

TOWN OF WOLFEBORO
PLANNING BOARD
July 18, 2023
APPROVED MINUTES

I. Call to Order at 7:00 p.m.: Chair Kathy Barnard called the meeting to order in the Great Hall, 84 South Main Street, at 7:00 p.m.

II. Introduction of Planning Board Members:

Members Present: Kathy Barnard (Chair), Doug Breskin (Vice-Chair), Brad Harriman (BOS Representative), Roger Murray, John Thurston, Julie Jacobs (designated to vote by Chair).

Members Absent: Vaune Dugan, Peter Goodwin

Alternates Present (who vote if designated by the Chair): Jane Nielsen, Steve Webster

Staff Present: Tavis Austin

III. Public Hearings: None

Chair K. Barnard First item on the agenda: proposed updates for Shorefront Regulations. And this was submitted to us by the Wolfeboro Waters Committee. We've also had a presentation on this. There are some minor changes and then a discussion of how we want to proceed. This was developed with the Wolfeboro Waters Committee [WWC] and a member of that committee and sat on the group that developed it.

Chair K. Barnard We tried to make the Shorefront Regulations more specific, so when people come in to get a Shorefront residential permit, they're very clear as to what they need to do, as far as stormwater drainage is concerned. I think all of us certainly know how important that is. Rich, do you mind coming up and telling us what the changes are? I had told you this at the end of last week I had sent the latest item that I had out to the planning board, and then you had a couple changes that you wanted to suggest.

R. Masse, Wolfeboro Waters Committee The first time I was here, we looked at a version of the district regulations that had some proposed changes. With the exception of Section 175.67, which are the improvement standards, there really are no significant changes. I will discuss two of them because the Planning Board made comments in a previous meeting. We took your suggestions. I'm referring to the original modified version. Unfortunately, I see these pages don't have page numbers. If you're looking at the first table [with the diameter/caliper ratings], below that, there is a Section F: "Dead, terminally diseased or structurally unsafe trees, shrubs and ground cover shall not be included in scoring." The following sentence said, "If any of these are removed, the property must conform to the established natural woodland buffer standards established by this ordinance." The Planning Board pointed out that that is irrelevant, because dead or diseased trees do not count, in the first place. Therefore, removing them doesn't change the scoring, so strike that sentence. The second instance of that: at the top Section 6, again, "Dead, terminally diseased, structurally unsafe trees," etc. - a couple of pages before the one where we just were - strike that sentence, too. From our perspective, apart from the section I talked about before the Standards, those are the only

changes we would propose, to remove those sentences, as they're irrelevant. Does the Planning Board have any questions? If not, I would like to get one to 160 561 7567.

Chair K. Barnard Let me check: Does anybody have any questions except for 67?

D. Breskin A couple of questions: I'm not sure that they're for you or for us. In the setback requirements, are there some conflicts in the distances that should be changed. It is similar to the table that we had talked about earlier, where in 175.64, A to B, it says "75 to 99 feet.: shouldn't it say "75 to less than 100 feet," things of that nature. The way it's written now, there's nothing in between 99 and 100 feet isn't classified. So again, it's a minor housekeeping thing, but for A, B and C and D all those need to adjust it to be adjusted. And then at 164 175 64, three and four, with regard to setbacks. That the three is the rear yard is 25 feet and four is the shoreline of 50 feet. And I would suggest we might want to add something in the instance where the rear yard is the shoreline, we might want to have some wording that the greater of the two shall prevail.

Chair K. Barnard So, there's no conflict.

D. Breskin The shore is never the rear yard. Yeah. So how do we define the front of the road and a shore-front? And is there no instance where the road and the shore aren't opposite each other?

T. Austin Just about every lakefront property,

J. Thurston I think we've always called the shorefront the "front."

T. Austin but, but no, not when you're dealing with how close can a garage be to the road because then there's a road front setback. Um, so there's really two fronts. Just about every shorefront property has a shorefront and the street front and then two sides. Rarely is there a rear. I'm not sure I've come across a rear in three years. And then the other thing I noted was, conceivably there are instances, if you had a road coming down on a peninsula and then turning perpendicular to the coast, or the shore, if you will, yes, there could be a road front, a waterfront and then arguably a rear because the road is curving around the property. So there's only a rear if there is a property line. So there's an example of a road that is not shorefront.

D. Breskin So I guess we're saying in practical terms, often the shorefront supersedes the rear, correct? And I'm just wondering, we should note that somewhere in here, if that's necessary, maybe it's not...

R. Murray It's really difficult to have a rear boundary.

D. Breskin Then at 175-67 A.2 where it reads other restriction notes, "No establishment expansion of salt storage yards, auto junkyards, solid waste and hazardous waste facilities." There should be a comma after "solid waste," to differentiate it from "hazardous waste."

R. Masse "Solid Waste," comma, and/or "hazardous solid waste," comma, and "hazardous waste." Yes, that's right. And before we go further, I'd like to return to 175-67 A.1. The proposal isn't done yet. The proposal is requiring a professional engineer.

Chair K. Barnard Okay, well, are we going to get into that next? You wanted other changes? And then we're going to deal with this, Rich? Is that what your thought was?

R. Masse Yes, but we didn't specifically leave that, as is. If Tavis wants to raise a question about that right now, that's probably appropriate.

T. Austin Well, the question is, does the Planning Board believe it is appropriate to require a professional engineer for every Shorefront permit? Because that's effectively what this is saying.

Chair K. Barnard Yes, that's right. And that's what it's supposed to say. That's what we're proposing.

T. Austin that's what Wolfeboro Waters Committee [WWC] proposed. I would submit to the Planning Board there are a number of folks...

J. Thurston So what information do they [WWC] have that leads us to believe that that's an appropriate measure for the Planning Board to take on? Do they have information that leads us to believe that that's for that as well? That's a good practice or what's what, going forward?

T. Austin My goal was for someone to ask what happens now so I'll just say it what happens now? A typical project, the one that most people think of: somebody buys a 1950s camp, razes the structure and then builds a new one. In those instances, there is always a professional engineer because somebody needs to memorialize the four points, the height, etc, given the myriad of regulations that apply. There are other projects where people have a 1970s deck that has some weird angle on it and they say all they want to do is square off their deck. And I've seen those range from 20 square feet to 50 square feet. Now, the way the Shorefront regulations work, a deck is impervious, even though the water's landing on the boards and then landing on the ground underneath it, so nothing is really happening to the [body of] water, one way or the other. And what I need to be able to do as a practitioner is explain to somebody why they would need to go hire a professional engineer to substantiate an additional 20 square feet of deck. I'm saying I understand completely why this is proposed. But there are a number of very small projects that get processed. So I would recommend some consideration, whether it's X percent X number of square feet, something to trigger that requirement, because once we say "Professional Engineer," the property owner's [expenses] are somewhere between \$5,000 and \$10,000.

Chair K. Barnard Okay, do you have any other examples, other than the deck?

T. Austin sure, there are people that want to put a covered walkway between their detached garage and their house. So currently, they are two separate structures. They're 10 to 15 feet apart. They're tired of getting rained on when they go to the car. Does the Planning Board believe you're gaining enough by having a professional engineer engaged to do that? This might not even involve a roof. This could be somebody putting in an asphalt sidewalk between the two structures. Technically that trips the threshold. Currently, I say something to the effect of don't know this isn't an exact phrase. Do your best to get outside dimensions of the house, do your best to get some outside dimensions of the garage. In most of these cases, the sidewalk in question is not going to have a percentage increase impact on the overall total. If it does, it's 1%. I've had several in the past couple of years with a walkway long enough that we triggered a rain garden because the walkway was so long between the garage and the house. So, I get the idea but it seems to me if I were the public, requiring a professional engineer is a rather high bar for some very limited activities within the 250 feet and perhaps an undue burden.

R. Murray How are you going to determine the percentage of impervious coverage?

R. Masse Well, my response would be, maybe you want to set a threshold beyond which you would need [to meet this standard].

T. Austin But right now, that's done. It feels like there are too many buildings on this property, it just looks wrong. You get the sense when the application comes in that something just seems askew and that trigger gets pulled, and now, Rich, to complete his thought, would say, "There needs to be some sort of a threshold: a licensed Professional Engineer is required anytime you're within 50 feet to 150 feet," that's fine. But when you're dealing with something that's 249 feet away from the shore, and they're doing a full shorefront permit to put a walkway in between two existing structures, I'm just wondering...

R. Masse I think of this differently. The threshold I would think about would be in terms of the amount of change that is proposed [on the property]. So, to take your example, somebody wants to change a corner of their deck. So, pick a reasonable number, that's up to you, folks. If it's going to involve less than 250 square feet, I'm just throwing that out. Then you don't impose this. If it's going to be beyond the surface...

Chair K. Barnard Let him finish. Go ahead.

R. Masse Okay, the point of having the engineers, if you read the section, we're very quickly invoking the need for a Professional Engineer to do a Stormwater Management Plan. So it seems to be reasonable to set a threshold at which you would require that because a lot of what goes on in this section depends on the Percentage of Impervious Cover that you have on your property. And I remember asking this question in the past, at a previous meeting, or a Wolfeboro Waters Committee meeting: who decides what percentage of your property is impervious cover? It matters, right? Because we base these provisions on that. Who decides? You come in and apparently, you make a declaration, you tell the planning department how much you've got. And so that might invite an evasion of meeting the intent of the regulation. If you can simply go in and say I have 13% impervious cover. How do we know that: because you say so, the provision is intended to make sure that when somebody walks into the planning department and has a project and they tell you how much impervious cover they have, you have some confidence that that's what it is. And you know which part of the of the regulation applies to the proposed project.

R. Murray and the way this is drafted, you're taking in existing impervious coverage as well as additional so that if they're over right now, they would have to address that, if they did anything further, correct?

R. Masse Well, you know, you could start out above a certain threshold or two thresholds in the provisions 15% and basically 21%, you could already be at 15 or 16. And you will use I am going to only increase by 3%. So Provision A handles my case, you on the other hand, may be going from 18 to 22%. In which case Provision B applies. It seems that the Town would want some level of certainty when people walk in with plans. We're basing everything we ask them to do, on how much impervious cover they've got. We don't want to have some level of certainty that we're talking about what it actually is? Rather than relying on people to come in and tell us what it is and we simply take their word for it. And that's the intent of that. That note, the objection that was raised, should probably be some threshold below which this requirement doesn't kick in.

T. Austin So to that end, it's not, you know, Roger can't just come in and say I'm at 12%. The way the application form calls the calls out for all existing structures, and then any proposed structures, and then there's a formula in that to say, okay, the existing percentage between point A and point B is X on the proposed is x plus or x minus, but what we look for when they put the plan together is actual dimensions on the structures. So I've had instances where somebody says, Well, my house is 2000 square feet, but the dimensions add up to 2500. Okay, maybe they had trouble measuring the house. What does the text card say? Well, the text card is calling it 2600 square feet. The text card is only looking at wall to wall not Eve to Eve. So somebody needs to do some clarification. I don't I don't dispute that the proposed language and 67 a one would make my job infinitely easier. An engineer says this is what the number is. And this is what the proposed number is. I just want the board to be aware that there are very frequent applications where it's not going to make a difference.

R. Masse And that's why we would want to set a threshold, right?

T. Austin And whether that's a square footage or a percent change, or you know, it could be something a plan or survey prepared by a professional engineer for anything where existing impervious is 15% or greater. Because that's where the thresholds really kick in, or in the instance where the existing is less than 15%. But 6% is proposed, again, that you've got the threshold crossing numbers. There. I'm not trying to make it cumbersome but there are some very small projects where it just seemed absolutely overkill to have an engineer involved.

R. Masse I'm not sure I haven't thought through how to address this, but my suggestion would be to threshold be specified in terms of area, not percentage. Because again, if somebody comes in and says, you know, I know 13% And so I don't need it, how do you know that there are 13% My understanding is that impervious cover means more than structures, if I have a paved driveway, right, so if there are any number of things that can qualify as impervious cover and I think when you're proposing beyond a certain levels, and I would propose area of change to your property, then at that point, the burden should be on a property

owner to make clear to the town, what the level of impervious cover is, because everything in this part of the regulation depends on that. Everything. Whether you qualify whether you haven't any of these provisions apply to you. And if so, which one and to what extent, it all depends on impervious cover, it seems to me to be self serving to, you know, for someone to be able to simply tell you what it is, and impervious coverage actually is much more than structures. So it just makes sense to do that.

J. Thurston So Tavis just said that if somebody comes up to him and says they want to expand the area by 6%, they would have known that they're going to expand the area by 6% in the first place, so they probably already have gone that route: to have a survey of the property. The problem here, and I understand your focus and what you're trying to get to: you've got to think of the surveyors and the people that are out there who are doing these jobs. They're not going to want to come out there for a little something [project] or a little tidbit. They want to come out there for a job and when they [a property owner] proposes a large project, they're usually coming out there to do the job. So, when you add the micro element to it, I see the applicants' agents out there cringing. So yes, I think you need to expand the threshold. The question to you, Rich, is: what do you see out there that necessitates you bringing this to us [the Planning Board]? I'm just sitting here saying, "What's the problem that you're trying to solve?" Other than requiring a legitimate, stamped engineer's plan?

R. Masse That's a good question. The answer is what I said earlier: everything in this section depends on the finding of what the percentage of [existing] impervious cover is. Everything depends on it, whether these provisions apply to a particular project; and if so, which part of these provisions apply? So, that's important: unless somebody tells me otherwise, we [Dept of Planning & Development] allows people to come in and tell us what the percentage of their [existing] impervious cover is. That's the issue we're trying to address.

Tavis Austin I'm happy to concede that point. I will tell you that less than 5% of the Shorefront Permits are ever done by someone other than an engineer.

J. Thurston I was reading through here: Note A says "A survey prepared by a professional engineer is required to establish a percentage of impervious coverage." If the [property owner's] engineer is involved with this, there's going to be a survey first. If the survey is done with everything laid out, in my opinion, we could have a licensed Land Surveyor establish the percentage of impervious coverage on the lot. If it gets to a point that it's triggering a Stormwater Management Plan, then bring in the licensed Engineer. But I think that the first phase of it, to get into the office here to review, a plan prepared by a licensed Land Surveyor could be used; the surveyor is probably more than capable of establishing the percentage of the impervious coverage on the lot.

Other items can be laid out [in a survey]: where the driveway is, where the eaves are of the buildings that are currently there, and the building structures. Also the patios, decks, and other things that are [counted as] impervious cover. The property owner would have all that in their arsenal, to inform them what to do for their proposed project. That would be my suggestion: to change that under Number Two, to a licensed Land Surveyor. Afterwards, obviously, we'll be getting a Stormwater Management Plan and we're talking about a licensed Professional Engineer. Also, there are different types of engineers: chemical engineers, mechanical engineers, etc. You might want to specify a civil engineer.

S. Webster I have a suggestion. What about getting an opinion letter from a licensed professional, as opposed to a full-blown survey? So, you could send a staff engineer out to the house, the driveway, and give an opinion letter, that it's approximately x and if you've done a 1%, and you know what, the engineer has set the threshold. So, you don't have to do a full-blown survey.

J. Jacobs I actually think that's a really good idea because you've only got so many of those guys to go around. And if every single flippin \$200 project needs one of those guys, nobody's going to get their decks done for 10 years because everybody's tied up to \$100 jobs.

Tavis Austin Or they're going to do it without getting a permit.

Chair K. Barnard Okay, anyone else? What we're going to need to do is: figure out how to proceed on this. That's one item. Do you want to go on to the next one?

R. Masse So, Kathy, that is a proposed re-statement of 175-67. I think that's right. That proposed re-statement that I sent you. And my impression is you sent that to the Planning Board members, so they should have copies of that.

Chair K. Barnard Yes, I did send it on.

R. Masse I'm trying to make sure we're all looking at the same thing. So you sent that out to people. Yeah, so what I want to do is, if we've finished with that discussion about that note, we can leave the version of the regulations that we originally discussed a month or so ago [in a previous Planning Board meeting]. The only changes we wanted to make there have to do with the need to keep the tree count the same. And I wanted to focus specifically on 175-67. Because that's the heart of the changes we want to propose. And I sent you a copy of what I call a re-statement of that section, a simplification, and I saw an e-mail from you to the Planning Board, forwarding that to them. So, I want to be confident that you all got that and you'll have access to it now, because that's what I want to use as the basis for our discussion.

Chair K. Barnard You did. It was the e-mail that you sent on Sunday. And then I sent it on to the Planning Board members at 11:31 on Friday. I sent to everyone everything we got on Friday. This came after the packets. That's what I just said. Yes, right. I'm just confirming to him that it was after the packets.

Tavis Austin I can go make copies.

J. Thurston Well, I've got a copy and you got it all on here.

J. Jacobs While he's getting that stuff, can we do one more type-o comma? Never mind.

R. Masse We'll do it later. This is just a proposed re-statement of 175-67. It's got the same format. And it incorporates some of the things we talked about in the past. The basis of the changes is basically to simplify and clarify some of the wording because were previous issues with the wording. And it's also in one case under Section D to change the focus or the intent of that section. So, let's just walk our way through it.

We've looked at Item One, which is the note we just discussed. Then there are 55-67 subsections, which correspond to the way the regulation is written now. So let's look at them: the regulation says if a homeowner or developer proposes a project that will result in a lot coverage between 15% and 20% from 15% to 20%, at least one stormwater management system shall be implemented in the proposed development. The proposed rewording is in front of you. For development on a lot where the impervious cover is or will increase to 15% or more, at least one stormwater control measures shall be implemented and maintained to contain erosion from the project. The difference? The main difference is what we don't do to the 15 to 20%. Would you say the threshold was 15%? The way that provision is written right now, there's no performance standard. It tells you to put in a stormwater management system, but to what effect? The way we propose to rewrite this: "You will put in at least one stormwater control measure to contain erosion from the project." So we've got some sort of a performance standard in there. That was the main difference between the existing and the proposal. It sets up a performance standard and changes the language: instead of stormwater management "system," it uses stormwater control "measure" which is the terminology that's most commonly used these days.

Tavis Austin So, the question that leads me to is a stormwater management system able to prevent erosion from a the whole site be the proposed change? Or see something else? At least? Right now, it's not clear either. I'm just wondering if the performance standard should address all erosion from the site or that caused by the proposed change. I read it right now to be the proposed change. So the Delta and runoff needs to be treated.

R. Masse It doesn't say that but that's definitely how I don't think that that would certainly not be my reading of it. It says to mean to contain erosion from a project, and I would hope that we would mean by that the entire project. This is a discussion we're going to get into very quickly, which is starting to split hairs and figuring out what percentage of this project needs to be dealt with and which part can we ignore. We don't want to go down that road. I don't think it just first of all it imposes off who's going to make that determination about which part of this project needs to be dealt with and which part doesn't. The other thing is, I think we need whenever we're having discussions, we need to step back a little bit and be thinking about the purpose of this regulation, which is to protect the surrounding environment, and what purpose does it serve, to start trying to determine percentages of a project that need to be dealt with, versus those parts of the project that can be ignored? The whole purpose of this is to protect that that environment. I mean, one of the questions we should be asking ourselves is this. Why does this why does this regulation call out these properties? Right This provision is provision the stormwater regulation, this section of it doesn't apply to every storefront property. Right. It doesn't even apply to every storefront property that has impervious cover added to it. It applies to the ones that by implication, our house we believe, are likely to have an impact on the surrounding area, specifically, the water. What we're saying by implication when we set a 15% threshold, and then a 21% threshold, is we believe that at those thresholds, these properties are having an impact that we should care about. And I think that's the thing we need to keep in mind when we start trying to figure out how people should manage the third development projects on these properties. We're already calling them out, because we believe the amount of impervious cover they have is having an impact. Otherwise wouldn't Why would we call these out? As I say we don't. We don't have a regulation that says every increase in impervious cover along the shoreline and needs to be needs to meet these provisions. Now, we say those that have at least 15% impervious cover, and especially those that have 21%, impervious cover, and more. Those are the ones we need that need to meet these regulations. Why because they have an impact. So if that's what we're doing, if we're identifying properties that we believe are having an impact, do we really want to start splitting hairs about how we handle that impact? Some of it here, but not that over there? It seems to me it makes the most sense to simply say, when you when you invoke a project, when you initiate a project on one of these impactful properties, you simply need to deal with a storm or record a runoff from that project. Plain and simple. That to me serves the end that dysregulation is all about and that means that when you get to be which is where there's a lot of hair splitting in the current regulation, we again say you need to deal with the whole project. That to me is is the most reasonable way. And there a couple of reasons for that. If you get into the hair splitting into deciding this part of the project needs to be dealt with but that one doesn't. And oh, by the way, there's an exception that if you do this, that or the other thing. What you can end up with are similar properties, similar amounts of impervious cover and, arguably similar impact on the environment that you're treating differently. I would argue that that doesn't make sense from an environmental point of view. And it doesn't make any sense from an equity point of view, and equitable in terms of being equitable to property owners. The only thing that makes sense is a consistent principle that says, If you build something on one of these sensitive properties, one of these impactful properties you deal with it.

Chair K. Barnard Okay, you want to go on to “The next, if any, grid segment within the waterfront buffer does not meet the minimum required”?

R. Murray I would suggest paragraph B doesn't follow that same logic: paragraph B on the first line says, if a homeowner or developer wishes to exceed the 20% mark over, a stormwater management plan, prepared by a professional engineer, must be implemented to infiltrate increased stormwater from the development for square footage exceeding 20%. That suggests you must do the stormwater for that portion which exceeds 20%. And if that wasn't the intent, that needs to get modified to better match paragraph A.

R. Masse That's the former language. I'm sorry, Roger, that's not the current language I'm proposing. I apologize, I thought everybody would have a copy of the language that matches this. So, to be consistent with what we just said about A, B consistently says the same thing. That's fine for developmental where the impervious cover will exceed 21% or more, or increase to 20% or more. A stormwater management

plan prepared by a professional engineer must be implemented to infiltrate stormwater from the development. Period.

J. Thurston Would you like me to read the existing language? “If the homeowner or developer proposes a project that will result in a lot coverage between 15% and 20%, at least one stormwater management system shall be implemented in the proposed development, which may include - but is not limited to - rain gardens, infiltration trenches, pervious driveways, dry wells, etc.” This was amended on 3/13 in 2018. I don't see a problem with that.

R. Masse What I'm proposing, the only difference in what I'm proposing for A, is what you just read. The only difference I'm proposing is that we spell out the performance standard for a stormwater control measure, This is to say it deals with erosion. It doesn't say infiltration. And it doesn't say the current rate. It doesn't deal with more than erosion. The stormwater management plan is a lot more than just erosion. Well, it's not clear to me what a stormwater management system is, it says at least one stormwater management system shall be implemented and maintained.

Tavis Austin You may remember there was a lot of discussion last year with the board about whether the stormwater management plan referred to in this was the same as the stormwater management plan required by the Site Plan Stormwater regulations, and it...

R. Masse It says stormwater management system.

Tavis Austin That's a version of one of the failed amendments. But the idea was to get that term out because it was the same term, using the regulation, to mean two different things. So, if you replace it with stormwater management system, that does address it,

R. Masse I would propose you use the term stormwater control measure which has very specific meaning right in environmental science, and it means the kinds of things we all think of: a rain garden, a drip edge, and that that is explained in the proposed wording that I have before you.

It says stormwater control measures may include, but are not limited to: rain gardens, infiltration trenches, pervious driveways, and dry wells, among others. So that's what we're talking about with a stormwater control measure. That's a term that currently gets used all the time.

And I encountered that for implementations of the stormwater management plan, like at Camps Bernadette and Birchmont. They talked about stormwater control measures and they're talking about rain gardens, or infiltration trenches or things like that. So, we make clear what we're talking about, and we make clear the purpose. Unlike Section D, Section Eight is to simply to manage erosion. It's not as extensive. It's not as expensive. And it doesn't require an engineer. It doesn't require any sort of professional expertise. It simply says: if you build something, but you're under 21%, you need to do something about the erosion that might be caused by what you've constructed. That seems to me to be a common-sense approach.

Chair K. Barnard Okay, thank you all for your time. We drop down to “d” on the discussion items of tonight's agenda, which is our housing meeting. We agreed to have a Housing Meeting, for listening to the public as to what they would like to see in the way of Housing. We had talked about doing it in July but now, it seems a good time to have it is either in August or September. So, as they may have thoughts on that, who still wants to do it, or how do you feel about it?

Tavis Austin One thing I learned at the EDC meeting this morning is that the EDC is looking at having a Housing Summit, of sorts, in April of 2024. So I know it's not as soon as the Planning Board is thinking but I'm wondering if...

Chair K. Barnard Okay, how does everybody feel? This was a suggestion that came up from all of you. Do you want us to proceed?

D. Breskin Kathy, just to be clear, the goal here is to get the public's input on housing, is that right?

Chair K. Barnard Yes. Right, that's what everyone said they wanted to talk about.

D. Breskin I can tell you that I've heard a lot of discussion on this topic outside of the Planning Board meetings. And I certainly think it would be good to have an opportunity for the public to submit their comments officially to the Planning Board, rather than just hearing about it in the street.

J. Jacobs Okay, thinking like just an open discussion type thing, an opportunity for the public to come to the podium and submit their comments?

Chair K. Barnard For housing: what they would like us to understand about the zoning amendments we had put forth last spring. We think that housing is important, and we'd like to see how the community feels about that. And that was the discussion that we had; for example, there were differing opinions amongst people as to whether they would like to have Detached ADUs to address the housing shortage. Obviously, that was defeated in our warrant articles. So, it's an opportunity for them to come and give their opinion as to whether they think it's a good idea or a bad idea.

What do you mean, what would be a good idea or a bad idea? I didn't catch the beginning of what you're saying sorry that there was some dissension amongst the public as to whether Detached ADUs would be a good solution to Wolfeboro's housing problem?

R. Murray Well, we had a public forum where there were people who spoke to Detached ADUs [Accessory Dwelling Units] and at the public hearing on the zoning amendments. I believe all speakers were uniformly opposed.

D. Breskin Roger, you're right. And maybe that was a poor example. But the public can speak up and perhaps come up with novel ways to address housing.

R. Murray I think we should have some kind of format or something for people to respond to.

Chair K. Barnard That's why we're having this discussion: to give the topic some kind of range. Okay, anybody have any more thoughts?

J. Thurston I'm wondering about how to make people think, "More Affordable" with housing for younger people. The average price around here is \$600K for a home. Who are we catering to, is the question. If we want to make housing more affordable, then we have to give them techniques and stuff like that. We're not going to give them the money to go out and pay \$600K for a house. I mean, the disparity is spreading so rapidly that I don't really know what the problem is that we're going to be solving. I don't fully agree with Roger: that people spoke loud and clear. They said they didn't want that style of housing [Detached Accessory Dwelling Units/ADUs]. There were a few people who said that they wanted them to rent out and I know that there are places out there that have created them already. I mean, I'd rather go out there and ask, "How do we regulate the ADUs that have been created out there, illegally?" I mean, to me, I'd rather go in that direction.

J. Jacobs Thank you, John. It seems like you've changed your mind a little bit. No. That's not what you talked about, you know, homeowners? I'm thinking probably the people that need to speak the most are...well, I don't think it's the homeowners that you're thinking you need to talk to. I think the people that really need to speak up the most and let people know what things are happening are employers. There's no place for workers to live. Therefore, there are no workers to hire, and we don't have workers to hire. You become a sole person working by yourself and after a while you run out of steam and you can't grow. You can't do anything which is not necessarily good for business. And things close down and move on. So we're not in a growing phase if we're doing that. And I don't know if the general person that can come in with \$600K in cash understands how that whole system works. They want somebody to mow their lawn. But nobody that lives here is mowing lawns because they don't live here because they can't afford it.

S. Webster It's a product. If you brought in an expert to talk to us and the public about this and let us and the public ask him or her questions about it.

J. Jacobs It seems to be a national problem, not just a willpower problem. And EDC talks about it all the time. As well as we have talked about it a lot.

S. Webster I'm saying bring an expert in. We're not experts. Maybe some of us are familiar...

R. Murray One of the reasons why prices are where they are is because somebody sells a house in Massachusetts and comes up here and buys one for half the price. It's \$600K. And when you look at what land costs, and where construction costs are, how do you get the price down to where somebody can afford it? I don't know how you do that and that's the problem.

Chair K. Barnard Okay, well, why don't Doug and I sit down with Tavis, come up with some specific suggestions, and then come back and see how you feel about them?

D. Breskin I think we can put some structure to the discussion.

Chair K. Barnard Right. Because the other issue that's going to come up is Short-Term Rentals. When we're talking about housing in this area, it's directly related. So anyway, we'll come back to you. What are some suggestions?

Okay, next item on the Agenda: I wanted to get everybody's thoughts on the Maintenance Guaranteed Section 175-33.

Tavis Austin It's currently a requirement, the site plan regulations that all projects that go to Site Plan, review, submit the maintenance guarantee. Some time ago, the board talked about the maintenance guarantee, and the related article dealing with bonding of improvements. It was generally discussed by the board that the maintenance guarantee didn't really seem like it needed to be required, because everything that's submitted as part of the site plan application is required to be done. So once everything is required by the planning board to be done as part of the approved site plan that becomes part of the conditions for a building permit so people aren't getting occupancy until your site is complete. So one of the suggestions I would make is that the maintenance guarantee be reserved for those projects that are unable to be completed. Prior to occupancy. Whether it be because all of a sudden the house can't be finished until November Winter's coming in and it's really hard to plant the trees for something similar to that so that there be a method to determine how much of set project isn't done and come up with a maintenance guarantee for that value. Currently, the way it's worded. Let's just use a relatively recent project but not the most recent project. If you were to require as the ordinance requires right now, what maintenance guarantee for the Taylor nursing home. The ordinance requires them to post in advance of pulling a building permit 110% The value of the nursing home and all of the site improvements. So you're essentially paying for the project before you begin the project. And then as elements of the project get completed, that value is returned to you. So if it's a \$6 million project, and I'm not good at math, but you're effectively giving the town 6.6 up front, and then going to build your \$6 million project. Those are big numbers just to sound ridiculous, but that's effectively how the ordinance is written right now. So I would suggest if the board wants to keep a maintenance guarantee, which does make sense, but I don't think personally to me it doesn't make sense the way it's worded. If someone is able to get site plan approval and begin a project and they get close to completion of a portion of the project, but one element and no one is gonna save their stormwater until the end no one is gonna save the road construction until the end, they might say the road paving till the end. But I think if the ordinance were constructed in such a revised to allow for someone that was ready for occupancy or ready for a final sign off, if you will, but for the begonias, I think they should be able to do 110% The value of the cost of the begonias. I also think this section needs to be revised to allow for I'll say value over time. You know, a project I can think of that posted such a guarantee years ago related to Ambrose way. So, Ambrose way that has happened to be a road so they posted the value of 110% the value of that road based on 1990 dollars. Well, they only came to the end of the project in 2023. 1990 dollars don't mean anything. Ultimately, what was left was top coat paving. And if you look at anyone right now and say, Well, you didn't need to do half mile road and we, you know, the developer failed to do it. We can hand you \$50K, but you're not going to do a quarter mile of paving for \$50K but there needs to be something and I've

talked to Tom about this and they have some recommended language if the Board is interested Tom has language that would allow for Okay, well, you know, revaluation etc.

Chair K. Barnard Okay, one of the purposes of it was to make sure that landscaping was done, stormwater regulations or management was done and there were specific things in there. And, you know, we haven't been doing that. And I don't think that's, I mean, we've got a regulation, so we've got to follow it. And so that's pretty much what we're up against.

Tavis Austin So to what degree Yes, but those of those projects that have required stormwater improvement have had third party inspections.

Chair K. Barnard So we have most commercial projects that require landscape and stormwater. So you know, I mean, I think we've, we've got to have something realistic, that we've got to discuss and then make sure that we're requiring it as a planning board.

Tavis Austin Again, I would suggest the ordinance needs to be modified to allow for value over time.

Chair K. Barnard Yeah, okay. Well if you could come back with some more suggestions.

D. Breskin Why? Don't you think we're talking a lot about enforcement?

Chair K. Barnard I'm talking about conditions, the planning board puts on projects that may or may not be done properly. And I mean, do we want to keep asking for a bond to cover that or financial surety or, I mean, you know, we've got to figure that out because we're not doing it right now.

J. Thurston So that's the question I'm gonna ask, are we not doing that right now?

Chair K. Barnard We're not doing it.

Tavis Austin Support hasn't been asking for a condition.

Chair K. Barnard totally it was always mentioned and you did mention it in one of the your latest planning reviews. And you said it needed a waiver.

Tavis Austin That was the direction from the board on an earlier project as there was no need for a bond or a maintenance agreement. So yes, okay. And the particular project that that review was on I also don't see a need to have a maintenance agreement to make sure okay, but

Chair K. Barnard we don't have have any way to exempt it except giving a waiver. So could we please just Could you do some sort of a regulation for the site plan and subdivision that speaks to this issue, so that we can start dealing with it? Okay, and then we'll discuss it and then decide whether we want to do it or not. Okay?

Tavis Austin fine. What I was trying to say is the board generally said we don't need to do these things. So that hasn't been included. If the board wants it then absolutely.

Chair K. Barnard I'm saying that it is it is in our site plan regulations. It's in the subdivision. All all we have to do is decide if we don't want to do it. Fine. If we do we need some wording. That's all I'm saying.

D. Breskin And what might be suggested to work for a time bond.

Tavis Austin Yes, that would be related specifically to public improvements.

Chair K. Barnard Right. That would be for subdivisions.

Tavis Austin roads and things that would be potentially future town assets.

Chair K. Barnard Okay. So you'll have some sort of a suggestions at some point in time. On to talk about Non-Conforming Structures.

Tavis Austin My recommendation is to move the item on see on the agenda into the discussion down under age because the same thing is addressed in the cleanup discussion for that particular item. Okay, item H item cleanup discussion includes the same discussion.

Chair K. Barnard We have non-conforming structures here. So, we deal with that.

Tavis Austin pull up the ordinance clean up the way to discuss non-conforming structures and

Chair K. Barnard We've got non-conforming structures on here. And could we deal with it now?

Tavis Austin Okay, if you pull out the ordinance clean up on the first page, it starts with conforming structures. Okay. So all I'm pointing out here and this is for board discussion. More than anything else in the section 175 43. If you look at a one see, I pulled it for you by no more than 25% by special exception. If you turn the page to age it says unless it receives a special exception a deck expansion shall not exceed 25%. And I it says that any proposed construction within that with further encroachment requires a variance. So now we have special exception triggers that we have various triggers. And then under J A structure may be vertically expanded within any setback above existing non conforming beyond 25% by special exception. So to me, there's some inherent inconsistency. And what the ordinance is saying and the general theory is up to 25% by special exception, and I get the idea that if you're expanding within the setback, it triggers a variance. I don't have an issue with that. But we have a special exception. That's the criteria to either achieve 25% or exceed 25% or you don't. And the bigger the larger problem I have with Jay then stems down to the next one where there's a conflict between the non conforming structures and vertical height. And the wetland conservation overlay district that says shall maintain same three dimensional envelope.

R. Murray No, that's not a conflict. Second one there is basically when it's been in the ordinance says you can rebuild what was there as long as it's the same. J is expanding vertically. This is not expanding anything so they don't conflict.

Tavis Austin do you think you can expand up to 25% without a special exception?

R. Murray Which is not what it says. Say you can go up by 25% with a special exception. You can rebuild the building as it existed by right, without requiring a special exemption. J says beyond 25%

R. Murray Yes, you can expand by more than 25% if you're going up

Tavis Austin but earlier sections that you can expand up to 25 with a special exception

R. Murray but you're not expanding vertically to 25%, it's horizontally. Basically, this will allow you to put up a floor if you have the existing footprint.

Tavis Austin going up 25% doesn't gain you a floor.

R. Murray Okay, good reason go up more than 25%, if you want to just go straight up.

D. Breskin I would read J as if you wanted to be on 25% called 100%. So if you had a single story structure, you would expand it vertically 100%. Again, a floor as long as you're within the existing footprint with a Special Exception,

R. Murray Yes, you could go up to the height limit allowed in the zone with a special exception.

Tavis Austin Yes. Which would be 30 feet or 35 feet depending on the roofline.

J. Jacobs Excuse me, but do you need to go to the zoning board if you don't increase by 25%? If you don't increase that by 25%, using the same footprint can you just add on a second floor?

Tavis Austin No, because typically what happens is you've got a shed roof coming off a back door over a deck and they say I want to turn this into a family room. But that shed roof is only 12 feet, adding 25%

There's not a second floor create. That makes sense. You'd need a special exception because you're gonna go over that four feet which is 25% of the 12

J. Jacobs but it says non-conforming footprint.

Tavis Austin I also think I also disagree generally with the premise that somehow raising the roof changes the wetland impact offset, but that's a different discussion.

R. Murray Well, we went through that whole thing with the state and shoreline when one point you cannot go up a second floor.

Tavis Austin does that relate to wetland impact? Or is that an attempt to protect the view for people who live close to the shoreline or the wetland?

Chair K. Barnard More for wetlands?

R. Murray From the state perspective, it was the shoreline. What was the shorefront water quality protection?

Chair K. Barnard Okay, well look, could we just start at the beginning here. The first suggestion is to see if any non-conforming portion of the building or structure may be expanded or extended by no more than 25% of the non-conforming structure but with no further intrusion into the setback, by special exception. We ran into problems with that, and I think we need to fix it.

J. Jacobs I have a suggestion and if we start with the words that say by special exception comma any non conforming portion instead of leaving special exception as the last few words hanging off the end of the sentence, okay.

Tavis Austin One of the reasons I highlighted it is based on the reason application does the board believes the special exception criteria or the appropriate criteria for evaluating expansion of an existing structure that has no further intrusion into its area of quote nonconformity.

J. Thurston I'm with you on that one. And the way I read it is, you can have a non-conforming structure 20 by 20. If nine feet of it is now non-conforming, you can add up to 25% of the whole building. You can expand that way as long as you don't exceed 25%. And the part that's in the non-conforming area, our attorney Laura Specter-Morgan said you can expand it whatever you want. That's not what the intent was over non-conforming. The intent was if your building is non-conforming, and you want to keep it non-conforming, you can expand up to 25% period.

Tavis Austin That's not correct, but that's not what it says. You need a special exemption to do that. So the strange anomaly as I look at it with the recent application, is it's been determined that 21% requires a special exemption. They could do a 500% expansion and push it out to the property lines and not require a special exemption. Because there's zero setbacks on a commercial property. Forget the particular project, but it's if they simply went out to all the property lines. They would be 100% in conformance, but we have a provision right now that says you add in that particular instance 3000 square feet you need a special assumption,

R. Murray But that's because the building is a non-conforming structure, because it doesn't meet the 15-foot setback.

Tavis Austin Understood, but they forget the application itself. Just think of the zone. A 3000 square foot grocery store is just as legal in the zone as a 3300 square foot grocery store. Does the extra 300 square feet if you just think about it practically, do the special exception criteria make sense for that evaluation? Rather than saying it should be handled over the counter? But if and I think you know when I can send the criteria to the board members, I think it would be important to look at Holy cow. How do these criteria really apply to this? Where in the proposed expansion is not increasing the degree of nonconformity, but really,

R. Murray The Hunter's situation is totally unique, because we should be talking about non-conforming,

Chair K. Barnard We're not talking about that, we're talking about the regulation and clarifying them.

R. Murray Well, for 50 years, you've needed a Special Exception - actually it's 49 years- to expand a non-conforming structure and four members of this Board voted to include the Special Exception. Specifically, they voted that total cumulate expansion up to 25% of the existing, lawfully non-conforming footprint, in square footage, via Special Exception.

Chair K. Barnard That's true, right Roger? We didn't vote maybe in the past but what we're trying to do is to change it so that everybody is clear on what it means.

Tavis Austin That's to say what did or didn't happen in the past, but if an existing building is proposing to expand and then otherwise conforming manner with all of the applicable setbacks, etc. What is the special exception achieving this? Is that sort of the philosophical question?

R. Murray Well, if it meets all the setbacks, then it's not a non-conforming structure.

Tavis Austin not necessarily true if you have an existing garage, sitting two feet off the property line, and as John said, you can expand it that way in compliance with the regs and that way in compliance with the regs and you're still compliant with not covered and everything else. What is the town benefiting with the Special Exception?

R. Murray Well, if there's no setback, then you don't have a non-conforming structure. If there's a non conforming structure then

Tavis Austin okay, I'll rephrase it. You have an existing garage and a zone that has a 10 foot setback the garage was there in 1910 and is sitting two feet off the property line. They wanted to make the garage larger without making it with none other proposed enlargement is in violation of today's regulations. What does the special exception gain the community, is the question. So that's why I'm asking the board. The first question is, are the special exception metrics, the appropriate tool to gauge an expansion. I understand why it was in there in the past, the regulations are fraught with people putting in special exception when somebody needed to look at it, but it didn't cross the planning board threshold. That's all if the board is happy with this. I have no qualms move forward. That's just one of the things that appears inconsistent.

R. Murray One of the things for people who reviewed the proposed zoning amendments was that when you read them, you found that any any provision that hadn't required a special exception in the amendments had that special exception deleted.

Tavis Austin I would agree with that comment. A lot of people don't know what the special exception criteria are, what the process is. The question is to ask the board is the regulation generating the process that you believe is best for the public in the planning consistent with the master plan?

R. Murray Well, it's worked for 49 years.

Tavis Austin I would question has it but that's fine.

D. Breskin I think it's a good discussion to have. I know, Roger, it's worked for 49 years, but the world's changing. Does it still work today? I wouldn't say just because something's worked in the past, we need to keep it. I think it's open for discussion.

J. Thurston I look at it from another direction I look at it and the criteria for the reason that you have to get the special exception. And a lot of it is just what you said to have us back in the day setback was 10 feet, then they changed it to 20 feet and then now the person who wants to do the garage, he's gonna go get a variance but before he didn't have to go get a variance he could and if the setbacks were different than you know, there would be a lot less variances and so I look at it in that direction, what's causing the variances to happen?

Tavis Austin And there's two different ways to look at this one is talking about non conforming structures, but it also talks about non conforming uses. Those are two different things. You think about the zoning ordinance it has permitted uses a special exception uses. And then we have, arguably for some, not all we have special exception that allows and runs on what most communities would consider a variance you have a non conforming structure, you're going to expand it that's a variance. This is not intended to be there's only word shouldn't be involved. This is the special exception matrix the appropriate way to evaluate this and if there's nothing you know, if you have questions, I'm happy to put my two cents and offline or however special exception, again is throughout the ordinance for someone should look at it but it's not a planning board thing make it a special exception. And it will be interesting there are probably two or three projects in the near future that will be raising the special exemption question as only were dealt with one last night if you're interested to see how that process works at that level, so the board doesn't have anything further that was just a non-conforming structure portion of them.

J. Thurston Okay, so everybody's happy with the way it is. Well, obviously we got some hiccups because we got a hiccup. I mean, I don't want to see us go through what we went through already.

D. Breskin I think what Tavis is talking about is separate from that. Certainly, there was a hiccup, but I think Tavis is talking about a more philosophical question as to which land use board should review which changes from the regulations? Maybe 'changes' isn't the right term. But if you've got a building that doesn't conform, is it appropriate for the Planning Board or Zoning Board of Adjustment to look at?

Tavis Austin Should it be a variance or should it be special exception? And I go back to the other version of that question. You have an existing building that has an element of nonconformity, whether it be setback or height, and you propose to expand that building without increasing any of the existing non conformities doesn't need a variance or a special exception. Question mark. All of these things have come up in my tenure here, are different versions of it.

J. Jacobs Do you use that fact to try to make you fix something over there? But that's not in the project. If we're doing the project, you know, how can we make somebody fix the garage roof on their project if they're working on the deck? That's what it seems like what you just said to me.

Tavis Austin I mean, if the goal is potentially to remove non conforming structures, or move to a position where all structures are conforming, there's yet another avenue that could be taken you know, because most people read this and say, Well, if I need a special exception to you know, to put a shed roof on the front of my garage because the back of the garage happens to be over the setback line. I'm just gonna build a whole new garage and say the heck with them, because it's not worth going through it.

R. Murray But if you're expanding a conforming portion of a non-conforming structure. You're doing it to conform to the zoning ordinance. This doesn't apply and you don't need a Special Exemption. It's only if a non-conforming portion of the building may be expanded. Now it's like the whole thing they went through in the Shorefront Residential District: in particular, where you could expand if you have cottage, and half of it was within the setback. If half of it was not, you could expand the back half without a Special Exception.

Tavis Austin but then why do you require a

R. Murray You don't require, but you can give the guy a permit. That's what it says.

Chair K. Barnard Okay, why don't we think about this further and come back to it at some point in time.

J. Thurston So I'd like to hear: do you think we need tweaking of this document and your view on the legal terms or does it meet the legal criteria? Or is it clear?

R. Murray I think if you go back to the language that was voted on and you move Special Exception, or put a comma in there, we have a consensus now, from the time of the Planning Board attorney, that it says what we thought it said. I think, conceivably, you could take the language from the January 22, 2019 Public Hearing and put that in here and you're just correcting what was transposed when they put

it in the ordinance. Because you can't amend the ordinance by rewriting it in a language different than what was in the Public Notice and what the Board voted to put in the Warrant.

Chair K. Barnard Okay, so just by removing the amount that would...

D. Breskin Back to adding a comma, I think what he's proposing is effectively the same as what Julie proposed.

Chair K. Barnard Okay, so we could reproduce Julie's and that would satisfy, right? To his suggestion.

D. Breskin All right. Thanks, Roger. All this accomplishes the same end result, right.

J. Jacobs Are there any of the questions that we need to answer?

J. Thurston No, we're trying to get the wording correct. Before we answer the hypotheticals,

Chair K. Barnard Yes, right. That's what we're trying to do. Okay, well, Tavis, we've got two exceptions to suggestions here. And Julie's and Roger's removing of the comma, no heading. So why don't we jump in? Is what's currently on-line not what was voted on?

Tavis Austin Correct.

Chair K. Barnard Then I think the Planning Board has the ability to request that the language on-line or in the current ordinance reflect what was actually voted on. And that doesn't require going to Town Meeting and that would satisfy it.

Chair K. Barnard

I agree. That's fine. Is everybody okay with that?

D. Breskin I agree. That's what we should do then.

Tavis Austin It's essentially correct.

Chair K. Barnard Yes, all right. Remove the comma. Okay: Conditional Use Permit Criteria. Section 175-2. That was put into place when we adopted the Accessory Dwelling Unit [ADU] section of the regulations. And Roger mentioned this to us when we did not do a site visit. The reason for the request for an ADU is that this really should be put into the ADU section of the regulations. I mean, we can keep the Conditional Use permit. I always thought that it was what was supposed to be in the Definitions Section, but I could never find it.

Tavis Austin What I what I can't find clearly is where this actually went to the warrant like this. I would like to go look and see where I don't see an article creating 175 to 15.

Chair K. Barnard No, no, there wasn't, but it was brought up at the public hearing. And I mean, it's sort of unclear. It certainly doesn't seem to have been included in in the article, but it was brought brought up

Tavis Austin I don't doubt it was brought up but I don't see is where that's actually what went on the warrant. So what I want to do is go What I'm saying is I think this is going to need some further attention because when you go back to the 2017 town report, it says change accessory apartment to accessory dwelling, some version of do a word search to say to change apartment to dwelling unit throughout the ordinance but what I don't see is the creation of the section. I can see where it came to the board in the board talked about it but I don't see how it made it to the board and became the rule. Now. I will say that the site visit is consistent with the other conditional use permit criteria the board has so it's not a stretch to say any conditional use permit requires a site visit by a majority of the board prior to acting wetland conservation district you know you'll have a project coming up in August there's a site visit because there's a special use permit. special use permit conditional use permit I do generally it's the same type of thing. But other places in the ordinance under the conditional use permit criteria. It requires a site visit. So it's not a leap to get here. I just don't see where the voters said Yes, do that. Yes, put that in the ordinance. I think that

needs to be clarified. And maybe once that's clarified the direction can be to move these criteria into the adu section of the ordinance. So all things adu are in the same section.

Chair K. Barnard You're gonna do further research then, and we have, or I have, yours. I don't know if everybody else does, Roger, but we can certainly get your information, along with Tavis', to the Planning Board. We've been talking about this again.

R. Murray How many uses are by a Conditional Use Permit in the zoning ordinance?

Tavis Austin Awesome question. I have no idea most of us most of the things that will throw calls special exception uses most places called conditional use permits. So there's any multitude of things probably 100 Some most of the conditional use permits in you know off the top of my head that would be more along the lines of especially use permit. So the wetland conservation overlay things at use by right art or by ordinance or conditional use permit. So at some point, it seems more recently than not the planning board has been recommending and the voters have been supporting conditional use permits for things like accessory dwelling units. Looking at it as a planning function rather than a special exception function. One of the reasons I brought it up and I brought it up, you know, I don't wanna talk about structures anymore. But if you look at the special exception criteria themselves, the language at least to me, just my humble opinion seems to be putting something there's nothing in the neighborhood. You know, it's looking at neighborhood impact, noise flared dust traffic, things along those lines. conditional use permits are very similar. If you look at the conditional use permit criteria, the special exception criteria, they're very similar. You're basically practically speaking they're looking at the same thing, but it's a different board evaluating. I think the best answer to Roger's question is we have many more special exception uses and conditional uses by a large factor of 10.

Chair K. Barnard Okay: Lighting Issues and Regulations. John, we had committed you and I to go to the Board of Selectmen's Meeting when they discuss this. But do you think that we should get the Lighting Committee back together, to discuss some of these later issues that have come up? Or do you just want to leave it to the Board of Selectmen, at this point, because most of them are public?

J. Thurston I think the things that we talked about were in our wheelhouse. We talked about the signs that were in the display cases, and I think Tavis gave us his opinion on those read, gave us his Selectmen interpretation of the uses and the after 11 o'clock situation. You and I found out about the lights on the poles later on. It wasn't really anything to do with our ordinance, so there was nothing in there anyway about it. So I would rather go and get questions directly in front of the Selectmen, get it right out in front.

Chair K. Barnard Okay, all right.

Tavis Austin just gonna say I haven't forgotten at the last meeting after the public comment on lighting Planning Board had some general discussions and I agreed to put together a memo on behalf of the Board to go to the board of selectmen, I haven't forgotten it's just one week turns into the next week very quickly, within a week in between to get anything done. So I'm happy to put that together. And if anyone has particular things they would like in that memo, thermal sooner than later and they'll send the draft out to Kathy and John to review and or sign and then others can chime in after that's drafted. So I hope to have that very shortly.

Chair K. Barnard

Okay, all right. That's good. Can you just give us a quick tip update?

Tavis Austin

All of the request forms and related spreadsheets have been put on the drive for department heads. To us. It's my understanding that a number of department heads been working with the town manager to comply with a deadline which is fast approaching. I haven't been looking at the seams. What most people are doing is pulling the spreadsheet off the drive and doing the work on their own computer and then put them back in. So I I'm anticipating a relatively I'm going to kill it right now. But light CIP here, at least a number of

projects or number of new projects, but I have no anticipation of where the values are going to be. I did get sort of an offhand comment from Public Works yesterday that following the storm, some of the numbers are gonna go up a bit, but I think that was more reactionary. Than functional at that point.

Chair K. Barnard

When will the first CIP meeting be?

Tavis Austin

I don't have access to the V drive here, but I believe the first because I'm not here the week of August 7th. So it would be the first Thursday after that.

Chair K. Barnard Okay. So, it's nine o'clock: probably we should kind of wrap this up.

Tavis Austin I can go quickly. If we go back to the cleanup items starting on page two. You know, one of the questions I have for the board because I can't find the history of it. Does anyone have a recollection of where the front wall the principal building shall be located within 15 feet of the front property line came from and is that something the board wants to maintain? One of the one of the reasons I asked is there's nothing magic about 15 feet one of the to me unless someone can come up with the origin. One of the things I put it right in here, keep in mind that corner lots have two fronts. So now you're requiring a building to be within 15 feet of wall street frontage is effectively there are some lumps in the commercial district that are surrounded by roads. So now you've got to be within 15 feet of all lines to be compliant without a variance. I'm just wondering what's magic about the 15 feet my suggestion would be to create a development incentive if the building is located within 15 feet 10. You gain experience at wide benefits something else? Which cylinders isn't one of the only district I can find that has that in it. Yes, that's correct.

J. Thurston But my recollection was Rob brought this in front of us. The idea was to bring the buildings to the front as far as they could. So the concrete parking behind the back of the building. And I think that's I think that's how the magic 15 got the was wrong.

Chair K. Barnard It was during a hearing the Timberlands. And there was the building across the street from Nolan's, so we were talking about his building

Tavis Austin if we just think of any corner lot well that would with a corner lot the ordinance also says that in the corner lot you don't have a rear yard you have two fronts and two sides. Let's just assume every lot is a rectangle.

Chair K. Barnard Okay, his is a corner lot.

R. Murray But presumably, if you're in a corner lot, you're going to want to use as much of the lot space as you can, within 15 feet. And that seemed like something that Rob would have suggested.

Tavis Austin And I think, well, if this lot were vacant, and the building was proposed within 15 feet of Glendon or union but not mean it's still in violation of this ordinance. I get where it's going. I mean, the general planning principles for building on the 14th building right up on the corner so that everything is behind it. But it doesn't necessarily just happy with that. That's, that's fine. I'm just asking, Is that something the board...

J. Jacobs I don't think it should say "shall" because it doesn't work every single time. You know, I mean, if you even look around downtown, buildings aren't necessarily within exactly 15 feet of the road.

Tavis Austin No, 90% of them are on the line.

J. Jacobs Yes, some of them are like 20 feet. You know, not a whole lot, but 20 to 15.

J. Thurston You know, I remember the Kornilov discussion with Matt Sullivan, about the house up on North Main Street. and so maybe go back to the notes and see what the discussion was with that one? Do you remember, Kathy? Was that Highland?

Chair K. Barnard Yes, Highland Terrace.

Tavis Austin To the other the other suggestion, instead of having that section at the bottom of the page is typically when the developer pulls up the zoning, they're gonna say what's the required acreage and what are my setbacks? It might be most appropriate where it says a setbacks front yard street commercial within 15 feet as opposed to saying you have no setback but way down here, we got to be within 15 feet. Okay, that's an easier way to put it out there for people to digest.

Chair K. Barnard Okay, does everybody agree that this needs a little flexibility? This section?

Tavis Austin I would also suggest it is perhaps binding to the planning board who is looking ostensibly at the best use of the land given what the proposed project is, it might make the most sense for the building to be at 23 feet for any number of reasons. And Tom wants to put in a bus stop. It's not gonna move the property line. But at the time I suppose the trolley stop will formalize some amenity. Is it really worth the variance criteria to benefit the community at the building camp, achieved his own?

J. Thurston

Well, if you looked at 15 feet 15 feet would be a good buffer strip or landscaping and we're on the front of a property. I mean, that's to my mind.

Tavis Austin that's the other idea. Anything greater than 15 Feet has to do A, B, C and D amenities on the street. The idea is to prevent parking in front of it. Right. This isn't. This isn't an anti-parking measure. This is what you're building here.

R. Murray I don't think you'd want to have a building setback the way Hunters is.

Tavis Austin no, in fact, other regulations preclude it because you're not supposed to park in the front yard in that zone. But for the non-conforming date, I mean, not that we're talking about that. But there are other ways to prevent what this is, I think intended to do. I mean, if you don't no one is going to put a building back 20 feet and trim or put it back 50 feet and try and park behind because you've just wasted all your commercial real estate.

J. Jacobs Right, but then you get into things like we know that no one's is it was kind of pre-existing where that was there not 15 feet from the road. We have to use that space. Very nicely for the community. So I don't think they should have been told it's got to be online.

R. Murray We're going to be pretty close because it's from this front set of property one in which they're probably close, if not 15 feet close to it.

Chair K. Barnard Right. It's this building right across the street, the bank building that's a conforming.

J. Jacobs Conforming, unfortunately. And that was the traffic hazard

J. Thurston It's the style of look that was trying to be created during the planning process. They wanted all the houses on the front to look like the village and that's what he meant was the creation of why that happens.

Tavis Austin And more extreme way to do this would be to morph this into a form-based ordinance, whether by section or by ordinance, it says this is what downtown is supposed to look like. This is what it looks like on South Main, North Main, buildings are within this area. These are the amenities we expect you to be putting in front of it. This is how you deal with parking and things like that. So you're getting all the numbers out of that and you're forcing the form to control but that's perhaps a larger paradigm shift

J. Jacobs And we came up with 'cuteness,' as to why people even come here, because of the 'quaintness.'

Tavis Austin and I don't know you tell them that that's what the buildings need to look like if that's what it is you take a picture of that say the form is two to three story, front entrance, paint, all of that stuff.

J. Jacobs Right, and then it looks like a whole bunch of condos. That's why people come here, because they're all different.

Tavis Austin Anyway, just food for thought on the 15 feet, okay. On the third page and this is in the wetland conservation overlay district. The minimum wetlands buffer which is more restricted than a setback shall consist of undisturbed land in accordance with the following requirements. The only exception would be driveways but then later in the same ordinance 175 10 C three the construction repair maintenance of streets roads and other access ways including driveways. There's a conditional use permit. So which is in this case, we're looking at issuing a conditional use permit under 175 10 C three a driveway is not a use. Right land use is a use within the wetland or concede that are within the wetland setback and buffer. What the section the overlay starts by exempting driveway crossings. So, one of them I would submit needs to change because I can't find the origin of the exception for driveway crossings. I think I hate dabbling in this. I'm gonna say the word intent. I think the idea was if somebody had a conforming structure, the only way to get into the driveway or get into the garage or the driveway that perhaps touched the setback that doesn't need a conditional use permit. But if you think of a subdivision that occurred out on Center Street not long ago, they proposed the driveway accessing three homes they did a four lot subdivision with the board they proposed three homes access would buy a driveway which the ordinance allows and they cross wildly Brook with a driveway because they were exempt.

Chair K. Barnard Okay, what do you think folks?

Tavis Austin I've talked to Dan Coons a little bit about that and said yeah, driveways are exempt. I said but they're not because back here. It's a special use permit. Now the other reason I highlighted this or I emboldened and other access ways, if you look at the definition section online, and you go all the way down to the bottom and the term accessway was removed from the ordinance. So I don't know what an access way is, if not a street Road, driveway, footpath bridge etc. One of the other reasons I'm gonna bring this up is bridges is really only defined by DDS. A bridge is top of bank to top of bank I even cross a wetland not talking about buffer or setback, but you can cross a wetland river or what have you with a bridge as long as you go to the bank to top of bank without a state fridge and sell permits. And building code does not address bridges. Bridges typically live in highway language, but we don't have an ordinance on bridges. So my just looking at everybody's face my suggestion is the only exception would be for driveway crossings comes out and that allows the board to address streets roads, access ways, driveways, footpaths, bridges especially or conditional use permits. Okay, that's just a recommendation, etc. The last one on that page. Almost last one. There is a discrepancy between the shorefront residential district boundary description and the beginning of the zoning ordinance that says that the shorefront residential exists from the reference line to a depth of 300 feet. But the shorefront regulations only actually regulate 250 feet

Chair K. Barnard I'm surprised to hear that. And most people, when they talk about the shorefront, they say the 250 feet.

Tavis Austin I think it's the same rule. My suggestion would be to change the description to go to 250 feet.

Chair K. Barnard I know. I'm agreeing with you.

Tavis Austin The last one on that page. Again, this is just a revamp of one of last year's proposal is just to remove 175 109 through 112 which is the C two because we have no parcels or anything to go with it. That's just one of the cleanup items. So we can discuss any of them further whenever you'd like to

Chair K. Barnard All right, so you're going to prepare some of those in ordinance form so that we can discuss them, finally, and then set it...

Tavis Austin which which ones would the board want further work on?

Chair K. Barnard The 250, I think.

Tavis Austin I mean, I didn't I didn't hear the board take a position on non-conforming structures other than to put in the language from before. If there's general consensus, I can put in an ordinance for...

Chair K. Barnard The non-conforming structures, Section A, we talked about removing the comma.

Tavis Austin A.1c then we'll put into language that was actually voted on.

Chair K. Barnard That is certainly something that we should do, as Item 1) In Section A.1c, Non-Conforming Structures: remove the comma.

D. Breskin Item 2) No decision by the Board yet, needs more discussion. Item 3) Removal of the sentence regarding driveway crossings. Item 4) Change 300 feet to 250 feet. Lastly, Item 5) Remove C.2. With the exception of Item 2, I suggest we follow Tavis's recommendation.

Chair K. Barnard Right. Everybody okay with that?

J. Jacobs Second.

Tavis Austin I'll quickly go through the memo on Lighting. And as soon as I have an update on the number of CIP projects, I will update the Planning Board.

Chair K. Barnard Okay. Can you give us a copy of our [Planning Board] Rules of Procedure? Do you have those?

Tavis Austin Yes, I will run down and get them so nobody...

Chair K. Barnard Just put them in the next packet. Now, Public Comment. Anne, would you like to say anything to us this evening?

V) Public Comment:

Anne Blodget I'm going to send in some thoughts. I think we've already sent in [comments] about doing a Housing Public Feedback Meeting. I would ask, "Please don't call it a 'summit'; for example, the Water Summit is an informational and educational thing; this is a more of a hearing and public forum." So, a 'summit' presents a solution, but it doesn't sound like you [the Planning Board] will be presenting a solution. Also, I would agree with Roger that [the future public forum] be structured, have data, have things to discuss; that would be the best way to go.

VI) Minutes:

Chair K. Barnard Thank you. Okay. We have one set of Planning Board Minutes of May 16, 2023.

R. Murray Motion to approve the Minutes of May 16, 2023. And thank the Secretary for incorporating the changes.

D. Breskin I'll second that.

Chair K. Barnard Okay. Motion has been made and seconded. All in favor, please say aye.

PB IN UNISON Aye.

Chair K. Barnard Opposed? [None opposed].

Agenda Items for next Planning Board meeting on Tuesday, August 1st 2023: There will be three Public Hearings next Tuesday, August 1st: 1) The Condo Development at the end of Willow Street, 2) Brewster Academy's Skating Rink, 3) Harriman Hill Phase III Affordable Housing.

Tavis Austin There is a site visit, it's been Noticed, so don't forget, that's at 6:15 p.m., same night as the meeting.

VII) Motion to Adjourn:

At 9:27 p.m. Chair Kathy Barnard made a motion to adjourn. Roger Murray seconded the motion. The motion passed unanimously.

Meeting Minutes respectfully submitted,
Livia M. Nicolescu

Recording Secretary: LNicolescu@WolfeboroNH.us