

Town of Deering

Date: May 27, 2020

To: Deering Planning Board

From: Diane Kendall, Executive Assistant

CC: Russell McAllister, Town Administrator; Michael Tardif and Matt Monahan, CNHRPC; Selectmen; Zoning Board

Subject: Zoning Ordinance; Land Use Boards by-laws and Procedures; Process and Applications

Background: Planning and Zoning board members are appointed by the Selectmen. The current Deering Zoning Ordinance is through Town Meeting 2017. Ordinance Section 4.5 Watershed Protection is the most the frequent matter to come before the Planning Board, followed by requests for conceptual review and subdivision applications. The District itself contains the following:

- 2,911 acres of the Town's 20,096 acres – about 15% of the Town's area (including water)
- 286 parcels are completely in the Overlay, 65 are partially so; a total of 351 – about 28% of the Town's parcels are in the Overlay.

Problem Statements:

1. The Zoning Ordinance and Bylaws contains obsolete processes with specific delegation of authority to a Planning and Zoning Administrator, a position that no longer exists. This is particularly problematic with regard to Section 4.5 Watershed Protection which requires initial review and evaluation by the Planning and Zoning Administration on behalf of the PB. The Rules of Procedure and By-Laws do not reference Watershed Protection Overlay. There is no documentation, application, instructions or guidance for applicants, support staff, and building inspector. There is also language that seeming sets up a situation where either the Planning and Zoning Administration or the Planning Board may act on applications further adding to the confusion.

Since there is no Planning and Zoning Administrator or Conditional Use Permit Application, Building Permit applications (Septic; Building; and Driveway) usually trigger Planning Board review for development in the Watershed Overlay District. This almost always leads to confusion, miscommunication, delays, excessive emails and coordination, frustration and financial impact for all stakeholders. The entire process relies on undocumented tacit knowledge of changing boards and support staff. The ordinance lacks clarity and definition of roles and responsibilities. The current ordinance and process leaves the town vulnerable to potential legal costs, lost productivity and opportunity.

Example: On May 20 an applicant asked to be put on the Planning Board Agenda for Planning Board approval of his plans. From prior conversations with other town officials in 2019, he was told to apply to the Planning Board before completing and submitting Building Permits. The applicant is understandably confused and frustrated. He's received vague conflicting information from multiple sources.

Example: Several applicants have completed Septic Applications but they don't know what is need from the Planning Board. On May 13th the PB heard reviewed 2 Septic Applications, but I have not heard the outcome of either to date on May 20th.

2. Land Use Boards change and members may or may not have technical expertise to review and evaluate applications or provide preliminary consultation.

Stakeholders:

1. General public (health and safety, watershed protection, property values)
2. Applicants and property owners
3. Abutters to property owners
4. Parties contracted by applicants and property owners (contractors, surveyors, engineers, lawyers, and other technical services)
5. Building Inspector / Code Enforcement Officer
6. Road Agent
7. Support staff (Town Administrator, Executive Assistant, Assessing Assistant)
8. Central NH Regional Planning Commission Planner (Circuit Rider Planner)
9. Planning Board
10. Zoning Board
11. Selectmen
12. NH DES
13. Other related state and federal agencies

Goals: Engage technical expertise and guidance of Contract Planner utilizing the Circuit Rider Agreement with Central NH Regional Planning. Revised and updated Zoning Ordinance Section 4.5 Watershed that is consistent with the Master Plan and current organizational structure. Clear consistent procedures, applications, documentation and fees. Improved customer service that is timely, fair, consistent and equitable.

Objectives: A review of the Planning Board's statutorily defined authorities, as well as those of all stakeholders in the process; then assessing the Watershed Ordinance to determine where best it should fit. Specific elements will include: Review of statutorily defined roles; clarified rewritten Section 4.5 Watershed; process audit; process documentation; revised building permits; addition of Conditional Use Permit for the Watershed District (if identified by the Board), fee structure.

Timeline:

- May 27, 2020 to Town Meeting: Interim measures for roles and responsibilities with regard to permits in the Watershed Zone. Building Inspector to review applications and issue an analysis letter for Planning Board to act on Applications.
- June, 2020: review of roles and responsibilities at Workshop.
- July 2020: Planning Board, with assistance from Town Staff and CNHRPC, to determine how best to administer the provisions of the District within the Board's statutorily defined authorities.
- July – December 2020: Planning Board Workshop meeting to revise language of the District and implement other goals and objectives.
- Town Meeting 2021 Adoption of revised ordinance; new permitting process takes effect.

Suggested Resolution: Utilize Central NH Regional Planning Commission (CNHRPC) Circuit Rider Support for Land Use Boards

- Identify and engage key stakeholders and bring them into the project
- Provide training to the Boards on town regulations, sound planning practices and land use law updates
- Review Planning Board's statutorily defined authorities to assist the Board in placing the District Administration procedures appropriately within these authorities.
- Assist the Board in reviewing and updating current procedures, regulations, and ordinances
- Develop applications, forms, instructions consistent with ordinance
- Attend Planning Board meetings
- Take part in the review process
- Making professional comments by way of memo
- Providing technical assistance regarding the merits of a project
- Engaging in necessary correspondence on behalf of, and with permission of the Planning Board
- Preliminary conversations with developers

Next Steps:

Phase I: Review stakeholder roles/responsibilities and Planning Board's statutorily defined authorities.

Phase II: Review ordinance and identify changes (CNHRPC to then update for Town Meeting)