubs and ground covers and their living, undamaged root systems shall be left in place.
- (2) Trees, saplings, shrubs and ground covers which are removed to clear an opening for building construction, septic systems, driveways, pathways, and parking areas shall be excluded when computing the percentage limitations under Subsection **B(1)**.
- (3) Dead, diseased, unsafe, noxious or fallen trees, saplings, shrubs, or ground covers may be removed. Their removal shall not be used in computing the percentage limitations under Subsection **B(1)**.
- (4) Stumps and their root systems which are located within 50 feet of the water body or watercourse line shall be left intact in the ground.

C. Planting efforts that are beneficial to wildlife are encouraged to be undertaken.

D. Timber cutting shall be performed using appropriate techniques to minimize disturbances and impact to the water resources.



Planning and Development

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*Town of  
Wolfeboro*

Memorandum

**To:** Planning Board  
**From:** Robert T. Houseman, Director of Planning and Development  
**Date:** November 12, 2015  
**Re:** **Sign Ordinance revisions**

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Attached please find a copy of the current Sign Ordinance with proposed housekeeping changes.

The proposed changes are designed to bring the sign ordinance up to date with the current Zoning Districts.

The changes include:

- C2 – Pine Hill Road was replaced with Pine Hill Road Development District.
- C2-R28 and the C2-WC Districts were replaced with Center St/Rte. 28 Mixed-Use Business District.
- The two C1 Pine Hill Road and C1 districts were repealed and reverted to General Residential and Residential Districts.

In addition, clarification of the following provision may be desired:

[3] Temporary signs for a new business and seasonal business. Special advertising devices such as banners, pennants and streamers are permitted for up to 30 days. The size shall not exceed 25% of the face of the business.

Below please find an email discussion with Counsel regarding a recent enforcement case:



November 12, 2015

**From:** Laura Spector-Morgan [mailto:laura@mitchellmunigroup.com]  
**Sent:** Tuesday, July 14, 2015 10:24 AM  
**To:** Robert Houseman  
**Subject:** RE: Zoning Interpretation

Hi Rob. I agree with you. Clearly this type of temporary sign was intended to advertise the opening or reopening of a new or seasonal business. Otherwise, there would be no reason to distinguish it from other temporary signs.

You might want to tighten up the section at next year's town meeting by, for example, specifying the type and number of signs allowed.

Please let me know if I can be of additional assistance. Thank you.

Laura

Laura Spector-Morgan, Esquire  
Mitchell Municipal Group, P.A.  
25 Beacon Street East  
Laconia, NH 03246  
(603) 524-3885  
fax (603) 524-0745

**From:** Robert Houseman [mailto:planningdirector@wolfeboronh.us]  
**Sent:** Monday, July 13, 2015 2:25 PM  
**To:** Laura Spector-Morgan  
**Subject:** Zoning Interpretation

Good Afternoon Laura:

→ The following highlighted provision is being used to justify the use of several banners by claiming the business is seasonal. The business is closed January, February and March. My take on this provision is that it is designed to announce the reopening of a seasonal business and not to provide an way around other provisions of the ordinance.

Your thought would be appreciated.

Temporary signs.

[1] One temporary sign such as used by real estate agents advertising property for sale or those used by contractors, architects, painters or other artisans advertising work in progress may be permitted on a lot in any district, provided that:

[a] It is unlighted.

[b] It does not exceed six square feet in size.

[c] Its proper appearance is maintained.

[d] It is removed immediately upon completion of the work or transaction.

November 12, 2015

[e] One additional real estate sign is permitted on all waterfront property; provided, however, that the sign is oriented so as to be viewed from the water.

[2] Political signs must comply with New Hampshire RSA 664:17 and as it may be amended from time to time.

[3] Temporary signs for a new business and seasonal business. Special advertising devices such as banners, pennants and streamers are permitted for up to 30 days. The size shall not exceed 25% of the face of the business.

[4] Special commercial promotion signs. Sale or event signs may be affixed to or on a door or window and are permitted, provided that they do not exceed 25% of the area of the window and/or door and are in place for less than 30 days.

The issues are:

- Starting date of the 30 day window
- Is the 30 day provision consecutive days
- Should the permitted sign include pennants and streamers permitted
- Should banners on the face of a building be treated differently than pennants and streamers

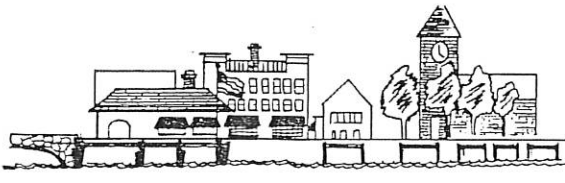
I offer the following clarification for your consideration:

[3] Temporary signs for a new business and seasonal business.

**Temporary sign Special advertising devices, designed to advertise the opening or re-opening of a business,** ~~such as~~ shall be limited to **one** banner ~~or and pennant and streamers~~ ~~is~~ are permitted for up to 30 **consecutive** days. The first day of advertisement shall be the opening day.

[a] Banner **shall be mounted on the business and** shall size shall not exceed the lessor of 32 sq. ft. or 25% of the face of the business.

**[b] Pennant shall not exceed 20 sq. ft.**



Town of  
Wolfeboro

Planning and Development

**MEMORANDUM**

**DATE:** November 12, 2015  
**To:** Planning Board  
**From:** Robert T. Houseman, Director of Planning and Development  
**Subject:** **Wetlands Ordinance**

Attached please find a copy of the Kingston, NH Wetlands Ordinance. I have requested a Dan Coons and Jim Rines to apply this ordinance to their most recent cases for a Special Use Permit. I will forward their analysis to the Board once I receive it.

An alternative approach would be to consider the following changes to the existing ordinance:

To provide standards to address:

(b) No alternative location on the parcel exists which has less detrimental impact on a wetland. Less detrimental impact on the wetlands shall include:

- Development that is down gradient from the jurisdictional wetlands.
- Development and/or redevelopment within a previously disturbed areas and where the previously disturbed area provides no protection to the wetlands.
- The wetlands is a low values and functions as defined in accordance with the techniques outlined in the U.S. Army Corps of Engineers Wetlands Delineation Manual Technical Report Y-87-1. (January, 1987) or as subsequently adopted by the State of N.H.

Below please find the Special Use Permit provisions of the Ordinance:

§ 175-65. Permitted uses.

Permitted uses shall be as follows:

One boathouse, as an accessory structure, in compliance with the following standards:

- (1) Purpose and intent. The purpose is to preserve the integrity of the surface waters of the Town, especially the more sensitive smaller lakes and ponds. All shoreline structures shall be constructed so as to insure safe navigation, to minimize reduction of water availability for public use, to promote higher water quality and safety conditions, to avoid changes in surface and subsurface conditions that would be deleterious to fish and wildlife habitat, and to avoid changes in water movements that might cause erosion or siltation.
- (2) Definition. For the purposes of this subsection, "boathouse" means a docking facility which has a permanent roof with or without sides covering the boat slip or slips. A boathouse must be an accessory structure to the principal permitted structure.
- (3) An existing boathouse may be repaired, replaced or reconstructed, so long as its external dimensions do not exceed those of the facility that is being repaired, replaced or reconstructed and the project otherwise complies with applicable state and municipal regulations.
- (4) A new boathouse may be constructed, provided that it will not be constructed in or over wetlands or public waters, and provided further that each of the following criteria is met:
  - (a) The lot on which it is to be constructed has shore frontage on Lake Winnepesaukee;
  - (b) The lot on which it is to be constructed meets the minimum shore frontage requirement of § 175-63 of this Zoning Ordinance;
  - (c) There is no other boathouse on the lot;
  - (d) The footprint of the boathouse will not exceed 900 square feet;
  - (e) The height of the boathouse will not exceed 20 feet;
  - (f) The applicant has received a permit from the New Hampshire Department of Environmental Services;
  - (g) The applicant has received a special use permit from the Planning Board or designee, which shall consider the recommendation of the Conservation Commission prior to rendering a decision; and
  - (h) The project must otherwise comply with all applicable state and municipal regulations.

§ 175-10. Special uses.

A. All activities in the Wetland Conservation Overlay District not listed in § 175-8, Permitted uses, above are presumed to impair the wetland functions and values unless proven otherwise by the applicant as provided below.

- (1) The Planning Board has created a tiered system in an effort to accommodate reasonable use of preexisting nonconforming lots of record

(lots created prior to March 2003) while providing protection to the wetlands.

- (2) To this end the construction of a single-family dwelling, including additions and replacement dwelling, shall be limited to a maximum allowed footprint of 1,800 square feet within the setback and/or buffer zone on a lot less than three acres and created prior to March 2003 or reconfigured lots, either through boundary line adjustment or lot merger, provided that the lot(s) was originally created prior to March 2003 and the reconfiguration does not increase the nonconformity to the wetlands setback and/or buffer; said dwelling shall be limited to a maximum allowed footprint of 1,800 square feet; and subject to the following.

  - (a) No alternative location outside the wetland setback or buffer exists for a dwelling with a maximum allowed footprint of 1,800 square feet.
  - (b) No alternative location on the parcel exists which has less detrimental impact on a wetland. Detrimental impact on the wetlands shall include:

    - [1] Increased stormwater runoff into the wetlands.
    - [2] The removal or lessening of the function of filtration strips between the wetland and the proposed development.
  - (c) In accordance with best management practices, design, construction and maintenance methods will be such as to minimize detrimental impact upon the wetland. Where a natural wetlands buffer does not exist or there is intrusion into an existing natural buffer, best management practices, such as rain gardens, natural vegetative buffers and filter strips, shall be implemented to mitigate the impact created by the proposed impervious areas.
- (3) A special use permit application for the development of a single-family home on a lot which requires no State Wetlands Bureau dredge and fill permit for house placement, driveway crossings, site grading and/or septic and well placement shall be processed by the Technical Review Committee in accordance with § 175-184, Minor site plan review.
- B. The following uses may be granted a special use permit by the Planning Board, provided that the design is in accordance with best management practices:

  - (1) Streets, utilities and recreational areas. Under the provisions of RSA 674:21, Subdivision II, the Planning Board may grant approval for the construction of streets, roads and other accessways and utilities, including pipelines, power lines and other transmission lines and recreational areas, provided that all of the following conditions are found to exist:

    - (a) No alternative location outside the wetland setback or buffer zone or which has less detrimental impact on a wetland is feasible.
    - (b) The proposed construction is essential to the productive use of other land which is not within the Wetland Conservation Overlay District.
    - (c) Design, construction and maintenance methods will be such as to avoid or minimize detrimental impact upon the wetland.

- (2) The undertaking of a use not otherwise permitted in the Wetlands Conservation Overlay District, if it can be shown that such proposed use is in accordance with all of § 175-10B(1)(a), (b) and(c) and findings listed in § 175-5.
- (3) The construction, repair, or maintenance of streets, roads, and other accessways, including driveways, footpaths, bridges, and utility right-of-way easements including power lines and pipe lines, if essential to the productive use of land adjacent to the Wetlands Conservation Overlay District. These uses shall be located and constructed in such a way as to minimize any detrimental impact upon the wetlands and consistent with state-recommended design standards (See Fish and Game Department 2008.), and only if no viable alternative is available.
- (4) Agricultural activities consistent with best management practices as published by the New Hampshire Department of Agriculture Markets and Food.
- (5) Forestry activities consistent with best management practices as published by the New Hampshire Department of Resources and Economic Development and New Hampshire Cooperative Extension. As specified in Logging Operations (Env-Wt 304.05), all skid trails, truck roads and log landings shall be designed using appropriate erosion control devices. Stream and wetlands crossings shall be kept to a minimum in size and number.
- (6) Water impoundments for the purpose of creating a water body for wildlife, fire safety, or recreational uses. Special use permits may be granted for impoundments for on-site detention of stormwater runoff in buffers only.
- (7) Disposal of snow and ice in upland buffers collected from roadways and parking areas.
- (8) Septic systems on nonconforming lots that cannot comply must obtain an approval as stated in § 175-10A (pre-2003 lots).
- (9) A failed septic system within 75 feet of any very poorly drained soils and 50 feet from poorly drained soils must be replaced on land outside the buffer zone, unless the NHDES and the Code Enforcement Officer make a determination that such placement is not physically possible. A special use permit shall be required to place a new or failed system within the setback zone.

§ 175-10.2. Wetlands boundary monumentation.

A. Applicability. The Wolfeboro Conservation Commission and/or Wolfeboro Planning Board may require wetland boundaries to be marked in order to prevent encroachment. This section applies to:

- (1) Any development subject to an application for building permit, special use permit, subdivision or site plan approval;

- (2) Any development approved before the effective date of this section that is determined to be in violation of any wetlands buffer required that existed at the time the development was approved; or
- (3) Any activity within a wetlands or wetland buffer that was undertaken without obtaining a required special use permit.
- B. Wetlands shall be delineated by a State of New Hampshire certified wetlands scientist. Markers should be placed at fifty-foot +/- intervals along the total wetland boundary following its general contour.
- C. Care shall be taken to ensure that markers are placed with the appropriate spacing at points closest to any proposed or existing structure located on the property.
- D. The cost shall be borne by the applicant/developer or their successors in interest