



**Meeting Minutes**  
**Work Session**  
**North Hampton Planning Board**  
**Tuesday, December 17, 2019 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, Lauri Etela, and Jim Maggiore, Select Board Representative; Alternate Member Valerie Gamache; Jennifer Rowden, RPC Circuit Rider; and Rick Milner, Recording Secretary.

Vice Chair Monaghan called the meeting to order at 6:32pm.  
Ms. Gamache was seated for Mr. Kilgore.

**I. Public Hearing**

**1. Town of North Hampton, NH** review of amendments to zoning ordinances for inclusion on the 2020 Town Warrant.

a. Mr. Wilson presented revisions to Section 501 Wetlands Conservation District intended to clarify the criteria to be used when the Planning Board considers a wetlands conditional use permit application and the conditions under which restoration of wetlands disturbed prior to the adoption of wetlands protection ordinances in 1988 may occur. The objective of the proposed language was to provide an incentive for developers to restore previously disturbed wetlands. A developer would be allowed to impact one square foot within the area between the older 50 foot wetlands setback and the current 100 foot wetlands setback for every square foot of wetlands restored.

Ms. Monaghan opened the public hearing at 6:35pm. No comments were made. Ms. Monaghan closed the public hearing at 6:36pm.

The Board came to a consensus without objection to make some minor grammatical edits to the proposed language.

**Mr. Wilson moved that the proposed revisions language to the Town of North Hampton Zoning Ordinance Section 501 Wetlands Conservation District appears on the 2020 Town Warrant as amended at the December 17, 2019 Planning Board meeting. Second by Mr. Harned. The vote was unanimous in favor of the motion (6-0).**

The proposed language is attached as Appendix A to these minutes.

b. Ms. Monaghan presented revisions to Section 201 Zoning Map and Zoning Districts and Section 202 District Uses intended to clarify that lots within the Wetlands Conservation District or the Conservation Land District are still subject to the requirements of the underlying R-1 High Density, R-2 Medium Density, or Industrial-Business/Residential (I-B/R) Zoning Districts. The proposed amendments would

also remove representations of the Wetlands Conservation District and the Conservation Land District from the zoning map. The Wetlands Conservation District and the Conservation Land District would be represented on their own individual maps. The revisions also include removal of the sentence in the definition of the R-1 High Density District permitting multi-family dwellings after central water and sewage facilities are installed.

Ms. Monaghan opened the public hearing at 6:48pm. No comments were made. Ms. Monaghan closed the public hearing at 6:49pm.

**Mr. Wilson moved that the proposed revisions language to the Town of North Hampton Zoning Ordinance Section 201 Zoning Map and Zoning Districts and Section 202 District Uses appears on the 2020 Town Warrant as presented. Second by Mr. Maggiore. The vote was unanimous in favor of the motion (6-0).**

The proposed language is attached as Appendix B to these minutes.

## **II. Old Business**

### **1. Discussion of proposed 2020 Zoning Ordinance amendments - Duplex criteria.**

Ms. Rowden presented zoning ordinance amendment language proposed by Mr. Kroner with the intent of clarifying that a duplex is a vehicle to maintain our town's fair share of workforce housing and, as such, each duplex must allow one unit to meet the defined affordability threshold. Ms. Rowden noted that the proposed language was modified to include affordability requirements, compliance authority, and conditional use permit procedures.

**Mr. Wilson moved that the Planning Board schedule a public hearing on January 7, 2020 at 6:00pm to consider the adoption of the proposed duplex criteria zoning ordinance language. Second by Mr. Harned. The vote was unanimous in favor of the motion (6-0).**

The proposed language is attached as Appendix C to these minutes.

## **III. Other Business**

### **1. Discussion of NH State Legislation regarding Tiny Houses.**

Mr. Maggiore presented a NH State Legislature report which studied issues associated with state and local permitting of tiny houses suitable for year-round occupancy. The report acknowledged that affordable housing in New Hampshire is a critical issue. Tiny houses offer a viable option to increase the stock of affordable housing in New Hampshire. The report raised concerns with how tiny houses should be defined and what codes should be followed when permitting a tiny house. The report also recommended that tiny houses be owner-occupied to avoid a possible proliferation of short term rentals. The report also included a proposed tiny houses bill which would allow tiny houses as a matter of right in all zoning districts that permit single family dwellings. Mr. Maggiore stated that he does not support moving forward with the proposed bill.

Ms. Monaghan asked how tiny houses would actually positively affect the affordable housing problem in New Hampshire.

Mr. Maggiore responded that he does not see tiny houses as a real solution to the problem of affordable housing since there are so few people actively seeking to establish a tiny house.

Mr. Wilson asked if there are any specific features, size figures, or language which clearly defines what is and is not a tiny house.

Mr. Maggiore responded that a clear definition of a tiny house still needs to be worked out, especially for tiny houses on wheels. Currently Appendix Q of the International Residential Code is being used as a reference for discussions and proposed legislation defining tiny houses.

Ms. Monaghan asked if the Planning Board needed to consider any zoning ordinance changes to address the tiny house issue.

Mr. Maggiore responded that it is premature at this time to begin any zoning ordinance amendment discussions regarding tiny houses.

## 2. Committee Updates.

### a. Long Range Planning (LRP) – No report.

The Board came to a consensus without objection that the Long Range Planning Committee should have an alternate member in order to meet on a regular basis due to the busy schedules of its regular members.

**Mr. Harned moved that Valerie Gamache be appointed as an alternate member of the Long Range Planning Committee. Second by Mr. Wilson. The vote was 5-0-1 with Ms. Gamache abstaining.**

### b. Application Review Committee (ARC) – No report.

### c. Rules and Regulations/Procedures – No report.

### d. Capital Improvement Plan Committee (CIP) – No report.

e. Economic Development Committee (EDC) – Mr. Wilson reported that the EDC received feedback regarding a consultant's visual presentations of village center districts from various communities. The feedback suggested that the character of the village centers in other communities does not fit the character of North Hampton. The other communities were much larger in size and had more established and extensive infrastructure systems already in place. The feedback also suggested that a revised visual presentation be created which fits within the current character and limitations of North Hampton. Mr. Wilson suggested that current successful businesses could be used as examples of what type of businesses could comprise a realistic vision of a village district consistent with the character of North Hampton. The presentation should reflect what is realistically possible, not an unrealistic dream.

### f. Select Board – Mr. Maggiore reported on:

i. potential library building warrant articles

ii. operating budget committee meetings

iii. discussions with the State of NH regarding possible rail trail access points in North Hampton.

g. RPC Circuit Rider – Ms. Rowden reported that she is working with the Conservation Commission regarding a natural resources inventory. The Conservation Commission may be ready to attend a Planning Board meeting in February 2020 to discuss a natural resources Master Plan chapter.

h. Planning and Zoning Administrator – Mr. Milner informed the Board about upcoming applications.

## 3. Correspondence.

Ms. Monaghan stated that Board members received information regarding loading and unloading of vehicles on Route 1 by a car dealership business disrupting normal operations on surrounding properties.

Mr. Maggiore stated that this activity is a law enforcement issue that does not require a Planning Board response. The appropriate Town of North Hampton departments have been notified of the activity.

Mr. Harned suggested that the Planning Board review available site plans of various car dealerships in North Hampton as they relate to loading and unloading areas as a way to obtain background information for its consideration of any future car dealership applications.

4. Minutes.

Ms. Monaghan presented the Planning Board December 3, 2019 meeting minutes.

**Mr. Wilson moved that the Planning Board accept the minutes of the December 3, 2019 Planning Board meeting as written. Second by Ms. Gamache. The vote was unanimous in favor of the motion (6-0).**

The meeting was adjourned at 7:53pm without objection.

Respectfully submitted,

Rick Milner  
Recording Secretary



## APPENDIX A

### 2020 Zoning Ordinance Amendment SECTION 501 WETLANDS CONSERVATION DISTRICT Changes in RED or STRUCK OUT

#### **501.2 Authority**

~~Any non-compliance with this ordinance shall require the issuance of a Conditional Use Permit by the Planning Board as authorized in RSA 674:21. Any person aggrieved by a Planning Board decision on a Conditional Use Permit may appeal to the Superior Court as provided in RSA 677:15. These Planning Board decisions cannot be appealed to the Zoning Board of Adjustment (RSA 676:5.III). \*3/13/2018~~

#### **501.2 Authority**

**A.** As authorized in RSA 674:21, a Conditional Use Permit ["CUP"] shall be required for an activity that does not comply with this ordinance or specific types of activity as listed below. All conditions specified for applicable CUPs shall be met. In no case shall the Planning Board approve a CUP that permits an activity that does not comply with Section 501.9.B.4.e.3 below. Any person aggrieved by a Planning Board decision on a CUP application may appeal to the Superior Court as provided in RSA 677:15. These Planning Board decisions cannot be appealed to the Zoning Board of Adjustment (RSA 676:5.III).

**B.** All CUPs approved under this ordinance shall meet general criteria and applicable criteria for specific conditions that are provided in Section 501.

#### **501.9 Conditional Use Permit for Fill in Excess of 3000 Square Feet**

~~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.~~

~~**501.10 Conditional Use Permit for Erecting a New Structure or Expanding an Existing Structure**  
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. \*3/10/2009~~



2020 Zoning Ordinance Amendment  
SECTION 501 WETLANDS CONSERVATION DISTRICT  
Changes in **RED** or **STRUCK OUT**

~~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~~

**~~501.11 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.~~

**501.9 Criteria for Conditional Use Permits in the Wetlands Conservation District (N.B., The Wetlands Conservation District includes all wetlands and applicable buffer zones.)**

**A. General Criteria Applicable to All Applications for CUPs in the District:**

1. The proposed activity is essential to the productive use of land not within the District.
2. The proposed activity will be such as to minimize detrimental impact upon the District.
3. No alternative with less detrimental impact on the District is feasible.
4. The proposed activity, including design and construction methods, is not otherwise prohibited under the zoning ordinance.
5. The Planning Board finds that the proposed activity will result in no diminution of value of abutting properties.
6. All other necessary permits have been obtained.

**B. Additional Criteria for Applications That Propose:**

1. Pumping overburden ground water at a rate in excess of 20,000 gallons per day shall require pumping that is conducted in a manner that assures no net loss of Tidal Lands, Wetlands or Isolated Non-Bordering Wetlands within any adjacent areas of the District.
2. Filling in excess of 3,000 square feet of surface area for the construction of roads and other access ways, pipelines, power lines, and other transmission lines within the District:
  - a. No alternative that does not cross the wetlands is feasible.
  - b. After construction the site shall be restored as nearly as practicable to its original grade and condition.
3. Increasing impervious surface of any kind within the District, including but not limited to erecting a new structure or expanding an existing structure, paving a driveway, walkway or patio; installing a swimming pool or deck:
  - a. Unique or special conditions of the parcel distinguish it from other parcels in the District.
  - b. The use for which the CUP is sought cannot feasibly be carried out on a portion or portions of the parcel that are outside the District.
  - c. The proposed use meets all Wetlands Conservation District requirements as specified in Section 203.1 of the Zoning Ordinance.
  - d. Proposed design and construction of the use to the extent practicable do not appreciably diminish natural resource values of affected areas of the District and are consistent with the purposes and intent of this ordinance.
4. Restoring or remediating disturbances in wetlands or wetland buffers on parcels. Eligible parcels must include areas within both the Wetlands Conservation District and the Industrial/Business - Residential District ["I/B-R"] and these disturbances of wetlands or buffers must have occurred before wetlands protection ordinances were adopted by the Town of North Hampton in 1988:
  - a. The applicant seeks relief from currently applicable wetlands setback requirements in the I/B-R.



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SECTION 501 WETLANDS CONSERVATION DISTRICT  
Changes in RED or ~~STRUCK OUT~~

b. The applicant has submitted a survey that delineates wetlands on the parcel as they existed before any disturbances within wetlands or wetlands buffer occurred on the parcel.

1) A wetlands/soil scientist licensed in New Hampshire shall have prepared, stamped, and signed this survey.

2) This wetlands delineation shall be used as the "Base-line Delineation" referred to in paragraphs 501.9.B.4.e.2 and 3 below.

c. The applicant submits:

1) Test results of soils on the site for contaminants or hazardous waste, as set out in RSA 146-A through RSA 149-P.

2) Documentation of these results that has been stamped and signed by the licensed, qualified professional who conducted these tests.

3) A plan to remediate all affected areas if any contaminants or hazardous-waste materials are found at levels which state and federal authorities have concluded pose a threat to public health and safety. Execution of this plan shall be a condition for receiving a Certificate of Occupancy for this site.

d. All disturbances of wetlands on the parcel shall have occurred before the Town of North Hampton adopted ordinances to protect wetlands and wetlands buffers in 1988.

e. The applicant proposes a Significant Restoration Plan of previously disturbed wetlands or remediation of previous encroachment on wetlands buffers on the parcel. "Significant Restoration" means that after development proposed areas of restored wetlands or remediated wetlands buffers, measured in square feet of surface area, shall be located on the parcel and shall meet the following criteria:

1) At a minimum the total restored area of previously disturbed wetlands shall equal or exceed the total area of proposed encroachment. This proposed encroachment shall be limited to the buffer area between the 50-foot and 100-foot setback from the post-restoration wetlands delineation.

2) At a minimum the total area of remediated, previously disturbed buffer area shall equal or exceed proposed encroachment on the current 100-foot wetlands buffer and shall not encroach on a 50-foot buffer from the post-restoration wetlands delineation.

3) Proposed encroachment on the current 100-foot wetlands setback shall not encroach on a 50-foot setback from the Base-line Delineation established in 501.9.B.4.b.2 above. A 50-foot setback was required by wetlands protection ordinances adopted by the Town in 1992.

4) Notwithstanding 1-2 above, the Planning Board shall in its sole discretion determine whether proposed restoration or remediation is sufficient to justify a CUP in view of the spirit and intent of this ordinance, which is to restore and protect land within the Wetlands Conservation District.



## APPENDIX B

2020 Zoning Ordinance Amendments  
SECTION 201 ZONING DISTRICTS and SECTION 202 DISTRICT USES  
Changes in **RED** or ~~STRUCK OUT~~

### ARTICLE II - DISTRICT REGULATIONS

#### 201.2 ZONING DISTRICTS

The Township is divided into the districts stated in this Ordinance as shown by the district boundaries in the Zoning Map. The districts are: \*3/12/1968

**A. R-1 High Density District:** The high density district is designated for land to be used for smaller single family dwellings with minimum yard space where central water and sewer facilities are available or where the installation of these facilities is feasible. ~~After central water and sewerage facilities to include sewerage treatment disposal plants are installed, accepted by the town, and fully operational, multiple family dwellings are permitted.~~ \*3/10/1981

**D. Wetlands Conservation District:** The Wetlands Conservation District is characterized in Section 501. ~~below.~~ This district consists of wetland areas, as defined in Sections 104.28, 52, and 53 above and a buffer zone around all such wetland areas, as defined in Section 501. The purpose of this District is described in Section 501.1, and Permitted and Prohibited Uses in the District are defined in Section 501. **The Wetlands Conservation District imposes requirements and restrictions in addition to those of the zoning districts within which the lot is located as defined by the Zoning Map in Section 201.1.** \*3/10/2009

**E. Conservation Land District:** The Conservation Land District consists of all land area that is permanently protected from subdivision and development by deed restrictions, easements, or other means. **The Conservation Land District imposes requirements and restrictions in addition to those of the zoning districts within which the lot is located as defined by the Zoning Map in Section 201.1** ~~No structures are permitted on land within this District, except as provided by the terms of conservation restrictions on land within the District.~~ **Allowed and prohibited uses in this District shall conform to the requirements of the Zoning Ordinance and also need to conform to the requirements specified by conservation restrictions and contractual agreements on each of the parcels in this District.** The purpose of this District is to delineate land that has been preserved for the multiple benefits derived from conservation of land – including, but not limited to increased aquifer recharge, natural resource protection, unfragmented wildlife habitat, opportunities for passive recreation, and preservation of rural character. \*3/10/2009

#### 202.6 Wetlands Conservation District

Permitted Uses and Prohibited Uses in the Wetlands Conservation District are specified in Section 501. Conditional Uses in the Wetlands Conservation District are provided for as specified in Section 501. **The Wetlands Conservation District imposes requirements and restrictions in addition to those of the zoning districts within which the lot is located as defined by the Zoning Map in Section 201.1.** \*3/10/2009

#### 202.7 Conservation Land District

~~Permitted Uses and Prohibited Uses~~ **The Conservation Land District imposes requirements and restrictions in addition to those of the zoning districts within which the lot is located as defined by the Zoning Map in Section 201.1. Allowed and prohibited uses in this District shall conform to the requirements of the Zoning Ordinance and also need to conform to the requirements specified by conservation restrictions and contractual agreements on each of the parcels in this District. Residential use is not permitted on land in the District, and because restrictions on land in the District are a matter of contractual agreements, rather than zoning restrictions, neither Special Exceptions nor Variances are available.** \*3/10/2009



2020 Zoning Ordinance Amendment  
SECTION 203.6 DUPLEX REQUIREMENTS  
Changes in RED or ~~STRUCK-OUT~~

**203.6 Duplex Requirements**

A. Purpose: A Duplex is a permitted use in the R-1 High Density District and the Industrial-Business/Residential District (I-B/R) with the issuance of a Conditional Use Permit by the Planning Board to help maintain North Hampton's existing ratio of market-based units to workforce housing units. In order to justify the reduced lot size per unit, it is critical that the number of workforce housing units be restricted in a manner that maintains these ratios. A duplex must be built with at least one of the two dwelling units meeting the defined affordability threshold as defined by the Portsmouth-Rochester HUD Metropolitan Fair Market Rent Area ("HMFA") or county in which the housing is located as published annually by the United States Department of Housing.

B. Authority: This article is an innovative land use control provision adopted under the authority of RSA 674:21, including authorizing the issuance of a Conditional Use Permit by the Planning Board under RSA 674:21, II. Any person aggrieved by a Planning Board decision as it relates to the administration of an innovative land use control may appeal that decision to the Superior Court, as provided for in RSA 677:15. A Planning Board decision regarding a Conditional Use Permit cannot be appealed to the Zoning Board of Adjustment (RSA 676:5 III).

C. Conditional Use Permit Requirements: All duplexes built after March 10, 2020 shall be permitted with a Conditional Use Permit granted by the Planning Board, provided that they comply with the conditions set forth below:

1. The proposed duplex must be located within the R-1 High Density District or the Industrial-Business/ Residential District.
2. The minimum lot size for a duplex shall be 100,000 square feet and the lot shall contain a minimum of 60,000 square feet of contiguous non-wetland area. No additional frontage is required, other than that specified in Section 203.1-12. Any proposed duplex on an existing lot of record must have 175 feet of frontage in the R-1 district, and 250 feet of frontage in the I-B/R.
3. The maximum number of bedrooms allowed per unit is three (3). Each dwelling unit shall have a minimum living area of 720 square feet.
4. An adequate septic system built to standards of the N.H. Department of Environmental Services (NHDES) must be provided.
5. At least one unit of the two units per duplex must meet the defined affordability threshold as defined by the Portsmouth-Rochester HUD Metropolitan Fair Market Rent Area ("HMFA") or county in which the housing is located as published annually by the United States Department of Housing. All duplexes shall establish that at least one of the two dwelling units meets the town's housing affordability criteria as defined in the specified sections of Section 604 below. The affordability criteria requirements below shall always apply, whether or not all provisions of Section 604 are in affect as determined annually by the North Hampton Planning Board.
6. Compliance with the following specified subsections of Section 604 Inclusionary Housing Ordinance:
  - a. Section 604.8.C, F, G, H, and I.
  - b. Section 604.10.C.
  - c. Section 604.11.A, B, and C.1-6.
  - d. Section 604.11.D.1,2,4,5,6, and 7.

D. Administration, Compliance and Monitoring: The Planning Board shall be responsible for administration, compliance and ensuring that monitoring requirements are met under Section 203.6.