Meeting Minutes
Work Session
North Hampton Planning Board
Tuesday, November 29, 2016 at 6:30pm
Town Hall, 231 Atlantic Avenue

These minutes were prepared as a reasonable summary of the essential content of this meeting, not as a transcription.

In attendance: Tim Harned, Chair; Nancy Monaghan, Vice Chair; Members Phil Wilson, Dan Derby, Josh Jeffrey, Terry Belluche, and Jim Maggiore, Select Board Representative; Jennifer Rowden, RPC Circuit Rider; and Rick Milner, Recording Secretary.

Vice Chair Monaghan called the meeting to order at 6:32 pm.

I. New Business

1. Committee Updates

No reports from committees were presented.

II. Other Business

1. Town of North Hampton, NH review of 2017 zoning ordinance amendment proposals.

a. Vegetative Buffers – Mr. Harned presented proposed language revisions for Section 409 Wetland Conservation Areas. Proposed revisions attached as Appendix A to these minutes. Mr. Harned explained that the original intent of the revisions was to add a 25 foot vegetative buffer area within the 100 foot wetlands buffer zone. However, examination of Section 409 revealed the need to re-organize the entire section for the following reasons:

i. bring consistency to the different classifications of wet areas (tidal lands, wetlands, and isolated, non-bordering wetlands)
ii. present the permitted and prohibited uses within each classification in a more user friendly format
iii. clarify the conditional use permit process for construction and other activities in the Wetland Conservation District.

Ms. Monaghan asked if the proposed vegetative buffer area would remain at a 25 foot distance from outermost boundary of wet area if the wetlands or tidal lands setbacks for a lot are reduced as allowed by the zoning ordinance.

Mr. Harned stated that the 25 foot vegetative buffer distance would remain unchanged in the situation described by Ms. Monaghan. However, he suggested adding language to the proposed ordinance revisions that would clarify this matter.

The Board engaged in a discussion regarding the process in Section 409.3.C which outlines how residents may propose that additional areas be included within the Wetlands Conservation District. The Board came to a consensus to retain the language in this section.

Ms. Rowden suggested revisions in multiple locations of the proposed ordinance to clarify intent of proposed language. Ms. Rowden also suggested that Section 409.6 Prohibited Uses be eliminated if the prohibited uses will be detailed in a prohibited uses table later in Section 409.

Mr. Derby and Mr. Wilson suggested that both permitted and prohibited uses in Section 409 should be listed in only one location (either in a table or in paragraphs, but not both locations) to avoid possibility of contradictions in language between multiple locations.

The Board came to a consensus to amend the proposed Section 409 revisions as discussed and place the matter on the December 20 meeting agenda for further discussion.

b. Solar arrays – Mr. Maggiore presented proposed amendments to the zoning ordinance as a way to address concerns regarding visual impact and proliferation of large solar arrays in residential neighborhoods. Proposed revisions attached as Appendix B to these minutes. The Board engaged in a discussion concerning the following matters:

i. allowed size and height of a solar array structure
ii. methods to mitigate the visual effect of the solar array on the residential character of the surrounding neighborhood
iii. setback requirements for solar arrays
iv. conditional use permit requirement for ground mounted solar arrays.

The Board came to a consensus to retain the actual current NH RSA definition language for 'group net metering' within the proposed ordinance language and not only refer to the NH RSA section number.

Mr. Maggiore and Mr. Wilson explained that the conditional use permit process for ground mounted solar array construction was necessary to protect:

i. environmentally sensitive areas
ii. rights of neighbors
iii. character and aesthetics of neighborhoods
iv. property values.

Mr. Wilson suggested that the definition for 'essentially invisible' stated in the Town of North Hampton Site Plan Regulations be included in the proposed solar array ordinance and applied during consideration of plans for construction of solar arrays.

Mr. Harned suggested that the language determining the size of a solar array structure based on the average monthly electrical needs of the site's permitted structures be changed so that the size of the solar array structure is based on the annual electrical needs of the site's permitted structures.

Mr. Harned suggested that group net metering be allowed in the Industrial-Business/Residential zoning district using roof mounted systems only.

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Mr. Harned moved that the Planning Board schedule a public hearing at the December 20, 2016 Planning Board meeting to consider adoption of the Solar Array Zoning Ordinance as amended at the November 29, 2016 meeting for inclusion on the 2017 Town Warrant. Second by Mr. Jeffrey. The vote was 6-1 in favor of the motion with Mr. Belluche opposed.

2. Minutes.

Ms. Monaghan presented the minutes of the November 15, 2016 Planning Board meeting.

Mr. Jeffrey moved that the Planning Board accept the minutes of the November 15, 2016 meeting as written. Second by Mr. Jeffrey. The vote was 6-0-1 in favor of the motion with Mr. Belluche abstaining.

The meeting was adjourned at 10:12 pm without objection.

Respectfully submitted,

Rick Milner

Rick Milner
Recording Secretary

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Version Date: 26-Nov-2016

SECTION 409 WETLAND CONSERVATION DISTRICT

409.1 Purpose: In the interest of public health, convenience, safety and welfare, the regulations of this district are intended to guide the use of areas of wetlands with extended periods of high water tables, a buffer zone around wetlands and to accomplish the following purposes:

A. To control the development of structures and land uses on naturally occurring wetlands, which would contribute to pollution of surface and groundwater by any means.

B. To prevent the destruction of natural wetlands, which provide flood protection, recharge the groundwater supply, and the augmentation of stream flow during dry periods.

C. To prevent unnecessary or excessive expense to the Town related to the provision and maintenance of essential services and utilities, which arise because of unwise use of wetlands.

D. To encourage those uses that can appropriately and safely be located in wetland areas.

E. To preserve wetlands for ecological reasons including, but not limited to, those cited in RSA 482-A.

F. To preserve and enhance those aesthetic values associated with the Wetlands of this Town.

G. To provide a single and consistent approach for identifying and delineating wetlands based on the most advanced professional standards and scientific analysis.

409.2 Definition of District: The Wetlands Conservation District comprises all of the following areas within the Town of North Hampton:

A. Tidal lands as defined in section 302, paragraph 45 herein. *3/08/2005

B. Wetlands as defined in section 302, paragraph 46 herein. *3/08/2005

C. Isolated, non-bordering wetlands as defined in Section 302, paragraph 21 herein.

D. All buffer zones and setback requirements around all such wetlands as described in this section (Section 409.2) *3/10/2015

409.3 Wetlands Map: The Wetlands map of North Hampton prepared by Normandeau Associates in 1986 as part of the New Hampshire Coastal Wetlands Mapping Program shall be used as a baseline and initial delineation of jurisdictional wetlands under this ordinance. The boundaries of the Wetlands Conservation District shall be identified by this North Hampton Wetlands Map and applicable buffer zones as revised from time to time.

A. In the event that a wetland area is alleged to be incorrectly designated on the Wetlands Map, the person aggrieved by such designation may request a field inspection by the building inspector and a wetland scientist approved by the Planning Board. If a determination is made by a field inspection, the wetland scientist shall report this in writing to the Planning Board. The Planning Board will review the report and if appropriate, will arrange to update the Wetlands map accordingly. All fees and expenses incurred by the field inspection shall be paid by the party requesting the field inspection.

B. If, after the field inspection, the Wetlands delineation is determined to be correct, the person aggrieved by such designation may, by written petition, appeal the designation to the Planning Board for the Board's review.

C. Any resident of North Hampton may, by written petition, propose to the Planning Board that additional areas be included within the Wetlands Conservation District. After informing the owners of the property proposed for inclusion in the Wetlands Conservation District and the owners of abutting property, the Planning Board shall place the proposal on the agenda of its next regularly scheduled public hearing. Before additional areas can be included within the Wetlands Conservation District, the North Hampton resident proposing such inclusion shall provide evidence, satisfactory to the Planning Board, that the subject land meets the mandatory technical criteria for Wetlands delineation identified in Section 302, paragraphs 21, 45 and 46 herein.

D. Any wetland delineations on Subdivision or Site Plans approved by the Planning Board, after March 10, 2015, will constitute an update to the wetlands map. *3/10/2015

409.4 Appeal of Wetlands Boundaries: In the event of a petition pursuant to section 409.3 B. or 409.3 C., the North Hampton Planning Board may call upon the services of an independent qualified wetlands scientist to examine said area and report findings to the Planning Board for their determination of the boundary. Qualified wetland scientist shall mean a person who is qualified in soil classification and

wetlands delineation and who is recommended or approved by the State of New Hampshire. The costs to the Town of such appeal shall be borne by the petitioner.

409.5 Buffer Zone Requirements and Restrictions: In addition to the wetlands themselves, the Wetlands Conservation District also includes a buffer zone of upland area adjacent to the wetlands. The buffer zone requirement from Tidal Lands and Wetlands is 100 feet. Additionally, contained within the buffer zone is a 25-foot vegetative buffer located closest to the wetland boundary. For the purposes of this section 409.5 "inland wetlands" shall not include a vegetated swale, roadside ditch, or other drainage way; a sedimentation/detention basin or an agricultural/irrigation pond. *3/11/2003, 3/08/2005

A. Vegetative Buffer Requirements

1. Purpose: The purpose of the vegetative buffer requirement is to provide additional protection to the integrity and functionality of wetlands and surface waters for purposes such as water quality protection, wildlife habitat, and flood storage capacity.

2. Definition: A vegetative buffer is defined as an area of upland: measured perpendicularly from the outermost boundary of tidal lands, wetlands, and isolated, non-bordering wetlands (as defined in Section 302) and surface waters, retained in its natural state (no disturbance to land surface or vegetation) or replanted with native non-invasive vegetation.

3. The Vegetative Buffer is required for all undeveloped lots of record existing as of as of March 2017 and for any lots created subsequently.

4. Developed lots of record existing prior to March 2017 are encouraged to maintain or establish Vegetative Buffers but are not required to do so.

B. Undeveloped lots of record

1. No structure or impermeable surface shall be permitted within 100 feet of Tidal Lands or within 100 feet of Wetlands on any lot of record existing as of March 2003 or on any lot created subsequently. *3/08/2005

2. Undeveloped lots of record existing prior to March 2003: If the imposition of 100 foot tidal and/or freshwater wetland buffer setbacks causes the buildable upland acreage (this is, land that is not in the Wetlands Conservation Areas) to be less than 16,000 square feet, the prior wetlands buffer zone setback requirements of 50 feet for Wetlands and 75 feet for Tidal Wetlands shall apply. *3/08/2005

C. Developed lots of record:

1. No structure or impermeable surface shall be permitted within 100 feet of Tidal Wetlands or within 100 feet of Wetlands on any developed lot of record existing as of March 2003 or on any lot created subsequently. *3/08/2005

2. Developed residential lots of record existing prior to March 2003: If the imposition of 100 foot Tidal Lands and/or inland wetland buffer setbacks causes the buildable upland acreage (that is, land that is not in the buffer zone) to be less than 16,000 square feet, the prior buffer zone setback requirements of 50 feet for Wetlands and 75 feet for Tidal Lands shall apply. *3/08/2005

3. Notwithstanding other provisions of this section 409.5 of the Zoning Ordinance, the construction of additions to and/or extensions of existing buildings or structures shall be permitted within the 100 foot wetlands buffer zone provided that:

a. The dwelling or structure to be expanded existed lawfully prior to the effective date of this section 409.9 of the Zoning Ordinance (March 2003) or was constructed subject to a validly issued building permit.

b. The proposed construction conforms to all other applicable ordinances and regulations of the Town of North Hampton.

c. The footprint of any proposed new construction within the buffer does not exceed the greater of 1200 square feet or 25% of the area of the footprint of the existing heated structure within the buffer which existed prior to the effective date of this Ordinance.

d. Any proposed new construction of an addition or extension shall not intrude further into the wetland buffer setback than the current principal heated structure of which it is a part.

e. Any proposed new structures are not permitted within the 25-foot vegetative buffer as defined in 409.9.A

409.6 Prohibited Uses in the Wetlands Conservation District:

A. The following uses are prohibited within the Wetlands Areas or within 75 feet of Wetland Area Boundaries:

Septic systems, leach fields or on site disposal systems.

B. The following uses are prohibited within the Wetlands Areas or within 100 feet of Wetland Area Boundaries:

Storage of gasoline, fuel oil, pesticides, hazardous agricultural and other materials or road-salt stockpiles. *3/10/2015

409.7 Additional Permitted and Prohibited Uses in the Wetlands Conservation District:

A. The table below defines additional permitted and prohibited uses within the various areas (wetlands, vegetative buffer and upland) of the Wetlands Conservation district.

Wetlands Conservation District Area(s)	**Permitted Uses – Unless otherwise permitted or restricted in the following sections of this table**	**Prohibited Uses - Unless otherwise permitted or restricted in the following sections of this table**
All regions of the Wetland Conservation District	**A.** Any use otherwise permitted by the Zoning Ordinance that does not include erection of a structure and does not alter the surface configuration of the land by the addition of fill or by dredging. **B.** Any agriculture that will not cause soil erosion or groundwater contamination by pesticides or other hazardous materials. **C.** Wildlife refuge and habitat management. **D.** Parks and passive, non-motorized recreation uses as are consistent with the purpose and intentions of this section. **E.** Conservation areas and nature trails.	**A.** The following uses are prohibited within or within 100 feet of the Wetland Conservation District: storage of gasoline, fuel oil, pesticides, hazardous agricultural and other materials or road-salt stockpiles. **B.** The following uses are prohibited within or within 75 feet of the Wetland Conservation District: septic systems, leach fields or on site disposal systems. **C.** Manure storage is not permitted within the Wetland Conservation District.
Additional Permitted and Prohibited uses in the: **Tidal Lands** As defined by 302.45 **and** **Wetlands and Isolated, Non-boarding Wetlands** As defined by 302.21 and 46	Permitted uses are activities that do not impact, alter or change the nature of wetlands, wetland functions or the animal life or plant life within the wetlands. These activities include but are not limited to: **A.** Allowable agricultural activities which involve the harvesting of product (IE: salt hay). **B.** Cutting of dead or dying trees of any size. **C.** Cutting of live trees with a diameter of six inches or greater, measured 4 1/2 feet above the ground, provided that such partial cutting is limited to 30% of their total pre-harvest basal area. Not more than fifty (50) percent of the basal area of trees, nor more than fifty (50) percent of the total number of saplings shall be removed in any twenty (20) year period. Selection of trees for such partial cutting shall be done with the consultation of the Rockingham County Forester and the approval of the Planning Board. Partial cutting shall be done in such a way that a well distributed stand of healthy growing trees remain. **D.** Dead, diseased, or damaged trees, saplings, or ground covers may be removed with prior	Prohibited uses are activities that do impact, alter or change the nature of wetlands, wetland functions or the animal life or plant life within the wetlands. These activities include but are not limited to: **A.** Agricultural activates which involve permanently (60 days or longer) disturbing wetlands soils, water flow or other beneficial features of the wetlands. **B.** Existing vegetation under three (3) feet in height including ground cover shall not be removed except to provide for a single point of access to the shoreline as provided and in case of disease. **C.** Stumps and their root systems shall be left intact. The removal of stumps and roots in conjunction with beaches or docks may be permitted with the approval of the Conservation Commission based upon a determination that the removal in combination with mitigation activities will not increase the potential for erosion. **D.** The application of pesticides, herbicides, and fertilizers within the buffer is prohibited except in conjunction with allowed agricultural activities by state or federal regulations.

	approval of the Conservation Commission, in consultation with the Tree Warden. The stumps and root systems of the removed trees shall not be disturbed and shall remain in place. If such removal results in the creation of cleared openings, these openings shall be replanted with native species unless existing new growth is present. Dead and living trees that provide dens and nesting places for wildlife are encouraged to be preserved. **E.** Invasive species may be removed but must be replaced with another species that will meet and perform the intended function of the vegetative buffer. **F.** The erection of fences, footbridges, catwalks and wharves provided such structures are built on posts or pilings and permit the unobstructed flow of the tide and preserve the natural contour of the marshes. **G.** Drainage ways, streams, creeks, or other paths of normal runoff water; **H.** Open space permitted by the subdivision regulations and other sections of the ordinance;	**E.** Any other permitted activities must not have a permanent or long term impact on the wetlands
Additional Permitted and Prohibited uses in : **Vegetative Buffer Zone** As defined by 409.5.A	All uses permitted in the Tidal Lands, Wetlands and Isolated, Non-boarding Wetlands. Uses, activities or improvements specifically allowed in the Vegetative Buffer in other sections of this ordinance, Section 409.	All uses prohibited in the Tidal Lands, Wetlands and Isolated, Non-boarding Wetlands. No structures or impermeable surfaces are permitted within the Vegetative Buffer Zone not in existence prior to March X, 2017.
Additional Permitted and Prohibited uses in the: **Wetlands Buffer Zone** As defined by 409.5	Uses, activities or improvements specifically allowed in the Buffer Zone in other sections of this ordinance, Section 409. Activities or improvements which do not degrade function and intent of the Wetland Conservation District buffer zone. Permitted uses are at the discretion of building inspector and wetland scientist with the intent to satisfy the purpose of the Wet\land Conservation District.	

409.8 Conditional Use Permits: A conditional use permit may be granted by the Planning Board for fill in excess of 3000 square feet of surface area, for the construction of roads and other access ways, pipelines, power lines, and other transmission lines within the district or the buffer zone, provided that all of the following conditions are found to exist:

A. The proposed construction is essential to the productive use of land not within the wetlands;

B. Design and construction methods will be such as to minimize detrimental impact upon the wetland site and will include restoration of the site as nearly as possible to its original grade and condition;

C. No alternative, which does not cross a wetland or has less detrimental impact on the wetland is feasible;

D. All other necessary permits have been obtained.

409.9 Conditional Use Permit for Overburden Ground Water Pumping: A conditional use permit may be granted by the Planning Board for overburden ground water pumping at a rate in excess of 20,000 gallons per day, provided that such pumping is conducted in such manner as to assure no net loss of wetlands within the adjacent Wetlands Conservation District.

409.10 Conditional Use Permits by the Planning Board: Upon application to the Planning Board, a Conditional Use Permit may be granted to permit the erection of a new structure or the expansion of an existing structure located within the Wetlands Conservation District, or any buffer zones, provided that all of the following conditions are found to exist:

A. The new structure or expansion is not otherwise prohibited under the zoning ordinance.

B. The new structure or expansion will cause no diminution of property values in the neighborhood. *3/10/2015

C. The use for which the Conditional Use Permit is sought cannot feasibly be carried out on a portion or portions of the lot which are outside the Wetlands Conservation District or the buffer zone.

D. Due to the provisions of the Wetlands Conservation District, no reasonable and economically viable use of the lot can be made without the Conditional Use Permit.

E. The design and construction of the proposed use will, to the extent practicable, be undertaken in such a manner as to be consistent with the purposes and spirit of this ordinance and shall not diminish the natural resource values of affected wetlands in any appreciable way. *March 10, 2009

F. Literal enforcement of the provisions of the wetlands ordinances would result in an unnecessary hardship, meaning special conditions of the property distinguish it from other properties in the area. *3/10/2015

409.11 Other Permits:
Nothing in the above ordinance shall preclude the need to obtain any other necessary local, state or federal government permits.

Article V – General Regulations
NEW: Section 518 - Solar Arrays

The Town of North Hampton encourages the development of Alternative Energy Systems as defined by RSA: 672:1 III-a and permitted per RSA 362-A:9. The purpose of this ordinance is to establish permitting regulation for the installation of solar panels and solar arrays within all zoning district of the Town of North Hampton.

Definitions:

ALTERNATIVE ENERGY SYSTEMS: Structures, equipment, devices or construction techniques for the production of heat or electricity or other forms of energy on-site and may be attached to or separate from the principal structure.

BUILDING-INTEGRATED PHOTOVOLTAIC SOLAR SYSTEMS: A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the façade and which does not alter the relief of the roof.

FLUSH-MOUNTED SOLAR PANEL: Photovoltaic panels that are installed flush to the surface of a roof and which cannot be angled or raised.

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A solar energy system that is directly installed in the ground and is not attached or affixed to an existing building.

NET-METERING: A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage at the end of the month.

GROUP NET-METERING: *Defined by NH RSA 362 – A: 9, XIV~~. (A customer-generator may elect to become a group host for the purpose of reducing or otherwise controlling the energy costs of a group of customers who are not customer-generators. The group of customers shall be default service customers of the same electric distribution utility as the host. The host shall provide a list of the group members to the commission and the electric distribution utility and shall certify that all members of the group have executed an agreement with the host regarding the utilization of kilowatt hours produced by the eligible facility and that~~*

~~*the total historic annual load of the group members together with the host exceeds the projected annual output of the host's facility. The commission shall verify that these group requirements have been met, shall review the executed agreements for compliance with this section, and shall register the group host. The commission shall establish the process for registering hosts, including periodic re-registration, and the process by which changes in membership are allowed and administered. Net metering tariffs under this section shall not be made available to a customer-generator group host until such host is registered by the commission.)*~~

PHOTOVOLTAIC SYSTEMS: A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

ROOFTOP MOUNTED SOLAR PANEL: Solar panel(s) mounted in a stationary position on a roof as modules fixed to frames which can be tilted toward the south at an optimal angle.

SOLAR PANEL: A device for the direct conversion of solar energy into electricity.

518.1 Building Integrated Photovoltaic Solar systems are permitted in all zoning districts within the Town of North Hampton.

518.2 Rooftop Mounted Solar Panels are permitted in all zoning districts with the Town of North Hampton as long as the installation of Rooftop Panels does not result in building heights in excess of 35', as per Section 407 of these regulations.

518.3 Building Permits shall be required for the installation of Rooftop and Flush-Mounted Solar Panels as well as Building-Integrated Photovoltaic Systems.

518.4 Ground-Mounted Solar Systems are permitted ~~as accessory structures in all zoning districts of the Town of North Hampton~~ by conditional use permit subject to the following conditions:

A. The location of the Ground Mounted Solar System meets all applicable setback requirements for accessory structures in the zoning district in which it is located.

~~A.~~B. **The Ground Mounted Solar System shall be sized to meet the average monthly electrical utility requirements of the approved and permitted structures on the site for which the System will be erected.**

~~B.~~C. The height of the solar collector and any mounts shall not exceed [~~20~~ 12] feet when oriented at maximum tilt.

~~C.~~A. ~~The total surface area of all ground-mounted and freestanding solar collectors on the lot shall not exceed [500 square feet]*.~~

- ~~*The average home in New England uses approximately 1000 kWh of electricity per month. 1000 kWh / 30 days per month yields approximately 33 kWh per day. Each solar panel yields approximately 1kWh of energy. Each solar panel is approximately 5'x3' for a total of 15 square feet. 15 square feet x 33 solar panels is approximately 495 square feet required for installation.*~~

~~D.~~A. Ground-Mounted Solar Systems shall be fully screened from adjacent properties by a combination of fencing and/or evergreen and deciduous plantings. Screening shall be included in a manner that makes the Ground-Mounted Solar System essentially invisible from abutting properties. ~~screened from the ground to at least to the maximum height of the panels through the use of architectural features or landscaping which will harmonize with the character of the property and surrounding area.~~

D.

518.5 Group Net-Metering is not permitted in any zoning district. ~~permitted by conditional use permit only in all zoning districts.~~

518.6 Solar Storage

If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure when in use and when no longer used shall be disposed of in accordance with the applicable laws and regulations.

518.6 Removal

If a solar collector ceases to perform its originally intended function for more than [12] consecutive months, the property owner shall remove the collector, mount and associated equipment after the end of the [12] month period.