

# Planning Board Process Town of Deering 2020

Presented by: Central New Hampshire Regional  
Planning Commission

# TOPICS

- ❖ Regulatory Documents
- ❖ Actors and Participants
- ❖ Regional Impact
- ❖ Site Plan Review
- ❖ Subdivision Review
- ❖ Conditional Use Permit
- ❖ Building Permit
- ❖ Appeal of Administrative Decision
- ❖ Variance
- ❖ Special Exception
- ❖ Equitable Waiver of Dimensional Requirements
- ❖ NHDES Permits
- ❖ Recap
- ❖ Questions
- ❖ Resources



"Mr. Osborne, may I be excused? My brain is full."

# Class Participation

Please ask away as we go!

# REGULATORY DOCUMENTS

## ❖ RSAs

- ❖ State laws describing what towns may do; not a “home rule state”
- ❖ Can only do what laws expressly permit
- ❖ Innovative Land Use RSA (674:21) provides some flexibility for Towns (Conditional Use Permit - CUP one such element)

## ❖ Zoning Ordinance

- ❖ Land use document as separate from “police powers” (noise, speed limits, Illicit Discharge Detection Ordinance)
- ❖ Adopted at/changed at Town Meeting (674:18)
- ❖ Governs, in general, uses of land and dimensional requirements

# REGULATORY DOCUMENTS CONT.

- ❖ Planning Board Regulations:
  - ❖ Guides *how* development is to occur (zoning addresses *if* development will occur) - permission vs. process
  - ❖ RSAs control (674:36, 674:44, 674:4)
  - ❖ Changed by Planning Board with 10-day notice and public hearing - not Town Meeting (674:36, 674:44, 674:4)
  - ❖ Site Plan, Subdivision, and Excavation Regulations (674:36, 674:44, 674:4, 155-E:1)
  - ❖ Planning Board has authority to waive contents based on good cause

# REGULATORY DOCUMENTS CONT.

- ❖ Building Code:
  - ❖ Town either develops their own or adopt State Building Code
  - ❖ Most adopt state; Deering has
  - ❖ Implemented by Building Inspector
- ❖ NHDES/NHDOT Rules:
  - ❖ Like Planning Board Regulations, these govern how state agencies are to enforce and administer various RSAs

# Actors & Participants in the Process

- ❖ Planning Board
- ❖ Zoning Board
- ❖ Building Inspector
- ❖ Board of Selectmen
- ❖ Road Agent
- ❖ NHDES/NHDOT
- ❖ Conservation Commission
- ❖ Town Engineer
- ❖ Town Attorney
- ❖ Abutters/Public
- ❖ Applicant & Their Agent

*We are the Planning Board, not the Wait  
And-See-What-Happens Board!”*

Anonymous,  
Planning Board Member



# Actors & Participants in the Process

## ❖ PLANNING BOARD

- ❖ Subdivisions & Lot Line Adjustments (674:36)
- ❖ Site Plan Review: new or expanded non-residential uses; multifamily developments of 3 or more units.
- ❖ Conditional Use Permits - combine elements of ZBA variance process with traditional Planning Board roles (674:21)

# Actors & Participants in the Process

## ❖ ZONING BOARD

- ❖ Quasi-judicial board
- ❖ Variances (relief from ordinance if all 5 criteria are met which are defined by RSA)
- ❖ Special Exceptions (a use that is permitted if certain criteria, as spelled out in the zoning ordinance, are met)
- ❖ Appeal of Administrative Decision (such as a denied building permit; can also be the first step in the variance process)
- ❖ Equitable Waiver of Dimensional Requirements (after the fact error, such as accidentally building in the setback)

# Actors & Participants in the Process

## ❖ BUILDING INSPECTOR

- ❖ Enforce Building Code
- ❖ Enforce Zoning Ordinance provisions of a nondiscretionary nature (yes/no - like setbacks, permitted uses, etc.)
- ❖ Issue Building Permits
- ❖ Conduct Inspections
- ❖ Issue administrative decisions for all the above

# Actors & Participants in the Process

## ❖ BOARD OF SELECTMEN

- ❖ Road acceptance
- ❖ Class VI Road Designation
- ❖ Bonds
- ❖ Oversee Building Inspector

## ❖ ROAD AGENT

- ❖ Issue Town Driveway Permits on a Town Road

# Actors & Participants in the Process

- ❖ NHDES
  - ❖ State Subdivision
  - ❖ Septic Design
  - ❖ Dredge and Fill
  - ❖ Alteration of Terrain (AoT)
- ❖ NHDOT
  - ❖ Driveway permits on state roads

# Actors & Participants in the Process

## ❖ CONSERVATION COMMISSION

- ❖ Review wetland crossings
- ❖ Review potential conservation land donations

## ❖ TOWN ENGINEER

- ❖ Review drainage reports
- ❖ Review traffic studies

## ❖ TOWN ATTORNEY

- ❖ Review condo documents
- ❖ Review easement language
- ❖ Other legal reviews

# Actors & Participants in the Process

## ❖ ABUTTERS

- ❖ Noticed; comments may be taken into account by the Planning Board

## ❖ PUBLIC

- ❖ Comments may be taken into account by the Planning Board

## ❖ APPLICANT'S AGENTS

- ❖ Surveyor
- ❖ Engineer
- ❖ Wetland Scientist
- ❖ Septic Designer
- ❖ Attorney

# Edward T. McMahon, The Conservation Fund:

*“Growth is inevitable and desirable, but destruction of community character is not. The question is not whether your part of the world is going to change. The question is how.”*



# Regional Impact

- ❖ RSA 36:56
- ❖ All Land Use Boards must make a determination on every application
- ❖ Determination means they just have to vote yes or no
- ❖ CNHRPC & RSA can provide some guidance

# Site Plan Review

- ❖ RSA 674:44
- ❖ New or expanded non-residential uses
- ❖ A change of use of a non-residential use
- ❖ Multi-family units of 3 or more units subject to site plan review
- ❖ Planning Board cannot require site plan approval for one or two family homes

# Conditional Use Permits

- ❖ Derived from Innovative Land Use RSA: RSA 674:21
- ❖ Innovative Land Use RSA:
  - ❖ Spells out a list of things that can be done, “including but not limited to...”
  - ❖ Stipulates the requirements for Conditional Use Permits (CUP)
- ❖ Allows Planning Board some authorities of the ZBA (Land use; dimensional requirements)
- ❖ Planning Board’s Role & Authority, as well as the CUP application materials & Planning Board’s scope of review is specified in the ordinance; RSA 674:21 is also invoked in the ordinance
- ❖ Follow Board’s Procedure on Plats

# Building Permit

- ❖ Building Inspector applies Building Code
- ❖ Building Inspector applies specific portions of the Zoning Ordinance (setbacks, land use, wetland buffers, etc.)
- ❖ Site Inspections

# Appeal of Administrative Decision

- ❖ ZBA
- ❖ Review of a formal (written) decision made by the Building Inspector (or Code enforcement Officer)
- ❖ Either upholds the decision or overturns it
- ❖ Can be the first step in the variance process (as opposed to getting a denial from the Planning Board first)

# Variance

- ❖ A denial from a Town official can initiate the process; an administrative decision by the Building Inspector/Code enforcement Officer can play that role so too could a Zoning Determination Letter (Allenstown, Boscawen). Doesn't have to be a Planning Board denial first.
- ❖ Seeking relief from a specific part of the Ordinance (use, dimensions) due to a unique aspect of the specific lot under consideration
- ❖ Based on 5 criteria derived by RSA
- ❖ If all are met it must be approved; if one or more are not met it must be denied
- ❖ ZBA can affix conditions
- ❖ Appeals to Superior Court

# Special Exception

- ❖ ZBA function
- ❖ Also termed a Special Use Permit (not that common though)
- ❖ Criteria are listed in the Zoning Ordinance
- ❖ If all are met it must be approved; if one or more are not met it must be denied
- ❖ ZBA can affix conditions
- ❖ Appeals to Superior Court

# Equitable Waiver of Dimensional Requirements

- ❖ ZBA function
- ❖ Serves to address an error such as building in a setback
- ❖ Not a common occurrence



# NHDES Permits

- ❖ State subdivision: review of lots less than 5 acres to determine if they can support a septic system. NOTE: it does not necessarily mean they are actually dividing land, they are just looking at the makeup of the soils on a 5 acre tract of land. An existing, undeveloped 4 acre lot could need state subdivision; an existing lot that is decreasing its size due to a lot line adjustment could need state subdivision, etc.
- ❖ Septic Design: approve the particular design in relation to the proposed use
- ❖ Alteration of Terrain (AoT): review of stormwater elements for proposals with a certain square footage of impact
- ❖ Dredge & Fill: review of impacts to wetlands and wetland crossings

# Recap

- ❖ Planning Board
  - ❖ Site Plan
  - ❖ Subdivision
  - ❖ Excavation
  - ❖ Conditional Use - if authorized by ordinance
- ❖ ZBA
  - ❖ Variance
  - ❖ Special Exception
  - ❖ Appeal of Administrative Decision
  - ❖ Equitable Waiver of Dimensional Requirements

# Recap

- ❖ Building Inspector
  - ❖ Building Permits based on Code/Zoning
  - ❖ Inspections
- ❖ State Permits
  - ❖ Various that can - and should - be conditions of approval by Planning Board
  - ❖ State Driveway
  - ❖ State subdivision
  - ❖ Septic Design
  - ❖ AoT
  - ❖ Dredge & Fill
- ❖ Road Agent
  - ❖ Town Driveway Permits

## Daniel Burnham:

*“Make no little plans; they have no magic to stir men’s blood and probably will not be realized. Make big plans; aim high in hope and work, remember, that a noble, logical diagram once recorded will never die, but long after we are gone will be a living thing, asserting itself with ever-growing insistency. Remember that our sons and grandsons are going to do things that would stagger us. Let your watchword be order and your beacon beauty.”*

Questions??