



Meeting Minutes
Public Hearing and Work Session
North Hampton Planning Board
Tuesday, December 20, 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 Dan Derby and Phil Wilson; Jennifer Rowden, Circuit Rider Planner; and Rick Milner, Recording Secretary.

Vice Chair Monaghan called the meeting to order at 6:30 pm.

I. Public Hearing

Town of North Hampton, NH review of amendments to zoning ordinances for inclusion on the 2017 Town Warrant.

1. Town of North Hampton, NH: Section 302 Definitions – Definitions added for Dark Sky Standard, Grade Plane, and Height. Definition revised for Lot. Second Public Hearing.

Ms. Monaghan presented the proposed revisions to the Town of North Hampton Zoning Ordinance for the definitions section of the zoning ordinance. Proposed revisions attached as Appendix A to these minutes.

Mr. Derby stated that research performed by the Planning Administrator at the request of the Board indicated that the Building Department was determining height of a building according to the international building code which has been used as the source to create the proposed definitions for grade plane and height. Based on the current practices in place, Mr. Derby suggested that the definitions for grade plane and height are not necessary and be withdrawn from the proposed zoning amendment.

Ms. Rowden stated that the proposed language was similar to the language already included in Section 407 of the zoning ordinance dealing with height. Ms. Rowden further stated that using a calculation of the vertical distance from the grade plane to the average height of the highest roof surface, rather than the maximum height of the highest roof surface, makes sense when dealing with unusual ground level situations.

Mr. Harned stated that the language used in Section 407 of the zoning ordinance is vague. While the determination of the grade plane (ground level) is clear, there is no mention of how to determine the height of the highest roof surface in the zoning ordinance. The current ordinance is open to interpretation. The definitions for grade plane and height should be included in the zoning ordinance to

clarify the vague language and avoid possible different interpretations of the vague language by future building officials.

Ms. Monaghan opened the public hearing at 6:46pm. No comments were made. Ms. Monaghan closed the public hearing at 6:47pm.

Mr. Wilson stated that it was better to have the Board's intentions regarding building height memorialized within the zoning ordinance. The definitions of grade plane and height as presented should be included in the proposed zoning amendment as a way to clarify the Board's intentions.

Mr. Harned moved that the Planning Board place the proposed revisions language to the Town of North Hampton Zoning Ordinance Section 302 Definitions on the 2017 Town Warrant as presented. Second by Mr. Wilson. The vote was 3-0-1 in favor of the motion with Mr. Derby abstaining.

2. Town of North Hampton, NH: Section 507 Home Occupation - Revisions intended to clarify the purpose of the home occupation ordinance to ensure that home occupations are carried out in a manner which does not change the character of or is detrimental to the neighborhood; and Section 302 Definitions - Definition revised for Home Occupation. Second Public Hearing.

Ms. Monaghan presented the proposed revisions to the Town of North Hampton Zoning Ordinance for the home occupation section of the zoning ordinance and the home occupation definition. Proposed revisions attached as Appendix B to these minutes. Ms. Monaghan opened the public hearing at 6:55pm. No comments were made. Ms. Monaghan closed the public hearing at 6:56pm.

Mr. Harned moved that the Planning Board place the proposed revisions language to the Town of North Hampton Zoning Ordinance Section 507 Home Occupation and Section 302 Definitions – Home Occupation on the 2017 Town Warrant as presented. Second by Mr. Derby. The vote was unanimous in favor of the motion (4-0).

3. Town of North Hampton, NH: Section 302 Definitions – Definitions added for new use classifications regarding Adult Senior Services and Facilities; and Section 405 Permitted Use, Special Exception, and Prohibited Uses for All Districts – Add Adult Senior Services and Facilities use as a permitted use only within the Industrial-Business/Residential District. First Public Hearing.

Ms. Monaghan presented the proposed revisions to the Town of North Hampton Zoning Ordinance for the Adult Senior Services and Facilities definitions and permitted use. Proposed revisions attached as Appendix C to these minutes. Ms. Monaghan opened the public hearing at 6:55pm. No comments were made. Ms. Monaghan closed the public hearing at 6:56pm.

Mr. Wilson moved that the Planning Board place the proposed revisions language to the Town of North Hampton Zoning Ordinance Section 302 Definitions – Adult Senior Services and Facilities and Section 405 Permitted Use, Special Exception, and Prohibited Uses for All Districts pertaining to Adult Senior Services and Facilities on the 2017 Town Warrant as presented. Second by Mr. Harned. The vote was unanimous in favor of the motion (4-0).

4. Town of North Hampton, NH: New Section Solar Arrays - Revisions intended to establish permitting regulation for the installation of solar panels and solar arrays within all zoning districts of the Town of North Hampton. First Public Hearing.

Ms. Monaghan presented the proposed revisions to the Town of North Hampton Zoning Ordinance for the new solar array section of the zoning ordinance. Proposed revisions attached as Appendix D to these minutes.

Ms. Rowden suggested that language be added to the end of the essential services definition in the zoning ordinance indicating that group net-metering is not an essential service.

Mr. Harned suggested that language be added to the proposed solar array ordinance indicating that the height of the solar panels on top of a building be included in the calculation of the building's height.

Ms. Monaghan opened the public hearing at 7:08pm.

Resident Dieter Ebert addressed the Board. Mr. Ebert expressed his concern that the proposed prohibition of group net-metering in the R-1 and R-2 residential zoning districts would create a burden on residential properties which have a building with multiple meters, multiple buildings on a property with separate meters, or agricultural enterprises with multiple buildings located on one or more lots. He believed that the prohibition was excessively restrictive and not in conformance with NH RSA 672:1 which states that municipalities shall not unreasonably limit agricultural activities.

Mr. Wilson stated that the proposed language does not necessarily prohibit the use of a solar array system for multiple buildings on one property.

Ms. Rowden stated that providing power from a solar array on one property to other properties may be prohibited. However, power from one solar array can be used to multiple structures on one piece of property.

Mr. Harned stated that the proposed language indicates that the solar array will be sized to meet the needs of the structures (plural) on the lot. He suggested adding clarifying language to the proposed amendment to address multiple meters on one lot as it relates to group net-metering.

Mr. Ebert asked if the language limiting the solar array power output to 110% of the average annual electrical requirements for the approved and permitted structures on the lot would prohibit the installation of a solar farm on a property.

Mr. Harned stated that ground mounted solar farms would not be allowed. Installation of large solar farms would not be a prudent use of open land in the Town of North Hampton as indicated by the intentions stated in the Master Plan.

Ms. Monaghan closed the public hearing at 7:28pm. Mr. Ebert asked to address the Board. Ms. Monaghan re-opened the public hearing at 7:29pm.

Mr. Ebert suggested compromise language which would allow roof top group net-metering in all zoning districts. This would provide another option for a property owner. In addition, installation on roof tops would limit the amount of power that could be generated and protect open land.

Mr. Wilson suggested changing the proposed amendment language to allow group net-metering in all zoning districts using only roof top or building integrated solar systems.

Mr. Derby and Mr. Harned stated that an intended purpose of the proposed solar ordinance was to establish limits that would prevent commercial operations in the residential zoning districts and protect open land in the Industrial-Business/Residential District. The proposed language change would not conflict with these intended purposes.

Mr. Wilson stated that he is not in favor of allowing group net-metering from a solar array located on one lot to provide power for other lots.

Mr. Harned and Mr. Wilson suggested the following language change for the proposed solar ordinance: "E. Group net-metering is allowed for ground mounted solar arrays only when the group members all are located on one lot and all of the facilities included in the group net-metering agreement are under common ownership."

Ms. Rowden suggested the following language change to the definition for Essential Services: "c. Group net-metering as defined in Section 518.2.G is not considered an essential service."

Mr. Harned moved that the Planning Board schedule a second public hearing at the January 3, 2017 Planning Board meeting to consider the adoption of New Section Solar Arrays language for inclusion on the 2017 Town Warrant with the following changes to the proposed amendment language:

- a. **Add the following language to the definition for Essential Services:**
"c. Group net-metering as defined in Section 518.2.G is not considered an essential service."
- b. **In paragraph 518.6.D, capitalize the term "Essentially Invisible."**
- c. **Add the following language to subsection 518.6:**
"E. Group net-metering is allowed for ground mounted solar arrays only when the group members all are located on one lot and all of the facilities included in the group net-metering agreement are under common ownership."
- d. **Change subsection 518.7 as follows (changes in *ITALICS* and ~~struck out~~):**
~~"518.7 Group Net-Metering is not permitted in the R1 and R2 zoning districts. Group Net-Metering is permitted in the I-B/R district~~ ***all zoning districts*** **if and only if feasible with Rooftop Mounted Solar Panels or a Building-Integrated Photovoltaic Solar System."**
- e. **Change subsection 518.4 as follows (change in *ITALICS*):**
"518.4 Rooftop Mounted Solar Panels are permitted in all zoning districts within the Town of North Hampton as long as the installation of Rooftop Panels does not result in building heights, including the solar panels, in excess of 35', as per Section 407 of these regulations."

Second by Mr. Wilson. The vote was unanimous in favor of the motion (4-0).

Ms. Monaghan closed the public hearing at 8:00pm.

II. New Business

1. Committee Updates

- a. Long Range Planning (LRP) – No report.
- b. Application Review Committee (ARC) – No report.
- c. Rules and Regulations/Procedures – No report.
- d. Economic Development Committee – Mr. Wilson stated that the Economic Development Committee is scheduled to meet on the last Friday of January.
- e. Select Board – No report.
- f. RPC Circuit Rider – No report.

III. Other Business

- 1. Review of 2017 zoning ordinance amendment proposals – Vegetative buffer zone and Wetland Conservation Areas.

Mr. Harned presented proposed language revisions for Section 409 Wetland Conservation Areas with changes based on comments made by the Board at the November 29 meeting. Proposed revisions attached as Appendix E to these minutes.

Ms. Rowden made the following suggestions:

- a. minor language changes to clarify the intent of certain subsections of the wetlands ordinance
- b. language revisions to indicate the appropriate authority and process to review and permit the cutting of dead, dying, or diseased trees
- c. add 'restricted uses' term to the uses chart title blocks to conform to the language within the uses chart

The Board engaged in a discussion regarding the appropriate authority and process to review and permit the cutting of dead, dying, or diseased trees prior to their cutting.

Mr. Wilson moved that the Planning Board schedule a public hearing at the January 3, 2017 Planning Board meeting to consider the adoption of Section 409 Wetland Conservation Areas revisions language for inclusion on the 2017 Town Warrant. Second by Mr. Derby. The vote was unanimous in favor of the motion (4-0).

2. Minutes.

Ms. Monaghan presented the minutes of the December 6, 2016 Planning Board meeting.

Mr. Derby moved that the Planning Board accept the minutes of the December 6, 2016 meeting as written. Second by Mr. Wilson. The vote was unanimous in favor of the motion (4-0).

The meeting was adjourned at 9:00 pm without objection.

Respectfully submitted,

Rick Milner
Recording Secretary

APPENDIX A

1. Definitions Warrant Article

SECTION 302 DEFINITIONS

a. New definitions – (Changes are in **BOLD** or ~~Struck-out~~)

DARK SKY STANDARD: The standard and/or best practice by which outdoor lighting is regulated to minimize the adverse effect of artificial outdoor light at night on the natural nighttime environment, while permitting reasonable uses of that light to enable safety utility, security, productivity, enjoyment and commerce. A standard includes but is not limited to provisions that reduce the impacts of glare, light trespass and sky glow.

GRADE PLANE: A reference plane which represents the average of finished ground level adjoining the building at exterior walls. Where finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than 6 feet (1829 mm) from the building, between the building and a point 6 feet (1829 mm) from the building.

HEIGHT, BUILDING: The vertical distance from grade plane to the maximum height of the highest roof surface.

b. Revised definition – (Changes are in **BOLD** or ~~Struck-out~~)

~~LOT: A parcel of land intended for occupancy by a main building, together with its accessory buildings.~~ **A certain contiguous tract or parcel of land for which there is a deed recorded at the Rockingham County Registry of Deeds.**

APPENDIX B

2. Home Occupation Warrant Article

(Changes are in **BOLD** or ~~Struck out~~)

SECTION 302 DEFINITIONS

HOME OCCUPATION: A ~~Any~~ **business or concern** ~~occupation~~ carried on in a dwelling unit which is clearly incidental and secondary to the use of the building for dwelling purposes, and which does not change the character thereof. **'Home Occupation' does not include those business activities carried out fully within the dwelling unit by occupants of that dwelling.**

SECTION 507 HOME OCCUPATION

The purpose of this ordinance is to ensure that home occupations are carried out in a manner which does not change the character of or is not detrimental to the neighborhood. Any home occupation otherwise allowed as either a Permitted Use or Special Exception under the terms of this Ordinance shall be permitted as a special exception if it complies with the requirements of this section.

*3/9/1999, 3/8/2005

507.1 The home occupation shall be carried on by a member of the family residing in the dwelling unit with not more than two employees who are not part of the family residing in the dwelling. *3/08/2005

507.2 The home occupation shall be carried on wholly within the principal or accessory structures.

507.3 Exterior displays or signs other than those permitted under Section 506, exterior storage of materials, and exterior indication of the home occupation or variation from the residential character of the principal or **accessory** structures shall not be permitted.

507.4 Objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare shall not be produced.

507.5 Articles not produced on the premises shall not be sold on the premises. *3/12/1968

507.6 The home occupation shall result in no detriment to property values in the vicinity or result in a change in the essential characteristics of any area or neighborhood on account of the location or scale of buildings, other structures, parking areas, access ways, or the storage **or operation of associated equipment or vehicles.** The home occupation shall not create a traffic safety hazard or result in a substantial increase in the level of traffic congestion in the vicinity. *3/08/2005

APPENDIX C

SECTION 302 DEFINITIONS

Adult and Senior Facilities or Services:

a. ASSISTED LIVING FACILITY: A State licensed facility which combines apartment living (including studio apartments) with a variety of support services including meals, assistance with personal care, housekeeping, laundry, social and recreational programs, oversight of residents medication, 24 hour security, on-site staff to respond to emergencies. These facilities may also offer specialized care for persons with dementia or Alzheimer's Disease. See RSA 151-E:2.I.

b. NURSING FACILITY: A State licensed facility which is primarily engaged in providing 24-hour care for residents needing: (a) skilled nursing care, medical monitoring, and related services; (b) rehabilitation services for the rehabilitation of injured chronically disabled or sick; (c) medication administration or instruction and supervision; or (d) on a regular basis, health-related care and services (above the level of room and board) which can be made available to them only through facilities which provide 24 hour care. See RSA 151-E:2, V.

c. Senior (Elder) Day Care Facility or Senior (Elder) Day Care Center: non-residential facility that operates during day time hours which supports one or more of the following services including but not limited to: health, nutritional, part time living needs of adults 55 years of age and older; in professionally staffed group settings, and may also provide for the social needs for these adults.

SECTION 405 PERMITTED USES

Add Adult and Senior Facilities or Services as a permitted use only within the I-B/R zoning district.

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

518.1: Purpose: 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.

518.2 Definitions:

- A. 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.
- B. 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.
- C. ESSENTIALLY INVISIBLE:** “Essentially invisible” means that all aspects of a Ground Mounted Solar Energy Array are compatible with their environs with the result that a reasonable observer either will not notice the Array under normal conditions or, in noticing the facility, will not consider it an abnormal and obtrusive feature in its surroundings.
- D. FLUSH-MOUNTED SOLAR PANEL:** Photovoltaic panels that are installed flush to the surface of a roof and which cannot be angled or raised.
- E. GROUND-MOUNTED SOLAR ARRAY:** Solar energy structures, equipment, devices directly installed in the ground and not attached or affixed to an existing building.
- F. 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.
- G. GROUP NET-METERING (also COMMUNITY NET-METERING):** 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.

- H. 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.
- I. 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.
- J. SOLAR PANEL:** A device for the direct conversion of solar energy into electricity.

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

518.4 Rooftop Mounted Solar Panels are permitted in all zoning districts within 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.

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

518.6 Ground-Mounted Solar Arrays are permitted by conditional use permit subject to the following conditions:

- A. The location of the Ground Mounted Solar Array meets all applicable setback requirements for structures in the zoning district in which it is located.
- B. The Ground Mounted Solar Array should be sized to meet the annual average electrical utility requirements of the approved and permitted structures on the site for which the array will be erected, but may not exceed 110% of the average annual electrical utility requirements of the approved and permitted structures on the for which the array will be erected.
- C. The height of the solar collector and any mounts shall not exceed 15 feet when oriented at maximum tilt.
- D. Ground-Mounted Solar Arrays shall be essentially invisible, as defined in Section 518.1, at the time of installation all aspects of the Array are compatible with their environs with the result that a reasonable observer will not notice the Array under normal conditions or, in noticing the Array, will not consider it an abnormal or obtrusive feature in its surroundings.

518.7 Group Net-Metering is not permitted in the R1 and R2 zoning districts. Group Net-Metering is permitted in the I-B/R district if and only if feasible with Rooftop Mounted Solar Panels or a Building-Integrated Photovoltaic Solar System.

518.8 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 applicable state and federal laws and regulations.

518.9 Removal

If a Ground Mounted Solar Array 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.

APPENDIX E

Version Date: 16-Dec-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 meeting. 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 and Isolated, non-bordering 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, W~~wetlands, and ~~I~~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 X 2017 and for any lots created subsequently.
4. Developed lots of record existing prior to March X 2017 are encouraged to maintain or establish Vegetative Buffers but are not required to do so except as provided in 409.5.C.3.e.

B. Undeveloped lots of record

1. No structure or impermeable surface shall be permitted within 100 feet of Tidal Lands, Wetlands and Isolated, non-bordering wetlands ~~Tidal Lands or within 100 feet of Wetlands on any lot of record existing as of March X 2003 or on any lot created subsequently. *xx/xx/2003 *3/08/2005~~
2. Undeveloped lots of record existing prior to March X 2003: If the imposition of 100 foot Tidal Lands, Wetlands and Isolated, non-bordering wetland ~~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 Isolated, non-bordering wetland and 75 feet for Tidal Wetlands shall apply. Vegetative buffers are still required. *xx/xx/2003 *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 X 2003 or on any lot created subsequently. *3/08/2005
2. Developed residential lots of record existing prior to March X 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 Isolated, non-bordering wetlands and 75 feet for Tidal Lands shall apply. *xx/xx/2003 *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 X 2003) ~~or and~~ 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~~No new structure(s) are ~~not~~is permitted within the 25-foot vegetative buffer as defined in ~~409.9.A~~ feet of a Tidal Lands, Wetlands or Isolated, non-bordering wetlands boundary.

409.6 Prohibited Uses in the Wetlands Conservation District:

A. The following uses are prohibited within the Tidal Lands, Wetlands and Isolated, non-bordering wetlands~~Wetlands Areas~~ or within 75 feet of ~~Wetland Area B~~their boundaries:
Septic systems, leach fields or on site disposal systems.

B. The following uses are prohibited within the Tidal Lands, Wetlands and Isolated, non-bordering wetlands~~Wetlands Areas~~ or within 100 feet of ~~their boundaries~~Wetland Area Boundaries:
Storage of gasoline, fuel oil, pesticides, hazardous agricultural and other hazardous 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
<p>All regions of the Wetland Conservation District</p>	<p>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.</p> <p>B. Any agriculture that will not cause soil erosion or groundwater contamination by pesticides or other hazardous materials.</p> <p>C. Wildlife refuge and habitat management.</p> <p>D. Parks and passive, non-motorized recreation uses as are consistent with the purpose and intentions of this section.</p> <p>E. Conservation areas and nature trails.</p>	<p>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.</p> <p>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.</p> <p>C-A. Manure storage is not permitted within the Wetland Conservation District.</p>
<p>Additional Permitted and Prohibited uses in the:</p> <p>Tidal Lands As defined by 302.45</p> <p>and</p> <p>Wetlands and Isolated, Non-boarding Wetlands As defined by 302.21 and 46</p>	<p>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.</p> <p>These activities include but are not limited to:</p> <p>A. Allowable agricultural activities which involve the harvesting of product (IE: salt hay) and not listed in the prohibited use section(s):</p> <p>B. Cutting of dead or dying trees of any size.</p> <p>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.</p>	<p>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.</p> <p>These activities include but are not limited to:</p> <p>A. Agricultural activities which involve permanently (60 days or longer) disturbing wetlands soils, water flow or other beneficial features of the wetlands.</p> <p>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.</p> <p>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 <u>New Hampshire Department of</u></p>

	<p>Partial cutting shall be done in such a way that a well distributed stand of healthy growing trees remain.</p> <p>D. Dead, dying, diseased, or damaged trees, saplings, or ground covers may be removed with prior 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. <u>Dead, dying, diseased, or damaged trees</u> Dead and living trees that provide dens and nesting places for wildlife are encouraged to be preserved.</p> <p>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.</p> <p>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.</p> <p>G. Drainage ways, streams, creeks, or other paths of normal runoff water;</p> <p>H. Open space permitted by the subdivision regulations and other sections of the ordinance;</p>	<p>Environmental services <u>Wetlands Bureau</u> based upon a determination that the removal in combination with mitigation activities will not increase the potential for erosion.</p> <p>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.</p> <p>E. Any other permitted activities must not have a permanent or long term (60 day maximum??) impact on the wetlands</p>
<p>Additional Permitted and Prohibited uses in the:</p> <p>Vegetative Buffer Zone</p> <p>As defined by 409.5.A</p>	<p>All uses permitted in the Tidal Lands, Wetlands and Isolated, Non-boarding Wetlands.</p> <p>Uses, activities or improvements specifically allowed in the Vegetative Buffer in other sections of this ordinance, Section 409.</p>	<p>All uses prohibited in the Tidal Lands, Wetlands and Isolated, Non-boarding Wetlands.</p> <p>No structures or impermeable surfaces are permitted within the Vegetative Buffer Zone not in existence prior to March X, 2017.</p> <p>No mowing or other activities unless specifically permitted that impact the integrity and functionality of the Vegetative Buffer and the wetlands and surface waters for purposes such as water quality protection, wildlife habitat, and flood storage capacity</p>
<p>Additional Permitted and Prohibited uses in the:</p> <p>Wetlands Buffer Zone</p>	<p>Uses, activities or improvements specifically allowed in the Buffer Zone in other sections of this ordinance, Section 409.</p> <p>Activities or improvements which do not degrade function and intent of the Wetland Conservation District buffer zone.</p>	

As defined by 409.5	Permitted uses are at the discretion of building inspector and wetland scientist with the intent to satisfy the purpose of the Wetland Conservation District.	
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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.~~

~~**409.10-9 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~~

~~**409.10 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 all of the following conditions are found to exist:~~

- ~~A. Such pumping is conducted in such manner as to assure no net loss of Tidal Lands, Wetlands and Isolated, non-bordering wetlands within any adjacent Wetlands Conservation District.~~

409.11 Other Permits:

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