



TOWN OF DEERING

Board of Selectmen

762 Deering Center Road
Deering, NH 03244

Meeting Minutes

March 4, 2021

Selectmen's Meeting

Selectmen present: Bill Whisman, Allen Belouin, Rebecca Mitchell

The meeting was called to order at 1900 via video teleconferencing because of the COVID-19 public health crisis and Governor Sununu's emergency order #12 pursuant to Executive order 2020-04 which authorizes the Board of Selectmen to meet electronically.

Mr. Whisman made the motion to include abatements and the face mask policy for the upcoming elections into the consent agenda. Ms. Mitchell seconded the motion. The vote was unanimous and so moved. Mr. Whisman next made the motion to approve the consent agenda. Ms. Mitchell seconded the motion. The vote was unanimous and so moved.

Motion to approve the Consent Agenda:

- | | | |
|--|---------------------------------------|----------------------------|
| a. Minutes for February 18 th | | |
| b. Employee Payroll | Feb 20th | \$16,665.64 |
| c. Employee Payroll | Mar 3rd | \$14,368.10 |
| d. Elected Officials Payroll | Feb 20th | \$2,018.44 |
| e. AP Manifest | March 4th | \$581,925.61 |
| f. AP XFER | Feb 19th | \$264.50 / \$414.75 |
| g. Abatements | 212-023-000 /231-014-000 /228-011-000 | |
| h. Universal Mask Wearing Policy | | |

NEW BUSINESS:

Updated Watershed Protection Ordinance – Briefing by CNHRPC's principal planner

The Board opened the floor for a presentation of the proposed update to the watershed ordinance from Matt Monahan, principal planner with the Central NH Regional Planning Commission. Mr. Monahan began his presentation (see attached) by explaining that the current update of the ordinance is to provide more clarity on the issue relative to the planning board role as defined by statute. Mr. Monahan explained that the planning board is granted specific authority over site plan approval (RSA 674: 43&44), subdivision approval (RSA 674:35&36), excavations (RSA 155:E), and conditional use permits (RSA 674:21.II). Under the current ordinance the role of the planning board is ambiguous. What is the planning board granting an applicant when they either vote to support or deny the application? Only the building inspector issues building permits. Site plan review is limited under the statute to review of a change or expansion of a non-residential use or multi-family residential – RSA 674:43.1. The only remaining option left to the planning board is the conditional use permit (CUP).

At the suggestion of legal counsel, the septic pumping requirement was moved to site regulations. Mr. Monahan explained that anything in an ordinance, in this case the septic pumping requirement, is appealable. Placing the requirement in the site regulations removed it's appealability. There were still many concerns raised by those in attendance with respect to its removal from the ordinance proper. Regular septic pumping is vital to the water quality of the lake. Many echoed this concern. Other concerns raised included runoff from livestock and how that

will affect people with animals in the watershed; how will it be monitored, what is the enforcement mechanism, what standards will be used to determine run off? All good questions. Another issue raised concerned the noticing requirements of the statute outlining where the proposed language of the ordinance can be found. Town's legal counsel, Shawn Tanguay, acknowledged that it was left out. While it was available at town hall it was not available on the website. Mr. Tanguay explained that if the ordinance was approved by the voters a judge would look at "substantial completion" wherein the notice requirements of the statute were substantially met.

The discussion turned to waiver process and standards where many in attendance believed removing the run off standards from the ordinance proper was a weakening of those standards. Mr. Monahan explained that the proposed runoff standards are the EPA model ordinance standards regulating storm water runoff. There was confusion of how enforcement for septic pumping would be more effective in the site regulations. Mr. Tanguay explained that enforcement of septic pumping can be the responsibility of the health officer under RSA 147 and incorporated into the site regulations. The question arose as to the time frame necessary to implement those changes to the site regulations. The planning board will act as soon as possible, but there remained a concern that during the lull between the adoption of the ordinance and the change to the site regulations the watershed would remain unprotected. Similar discussion ensued for several more minutes.

Mr. Whisman relayed that he was suffering the onslaught of a migraine and apologized noting that the remaining agenda items will be rescheduled. Mr. Whisman made the motion to adjourn the meeting. Ms. Mitchell seconded the motion. The vote was unanimous and so moved. The meeting adjourned at 2032.

Respectfully Submitted,

\s\ Russell McAllister
Town Administrator

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Proposed Zoning Changes: Watershed Protection Overlay

Overview of Proposed Changes

- ▶ Planning Board sought to provide some clarity with the watershed protection overlay zone. CNHRPC staff reviewed the ordinance and process to recommend changes
- ▶ Defined Planning Board role - a Conditional Use Permit (CUP)
- ▶ Defined key terms
- ▶ Moves sections around to make it more user-friendly
- ▶ Moves some sections to Site Plan Regulations per Town Attorney feedback
- ▶ Some requirement additions/changes
- ▶ SUMMARY: Mostly process and clarity, some requirement changes

Planning Board Statutory Roles - Why Changes Were Made

- ▶ Planning Board has the following authorities relative to applications, per RSA: Site Plan Approval - RSA 674 - 43 & 44; Subdivision Approval - RSA 674:36 & 35; Excavations - RSA 155:E; Conditional Use Permit (CUP) - RSA 674:21.II
- ▶ Planning Board does not approve building permits - Building Inspector does on behalf of the Board of Selectmen.
- ▶ Site Plan review is limited to: Change/expansion of non-residential use or multi-family residential (RSA674:43.I). Multi-family is defined as 3 or more units (same RSA), so site plan cannot be required for duplex or single-family home.
- ▶ Current version of the ordinance presents a Planning Board role in the building permit process but does not clearly specify what it is. Better put: what is the Planning Board granting an applicant when they vote to support the application? If they deny it?
- ▶ Planning Board actions on applications MUST fit with one of the authorities granted to them by state statute. If site plan cannot be used only way is CUP.

Changes Made for Clarity and Ease of Use

- ▶ Define the role of the Planning Board in the process as issuing a CUP (primary objective of the effort - to provide clarity on what the PB does in the process). This includes clarity on how a CUP is applied for and what standards the Planning Board will use to weigh its merits (attorney had feedback on moving some of this to Site Plan Regulations).
- ▶ Better clarity on ambiguous terms and concepts in the existing ordinance (for example: definitions section added; how a Spill Prevention, Control, and Countermeasure Plan is completed; and, how the watershed ordinance relates to the shoreland ordinance).
- ▶ Better clarity on how the Planning Board can provide waivers for the process (like they can in site plan, subdivision, and excavation applications).

Changes Made Per Attorney Comments

- ▶ Move several sections of the ordinance from the zoning ordinance to the Planning Board's Site Plan Review Regulations, including:
 - ▶ What constitutes a completed CUP application;
 - ▶ CUP Review Criteria;
 - ▶ and, Hydrological Study Requirements)
- ▶ Minor text revisions

Changes to Requirements

- ▶ Secondary focus of the revision; overwhelming majority of current requirements were retained with some clarification added when needed.
- ▶ Existing nonconforming lots or uses are “grandfathered” to new land use changes in a zoning ordinance. For example, a house in a zone that is changed to commercial may continue as a house; a 2-acre lot in a zone that gets changed to a 3-acre minimum lot size is still a lot of record.
- ▶ Added the following to the list of “prohibited uses:”
 - ▶ Runoff from livestock area
 - ▶ Heating oil tanks outside of a basement (unless they have a Spill Prevention Countermeasure Control - SPCC - plan)
 - ▶ Dumpster washouts

Livestock-Specific Issues

- ▶ Runoff, not the keeping of animals, is prohibited
- ▶ Having this in the ordinance gives the Planning Board the ability to ask for mitigation of livestock area runoff if it comes up - not prohibit the keeping of animals.

In summary

- ▶ Formally defines Planning Board's process
- ▶ Provides clarity on process and other elements
- ▶ Moves some existing sections to different parts of the ordinance
- ▶ Moves other sections to the Site Plan Regulations on attorney's recommendation
- ▶ Adds minimal new standards while retaining existing (though some moved to new sections of the ordinance or Site Plan Regulations)
- ▶ Adds definitions to clarify terms used