

**TOWN OF WOLFEBORO
PLANNING BOARD
January 5, 2016
MINUTES**

Members Present: Kathy Barnard, Chairman, Stacie Jo Pope, Vice-Chairman, Brad Harriman, Selectmen's Representative, Mike Hodder, John Thurston, Paul O'Brien, Vaune Dugan, Members, Chuck Storm, Alternate.

Member Absent: Dave Alessandroni, Alternate.

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

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

I. Work Session

Wetlands Ordinance; Joint Meeting with the Conservation Commission

Conservation Commission Members Present: Dan Coons, Chairman, Lenore Clark, Vice-Chairman, Art Slocum, Jeff Marchand, Ed Roundy, Gail Antonucci, Members, Randy Tetreault, Alternate.

Kathy Barnard reviewed the history of changes to the Sign Ordinance. She stated that because the ordinance requests review of applications by the Commission, the Board felt that the Commission should review any proposed changes to the ordinance. She stated the Board does not want to propose an amendment to the ordinance that the Commission would be opposed to.

Rob Houseman reviewed the zoning history and previous zoning changes. He reviewed two Planning Board applications; Lyon King Realty Trust and Patricia A. Clement 2000 Trust. He stated the Town's ordinance specifies proximity to wetlands however, does not address wetland areas upland or down gradient; noting there needs to be more specificity in the ordinance if the Board is going to allow for deviation from the ordinance. He reviewed functions and values assessment of wetlands. He stated he forwarded the Kingston ordinance to the agents of the previously noted applications and requested review of their applications using the Kingston ordinance; noting both agents stated the cost to the applicant would have been significantly more and a more intensive setback would have been created. Therefore, he stated the Board questions if there is an alternative method to apply.

Randy Tetreault stated he is surprised there have only been two applications that have presented issues/questions. He stated the "no alternative location exists.." is a difficult threshold. He stated what is often overlooked is whether any buffer exists.

Vaune Dugan stated the ordinance needs to be less complicated because every lot is unique. She stated that Jim Rines' analysis revealed a riparian setback versus a wetland setback issue.

John Thurston stated there is a need for consistency; noting that lots become tighter and tighter every time regulations are created.

Dan Coons stated NH DES and NH Association of Natural Resource Scientists have formed a joint committee to develop a universal standard for the State of NH and review the science behind buffers. He noted the Committee has released its draft recommendations.

Rob Houseman stated the draft recommendations could result in either Administrative Rules or legislation; noting such would nullify the Town's ordinance. He stated any proposed changes by the Board to the ordinance

would be for the 2017 warrant. He stated the goal is to create a structure that provides enough guidance to the applicant while providing enough standards to the Board.

Paul O'Brien recommended addressing John Thurston's concerns prior to any Town or legislative changes.

Mike Hodder asked if the Board's proposed changes address the Conservation Commission's issues and concerns.

Kathy Barnard stated there is a need for more flexibility. She stated the Board would be reviewing the ordinance in August therefore; the Commission has additional time to review the proposed changes.

The Board and Commission reviewed Staff's memo, dated 12/29/15, see attached.

Rob Houseman questioned whether #6 needs to be applied and recommended clarification of such.

Referencing such, Dan Coons stated that it only addresses wetlands of lower function and value; noting that it does not address a higher value wetland that isn't degraded further.

Vaune Dugan recommended including the degradation of a high valued wetland.

Referencing #'s 4, 5 & 6, Jeff Marchand asked if it's an "and" or "or".

Rob Houseman replied "or".

Jeff Marchand recommended it be "and"

Art Slocum recommended addressing the wetland in total; noting that often times a wetland covers more than one lot however, only impact to the portion of the wetland on the lot being reviewed is being addressed.

Stacie Jo Pope asked how abutting properties would be reviewed.

Randy Tetreault stated wetlands within 20' of a boundary line cannot be disturbed without consent of the abutting property owner.

The Board and Commission reviewed the P&D Zimmerman Family Limited Partnership Special Use Permit approval.

SB 146; Accessory Dwelling Units

Rob Houseman stated Cordell Johnston, NH Municipal Association, advised that if the Board feels that SB 146 weakens the Town's zoning, the Board could consider a Special Exception or Special Use Permit process to address the Board's concerns. He stated the Town does not allow for accessory units in the Shorefront District however, the legislation allows for such in all districts.

John Thurston asked what triggers adverse impact to a neighborhood (Special Exception criteria).

Rob Houseman stated there are eight criteria for a Special Exception and reviewed such.

Paul O'Brien questioned whether the Board should have expressed concern to Senator Jeb Bradley.

Mike Hodder stated the legislation is effective 1/6/16 and it would be meaningless to contact him.

Paul O'Brien stated SB 146 is a piece of legislation that has impact to property values and the Board should have reached out to the Senator.

Kathy Barnard stated the Board discussed the issue several times and there was no motion made to contact the Senator. She stated the Board could enact a Special Use Permit process or ZBA Special Exception process.

Vaune Dugan questioned the definition; noting such requires the accessory structure to be attached to the house.

Rob Houseman stated he questions the definition because it includes language for both attached and detached units.

Planning Board Warrant Article

Mike Hodder stated the BOS voted 5-0 to recommend the Heritage Commission warrant article. He asked if the Planning Board's vote to recommend the warrant article could be included on the ballot.

Rob Houseman replied no, the statute doesn't allow for such.

II. Public Comment

Cindy Patten requested the Board to continue their efforts with regard to simplifying the permit/application process. She stated the ZBA and Planning Board process impacts the role of the Economic Development Committee and she would like to see the process be less intimidating to applicants.

III. Informational Items

None.

IV. Planning Board Subcommittee Reports

None.

V. Approval of Minutes

December 15, 2015

Correction:

Page 3, 7th paragraph; strike "appeal and trying to be" & replace with "attractiveness while being"

It was moved by Mike Hodder and seconded by John Thurston to approve the December 15, 2015 Wolfeboro Planning Board minutes as amended. Kathy Barnard, Stacie Jo Pope, Brad Harriman, Vaune Dugan, John Thurston, Mike Hodder voted in favor. Paul O'Brien abstained. The motion passed.

VI. New/Other Business

Sign Ordinance

Kathy Barnard stated she requested Mary DeVries, Chamber of Commerce, to submit specific concerns regarding the sign ordinance. She stated she will be attending the Chamber of Commerce's quarterly meeting next week.

Master Plan

Rob Houseman stated he attempted to seek alternative survey companies however, found none. He stated he would prepare an RFQ and interviews will be scheduled for those received. He stated if there are no responses submitted, he would recommend the UNH Survey Center.

Vaune Dugan stated the Hazard Mitigation Plan should be incorporated into the Master Plan including cross referencing such throughout the chapters.

Rob Houseman noted the Hazard Mitigation Plan is updated every five years; noting the plan addresses natural and physical disasters and allows the Town to seek federal funds.

Planning Board Meeting Location

It was moved by John Thurston and seconded by Paul O'Brien to schedule the Planning Board meetings at the Great Hall, Brewster Building, commencing February 9, 2016. All members voted in favor. The motion passed.

It was moved by Mike Hodder and seconded by Stacie Jo Pope to adjourn the January 5, 2016 Wolfeboro Planning Board meeting. All members voted in favor. The motion passed.

There being no further business, the meeting adjourned at 8:57 PM.

Respectfully Submitted,
Lee Ann Keathley
Lee Ann Keathley

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

MEMORANDUM

DATE: December 29, 2015
To: Planning Board
From: Robert T. Houseman, Director of Planning and Development
Subject: Wetlands Ordinance Review with the Conservation Commission

Over the past 5 years the Planning Board has considered a Values and Functions approach to the wetlands setback. The impetus of this review was to see if there was a way to better protect high value/function wetlands and allow for better land use development/redevelopment of property if poor quality wetlands or the proposed development would not adversely impact the higher value wetlands. Most recently, the Planning Board reviewed the Town of Kingston Values and Functions based setback standards and sought feedback from recent applicant's agents (Jim Rines and Dan Coons) regarding how the Kingston standards would have impacted their respective projects. The reviews concluded:

- Increase in cost to the applicant
- Increase setback even when no adverse impact was shown

The following cases triggered the most recent review of the Ordinance

- The Lyon King Realty Trust application was for the reconstruction of a boathouse with a slight increase into the wetlands setback. However, the boathouse is down gradient from the wetlands and will have no impact on the wetlands.
- The Clement application included the reconstruction of an existing barn down gradient from a manmade pond and manmade wetlands and included wetlands restorations and improved drainage.

Staff proposes an alternative approach which would consider the following changes to the existing ordinance:

To provide standards to address:

B. Lot redevelopment is permitted within the wetlands setback, wetlands buffer and wetlands when no alternative location on the parcel exists which has less detrimental impact on a wetland. Less detrimental impact on the wetlands shall include:

1. Development that is down gradient from the jurisdictional wetlands.
2. Development and/or redevelopment within a previously disturbed area and where the previously disturbed area provides no protection to the wetlands.
3. Redevelopment the wetlands is a low values and functions as defined in accordance with the techniques outlined in the U.S. Army Corps of Engineers Wetlands Delineation Manual Technical Report Y-89-1. (January, 1989) or as subsequently adopted by the State of N.H.

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

§ 175-65. Permitted uses.

Permitted uses shall be as follows:

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

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

§ 175-10. Special uses.

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

- (1) *The Planning Board has created a tiered system in an effort to accommodate reasonable use of preexisting nonconforming lots of record (lots created prior to March 2003) while providing protection to the wetlands.*

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

(a) No alternative location outside the wetland setback or buffer exists for a dwelling with a maximum allowed footprint of 1,800 square feet.

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

1. Increased stormwater runoff into the wetlands.
2. The removal or lessening of the function of filtration strips between the wetland and the proposed development.

(c) In accordance with best management practices, design, construction and maintenance methods will be such as to minimize detrimental impact upon the wetland. Where a natural wetlands buffer does not exist or there is intrusion into an existing natural buffer, best management practices, such as rain gardens, natural vegetative buffers and filter strips, shall be implemented to mitigate the impact created by the proposed impervious areas.

(3) A special use permit application for the development of a single-family home on a lot which requires no State Wetlands Bureau dredge and fill permit for house placement, driveway crossings, site grading and/or septic and well placement shall be processed by the Technical Review Committee in accordance with § [175-184](#), Minor site plan review.

B. Lot redevelopment is permitted within the wetlands setback, wetlands buffer and wetlands when no alternative location on the parcel exists which has less detrimental impact on a wetland. Less detrimental impact on the wetlands shall include:

4. Development that is down gradient from the jurisdictional wetlands.
5. Development and/or redevelopment within a previously disturbed areas and where the previously disturbed area provides no protection to the wetlands.
6. Redevelopment The wetlands is a low values and functions as defined in accordance with the techniques outlined in the U.S. Army Corps of Engineers Wetlands Delineation Manual Technical Report Y-89-1. (January, 1989) or as subsequently adopted by the State of N.H.

C. The following uses may be granted a special use permit by the Planning Board, provided that the design is in accordance with best management practices:

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

(a) No alternative location outside the wetland setback or buffer zone or which has less detrimental impact on a wetland is feasible.

(b) The proposed construction is essential to the productive use of other land which is not within the Wetland Conservation Overlay District.

(c) Design, construction and maintenance methods will be such as to avoid or minimize detrimental impact upon the wetland.

(2) The undertaking of a use not otherwise permitted in the Wetlands Conservation Overlay District, if it can be shown that such proposed use is in accordance with all of § [175-10B\(1\)\(a\)](#), [\(b\)](#) and [\(c\)](#) and findings listed in § [175-5](#).

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

§ 175-10.2. Wetlands boundary monumentation.

- A. Applicability. The Wolfeboro Conservation Commission and/or Wolfeboro Planning Board may require wetland boundaries to be marked in order to prevent encroachment. This section applies to:
 - (1) Any development subject to an application for building permit, special use permit, subdivision or site plan approval;*
 - (2) Any development approved before the effective date of this section that is determined to be in violation of any wetlands buffer required that existed at the time the development was approved; or*
 - (3) Any activity within a wetlands or wetland buffer that was undertaken without obtaining a required special use permit.**
- B. Wetlands shall be delineated by a State of New Hampshire certified wetlands scientist. Markers should be placed at fifty-foot +/- intervals along the total wetland boundary following its general contour.*
- C. Care shall be taken to ensure that markers are placed with the appropriate spacing at points closest to any proposed or existing structure located on the property.*
- D. The cost shall be borne by the applicant/developer or their successors in interest.*