

COÖS COUNTY PLANNING BOARD
Lancaster, NH
February 22, 2017

Present from the Board: John Scarinza – Chair; Fred King – Vice Chair; Jennifer Fish – Clerk; Ed Mellett, Mike Waddell, Commissioner Tom Brady, Scott Rineer, Rep. Wayne Moynihan; alternates Tom McCue, Mark Frank; and Board Secretary Suzanne Collins.

Also in Attendance: Tara Bamford, North Country Council; PJ Cyr, ZBA Chair; Christine Fillmore, Esq., Gardner, Fulton & Waugh, PLLC; and a member of the public and a member of the press.

John Scarinza, Chair, called the meeting to order at 6:05 PM.

APPROVAL OF MINUTES OF JANUARY 18, 2017:

Mike Waddell made a motion to approve the minutes of January 18, 2017 as distributed. Commissioner Brady seconded the motion. There was no discussion and the minutes were unanimously approved by voice vote.

Tara Bamford distributed minutes of the Zoning Uses Workgroup meeting held on February 16, 2017. Mike Waddell made a motion to approve the minutes as distributed. Tom McCue seconded the motion. The 3 Planning Board members in attendance at the workgroup meeting voted to approve the minutes (Waddell, McCue, Scarinza).

PUBLIC COMMENTS NOT RELATED TO AGENDA ITEMS:

- a. PJ Cyr of Randolph introduced himself. He stated that the ZBA had held its organizational meeting on February 21 at which time he had agreed to serve as Chairman. He stated that he plans to attend Planning Board meetings regularly to keep abreast of what is going on.
- b. Fred King stated that he is a member of the ZBA and offered his seat to any Planning Board member who has a desire to serve on the ZBA.
- c. John Scarinza stated that Attorney Bernie Waugh is taking a 2 month sabbatical. He introduced Attorney Christine Fillmore who will be filling in for Bernie.

NEW BUSINESS:

- a. John Scarinza stated that a property owner in Success has requested an extension on a building permit; however, since that resident has not submitted the request in writing yet, no action will be taken.
- b. Jennifer Fish presented an “After the Fact” Building Permit application from Marie Provencher to raise an existing camp and pour a cement slab in Cambridge. John Scarinza stated that he will review the application and bring it forth at the next Board meeting.

OLD BUSINESS:

- a. **Legal Counsel:** John Scarinza informed the Board that he had received a legal opinion from Attorney Waugh regarding procedural guidance to a developer proposing a building project in a PD6 – High Elevation zone.

Mike Waddell made a motion meet with legal counsel under 91-A:2 I(b) – Consultation with Legal Counsel. Ed Mellett seconded the motion. Jennifer Fish, Clerk called the roll and all voted in favor of the motion.

The meeting resumed at 7:10 PM.

Rep. Moynihan made a motion to seal the minutes of meeting with legal counsel until a determination has been made on the PD6 application assuming the Board receives one. Commissioner Brady seconded the motion and all members voted in the affirmative.

- b. **Zoning Ordinance Review:** Tara Bamford distributed copies of a **Working Draft** of the Zoning Ordinance to Board members. It contained pages 1-56.

Page 5, Section 2.07. General Provisions. Tara spoke to the Board about the use of the term “Building Permit”. She stated that if a municipality does not have a building inspector, the permit should not be referred to as a building permit. She had inserted the term “Zoning Permit”. Sue Collins stated that the Colebrook Planning Board had received the same advice in the past and referred to the permits as Zoning Ordinance Certificate of Compliance. Tara stated that she would look further into a recommended permit name. John Scarinza stated that since Coös County has not adopted a building code, he reviews the permit applications with an eye towards the state’s code.

Page 7, Section 3.19 Coverage. Tara asked Board members about their goal for section 7.05. “Why are you worried about a 30% coverage limit?”, she asked. John Scarinza stated that this comes into play on very small lots along the river in Wentworth Location for example. Mike Waddell suggested that if the Board designated these dense areas as a zone, these coverage limits would make sense. Tara referred Board members to sections 7.05 (Maximum Lot Coverage) and 7.07 (Dimensional Requirements) on page 47. Mike stated that a driveway is impervious to which Tara added that a tennis court is impervious. Mike suggested using the size of a building only and not the driveway in determining coverage.

It was the general consensus to leave coverage as structures only.

Accessory Dwelling definition was updated to comply with recent legislative changes. The **Stream Channel and Non-Jurisdictional Districts** definitions were eliminated.

Page 15, Section 4.03 Protected Districts: New language was added to a new subsection (c) *All activities in Protected Districts are required to incorporate the most recent applicable Best Management Practices published by the state.* (Note – the Board deleted the reference to federal agencies).

Tara stated that the working subcommittee talked about not having maps and having the language specific enough not to need maps.

Page 15, Section 4.03A Aquifers (PD1): DES has identified well protection areas and the stratified aquifers. John Scarinza stated that if the state has mapped these then Tara could bring in a map to see what it looks like.

Tara stated that she added a new section to all Protected Districts – a subsection c. **Uses Allowed with a Conditional Permit.**

Sue Collins inquired if there should be a definition of Conditional Use Permit added to Article III Definitions. Tara stated she would look into that. She stated that her intent is not to change the Board's process, but to modify the language to reflect what the Board does. She added that a Conditional Use Permit follows the same process the Board uses for Site Plan Review. It would require a public hearing.

Scott Rineer asked about activities whereby an applicant would only need to notify the Board. He wondered if all permits would need a public hearing. An example would be high elevation permits for timber harvesting.

Page 21, Section 4.03E Shorelines of Rivers, Streams and Lakes (PD5): Tara asked if the Board wants to require vegetative buffers and if so, the Board will need to define them. John asked Tara to bring in some good sample language. Mike was concerned that Tara was suggesting that this Board should consider going beyond the State's Shoreline Protection Law. Tara stated she would bring in a map of 3rd and 4th order streams.

Tara stated that all references to signs in PDs were changed to "exempt signs."

Page 22, Section 4.03F Steep Slopes & High Elevations (PD6): Slopes in excess of 60 percent (31 degree angle) over ten (10) contiguous acres corrects the erroneous 27 degree angle contained in the current ordinance.

Page 22, Section 4.03G Wetlands (PD7): Tara stated that in section (b) of Description she added a better description of wetlands. John stated the working subcommittee had discussed reducing the 10 acre standard in this section but no decision was made. Mike Waddell asked if the new language proposed by Tara is stricter than the state standard. Tara replied that it is. Mike stated that he is hesitant to add language that is harsher than the state designation. Board members decided to leave (b) at 10 acres only.

Page 26, Section 4.04 Management Districts (MD): In subsection b. Uses Requiring a Permit, Tara stated that she recommended deleting "Commercial mineral extraction operations or those affecting an area of 5 acres or greater in size" and simply stating "Excavations in compliance with RSA 155-E".

This same substitution of language would occur in Section 4.06 General Development District, and Section 4.07 Resort District.

Page 31, Section 4.11 – New item (e) *Where information appears to differ between the description of the district contained in Article IV and the information shown on the Zoning Map, the description contained in Article IV shall prevail.* Tara stated that this would acknowledge for a time that the new zoning maps are not ready.

Page 38-39, Section 4.13 Cluster Development Conditional Use Permit: Tara stated that she added some suggested cluster language for the Board to review. Tara stated that she

thought the Board might was less language than appeared on these pages and urged the Board to review for comment at another meeting.

Pages 41-42, Section 5.07 Stormwater added. Tara stated that the stormwater language added is the same as the language contained in the Site Plan Review regulations.

Page 42, Article VI: Standards for Earth and Construction Aggregate Excavation:

Tara suggested that the Board does not need this section if it incorporates RSA 155-E by reference since the County Commissioners are the regulators. She did ask Board members to read RSA 155-E and make a determination if Article VI needs to be in the ordinance.

Page 43, Section 7.01 Minimum Lot Size: Tara stated she changed this section based on the discussion at the last meeting. John Scarinza stated that this change will be discussed again at the next meeting.

Page 43, New Section, Maximum Density: New language, *The maximum development density shall be one Dwelling Unit (with or without accessory dwelling) or other principal use per acre.* She noted that all language referring to zoning based on soil types was eliminated due to the new lot size standard.

Page 47, Section 7.07 Dimensional Requirements Waivers: This section was changed to Exceptions to Dimensional Requirements. Tara asked Board members to review this section carefully prior to the next meeting. She asked members to think about what they want to waive on small camp lots and where the Board wants to retain flexibility.

Page 48-50, Signs: Tara informed the Board about a US Supreme Court decision that urged Planning Boards to make ordinances more content neutral. The language changes proposed in this section are based on her attempt to improve on content neutral-ness. This is a first crack that that language.

Page 52, New Section immediately following Section 10.02: Tara added a section about *Conditional Use Permit: An application for a Conditional Use Permit shall be reviewed by the Planning Board in accord with the procedures provided for in RSA 676:4 Board's Procedures on Plat. All cost of notices shall be paid by the applicant. In granting the Conditional Use Permit, the Board may include requirements for mitigation or other conditions as required in the judgement of the Board to conform with the purpose of the district.*

Tara asked the following questions for Board consideration:

1. Non-jurisdictional areas – should they be classified as Management Districts?
2. Fire Marshal's role?

John stated we have used it on a case by case basis. Discussion followed on when it is appropriate to involve the Fire Marshal on a project.

TIME AND DATE OF NEXT MEETING:

Meetings are being regularly scheduled on the 4th Wednesday of the month at 6 PM; therefore, the next meeting will be held on March 22. Location will be the North Country Resource Center in Lancaster if it is available.

ADJOURNMENT:

Mike Waddell made a motion to adjourn. Ed Mellett seconded the motion and all voted in favor.

Meeting adjourned at 8:40 PM.

Respectfully submitted,

Suzanne L. Collins
Secretary to the Planning Board

Pending Approval