



**Meeting Minutes
Work Session
North Hampton Planning Board
Monday, December 18, 2023 at 6:30pm
Mary Herbert Conference Room, Town Offices, 237A Atlantic Avenue**

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

In attendance: Phil Wilson, Chair; Rob Omberg, Vice Chair; Members Nancy Monaghan, Shep Kroner, Valerie Gamache, John Sillay, and Jim Maggiore, Select Board Representative; Jennifer Rowden, RPC Circuit Rider; and Rick Milner, Recording Secretary.

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

I. Public Hearing

Town of North Hampton, NH review of amendments to zoning ordinances for inclusion on the 2024 Town Warrant.

1. Town of North Hampton, NH: Zoning Ordinance Section 401 Accessory Dwelling Unit. The intent of the proposed revision is to clarify the criteria for allowing an accessory dwelling unit in an antique barn that is connected to a primary dwelling while retaining the traditional New England style architecture of the structures.

Ms. Monaghan presented a proposed revision to the Accessory Dwelling Unit section of the zoning ordinance. The revised language allows pre-1940, antique barns to be eligible for the addition of an accessory dwelling unit if the barn is not attached, as defined by the zoning ordinance, but is connected to the primary dwelling and retains its traditional New England style architecture. The goal of the revised language is to preserve traditional New England barn architecture and provide an opportunity for additional housing opportunities.

Mr. Omberg opened the public hearing at 6:32pm. No comments were made. Mr. Omberg closed the public hearing at 6:33pm.

Mr. Wilson moved that the proposed revisions language to the Town of North Hampton Zoning Ordinance Section 401 Accessory Dwelling Unit appears on the 2024 Town Warrant as presented. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (7-0).

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

2. Town of North Hampton, NH: Zoning Ordinance Sections 201.2.A, R-1 High Density District and 201.2.B, R-2 Medium Density District. The intent of the proposed revision is to clarify the intent of the zoning ordinance that only one residential structure is allowed on a lot in the R-1 High Density District and the R-2 Medium Density District.

Mr. Milner presented a proposed revision to Town of North Hampton Zoning Ordinance Sections 201.2.A and 201.2.B to clarify the intent of the zoning ordinance that only one principal residential structure is allowed on a lot in the R-1 High Density District and the R-2 Medium Density District.

Mr. Omberg opened the public hearing at 6:37pm. No comments were made. Mr. Omberg closed the public hearing at 6:38pm.

Mr. Wilson moved that the proposed revisions language to the Town of North Hampton Zoning Ordinance Sections 201.2.A, R-1 High Density District and 201.2.B, R-2 Medium Density District appears on the 2024 Town Warrant as presented. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (7-0).

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

3. Town of North Hampton, NH: Zoning Ordinance Sections 104 Definitions and 202.4 Industrial-Business/Residential District Permitted Uses. The intent of the proposed revision is to clarify the permitted uses within the Industrial-Business/Residential District and add definitions for permitted uses terms.

Mr. Milner and Ms. Rowden presented proposed revisions to Town of North Hampton Zoning Ordinance Section 202.4 Industrial-Business/Residential (I-B/R) District Permitted Uses to clarify the permitted uses within the I-B/R District and add definitions for existing and proposed terms.

Mr. Omberg opened the public hearing at 6:41pm. No comments were made. Mr. Omberg closed the public hearing at 6:42pm.

Mr. Wilson moved that the proposed revisions language to the Town of North Hampton Zoning Ordinance Sections 104 Definitions and 202.4 Industrial-Business/Residential District Permitted Uses appears on the 2024 Town Warrant as presented. Second by Mr. Sillay. The vote was unanimous in favor of the motion (7-0).

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

II. Continued Business

1. Discussion of proposed revisions to Town of North Hampton Zoning Ordinance Section 504 Floodplain Development Ordinance.

Ms. Rowden presented proposed enhanced floodplain regulation using the 2018 Office of Planning and Development's NH's Menu of Higher Floodplain Regulation Standards to improve the town's resiliency to flooding and reduce potential losses. Improving flood resilience is a specific goal action identified in North Hampton's Master Plan Coastal Hazard and Adaptation Chapter adopted in May, 2022.

Ms. Rowden stated that amending North Hampton's floodplain regulations will allow for:

- a. increased ability for the town to bounce back after a flood event,
- b. protection of natural resources and flood storage capacity of intact floodplains, and
- c. better protection of the many homes, historic resources, and various infrastructure contained within existing floodplains that are susceptible to both freshwater flooding, coastal flooding, sea level rise and storm surge.

Ms. Rowden explained that the current Floodplain Development Ordinance regulations meet federal flood protection standards. However, improvements could be made to the regulations in order to protect against the escalating hazards created by changing climate conditions. Enhanced regulations

better protect vulnerable structures and allow North Hampton to receive roadway repair grants associated with storm events and other forms of disaster relief.

Ms. Rowden explained that the proposed regulations would require a property owner within a flood zone to improve upon a structure's ability to withstand a storm event by elevating the structure or employing other types of flood protection techniques at a higher level than required by the current regulations. The regulations also include substantial structure improvement or damage criteria which trigger a structure's compliance with the regulations.

Ms. Rowden explained that the proposed regulations would provide a benefit to Town residents by lowering flood insurance rates and mitigating possible widespread damage throughout the community. In response to Board member request at the previous meeting, Ms. Rowden provided the following statistics:

- a. the number of North Hampton parcels within flood zones,
- b. the number of North Hampton parcels covered by the National Flood Insurance Program, and
- c. the dollar value of losses paid by the National Flood Insurance Program since 1976.

Mr. Kroner asked if the proposed zoning regulations account for hydrostatic flood events.

Ms. Rowden stated that the proposed zoning regulations do not account for hydrostatic flood events.

Mr. Wilson stated his opinion that the Board should preserve the right of a property owner to decide whether or not to absorb the risks associated with flooding events and not mandate expensive and burdensome standards upon property owners.

Ms. Monaghan stated her opinion that the Board should further study the proposed regulations and their potential impacts. There may not be enough time to adequately review the proposed language revisions prior to the deadline for adoption of the proposed amendment for the 2024 Town Warrant. She suggested that the Board consider the proposed amendment during the 2024-2025 zoning amendment calendar cycle.

Mr. Maggiore stated that an analysis of the potential cost impact of the regulations on property owners should be reviewed by the Board prior to making a decision on the proposed amendment language. Based on his experience as a property owner in a flood hazard area, the costs associated with the proposed regulations could be very expensive.

Mr. Kroner stated his opinion that the Board should hear from North Hampton residents who live in a flood zone prior to making a decision on the proposed amendment language.

Mr. Omberg and Mr. Sillay stated that it is reasonable for the Board to continue review of the proposed zoning amendment language into 2024.

The Board came to a consensus without objection to continue review of the proposed zoning amendment language regarding the Floodplain Development Ordinance during the 2024-2025 zoning amendment calendar cycle.

III. New Business

1. Discussion of proposed revisions to Town of North Hampton Subdivision Regulations regarding performance guarantee procedures necessitated by adoption of NH Senate Bill 78 as law.

Mr. Milner presented proposed revisions to the Subdivision Regulations regarding performance guarantee procedures necessitated by adoption of NH Senate Bill 78 as law prepared by Town Counsel. The law established requirements and limits on the security required for improvements proposed in subdivision developments and the level of improvements completion prior to final approval of a project and release of the project's performance guarantee. Town Counsel also suggested minor changes to the Site Plan Regulations and the Excavation Regulations to maintain consistent language throughout all of the regulations.

Mr. Wilson stated his opinion that the language in the state law allowing construction of infrastructure, roads, and utilities to start prior to the deposit of a performance guarantee and not requiring a performance guarantee to be deposited until just prior to the sale of any parcel of land within the subdivision or request for a building permit for structures for human occupation is detrimental to towns and very beneficial to developers. The ability of towns to ensure that a project is satisfactorily completed is put at risk by the establishment of this law.

Mr. Wilson stated that he would like more time to thoroughly review the details of the language revisions and their potential implications. The Board came to a consensus without objection to continue review of the proposed regulations revisions at the February 2024 work session.

2. Discussion of proposed revisions to Town of North Hampton Subdivision Regulations and Site Plan Regulations regarding application procedures necessitated by adoption of NH House Bill 1661 as law.

Mr. Milner presented proposed revisions to Town of North Hampton Subdivision Regulations and Site Plan Regulations regarding application procedures necessitated by adoption of NH House Bill 1661 as law. Mr. Milner explained that the state law removed the ability of the Planning Board to unilaterally ask the Select Board for more time to consider an application. The Planning Board must make a decision on an application within 65 days of determining that an application is complete unless the applicant agrees to a continuance. The proposed language is attached as Appendix D to these minutes.

Ms. Monaghan moved that the Planning Board schedule a public hearing on January 16, 2024 to consider adoption of the proposed revisions to Town of North Hampton Subdivision Regulations and Site Plan Regulations regarding application procedures necessitated by adoption of NH House Bill 1661 as law. Second by Ms. Gamache. The vote was unanimous in favor of the motion (7-0).

V. Other Business

1. Committee Updates.

- a. Long Range Planning (LRP) – Mr. Wilson stated that the committee will meet in January.
- b. Rules of Procedure/Regulations – No report.
- d. RPC Commissioner – No report.
- e. Select Board – Mr. Maggiore informed the Board that operations at the new Town Safety building are up and running.
- f. RPC Circuit Rider – No report.

g. Planning and Zoning Administrator – Mr. Milner informed the Board that no applications have been submitted for the January 2, 2024 meeting date. Chair Wilson authorized cancellation of the January 2, 2024 Planning Board meeting.

2. Minutes.

Mr. Omberg presented the Planning Board November 7, November 21, and December 5, 2023 meeting minutes.

Mr. Wilson moved that the Planning Board accept the minutes of the November 7, November 21, and December 5, 2023 Planning Board meetings as written. Second by Mr. Kroner. The vote was unanimous in favor of the motion (7-0).

The meeting was adjourned at 7:55 pm without objection.

Respectfully submitted,

Rick Milner
Recording Secretary

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Subparagraphs to be added are underlined.

401.8 The design of the proposed ADU at a minimum shall have part of at least one wall in common with the principal dwelling and that part shall include a fully functioning door between the two living units.

Purpose: The intent of paragraphs A, B and C below is to encourage preservation of qualifying antique barns, important to the Town of North Hampton's rural heritage, while maintaining the character of districts zoned for single-family residences.

A. A single-family dwelling unit that exemplifies traditional architectural form of New England connected farm buildings shall be deemed to comply with paragraph 401.8 for the purpose of permitting one ADU within the barn area of the structure.

B. The applicant shall demonstrate that the single-family dwelling unit for which the application is submitted comports with characteristics of traditional New England connected farm buildings and was constructed prior to 1940.

C. Notwithstanding paragraphs 401.8.A & B, all other provisions of Section 401 shall apply. For an ADU whose living space is contained entirely within the barn's footprint the square footage of the ADU is not required to include connectors between the barn and the living space of the principal dwelling.

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2024 WARRANT**SUGGESTED REVISION LANGUAGE ADDITION IN RED****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. **Only one single family residence or one duplex residence is allowed on a lot.** *3/10/1981, 3/10/2020

B. R-2 Medium Density District: The medium density district is designated for land which is to be used for medium to large single family dwellings with maximum yard space which will make possible the handling of the individual family's water and sewage disposal needs where central water and municipal facilities are not now available or where the immediate installation of these facilities is now immediately feasible. **Only one single family residence is allowed on a lot.** This district also includes areas where agriculture and other open land uses are appropriate and natural conditions make the land unsuitable for intensive development. *3/12/1968, *3/10/2009

APPENDIX C

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Definitions to be added to the zoning ordinance

1. Add definition of 'retail'
Retail – The selling of goods, wares, or merchandise directly to the ultimate consumer.
2. Add definition of 'wholesale'
Wholesale – The selling of goods, wares, or merchandise to retailers, businesses, or other wholesalers. This definition does not include large scale distribution and logistics facilities prohibited by Zoning Ordinance Section 202.8.B.
3. Add definition of 'professional service'
Professional Service – A business that offers any type of personal service to the public which requires the obtaining of a license or other legal authorization prior to conducting the service. Types of professional services include, but are not limited to, accountants, attorneys, architects, engineers, real estate and insurance agents, barbers, hair and nail stylists, cosmetologists, estheticians, and animal groomers. Office space used to coordinate activities associated with the professional service and storage space for equipment and supplies normally associated with the professional service are considered accessory uses allowed within the professional service space. Medical and dental services for humans and animals are to be considered their own distinct uses not included within this definition.
4. Add definition of 'trade service'
Trade Service – A business that offers a service provided by a skilled contractor or subcontractor related to a specialized part of a construction, demolition, maintenance, or repair project. Types of trade services include, but are not limited to, plumbers, electricians, masons, carpenters, and painters.
Office space used to coordinate activities associated with the trade service and storage space for equipment and supplies normally associated with the trade service are considered accessory uses allowed within the trade service space.
5. Add definition of 'indoor activity, assembly, or event'
Indoor Activity/Assembly/Event - A use in which groups of people gather or assemble for an activity, event, or regularly scheduled program indoors within a permanent structure. This type of use includes, but is not limited to, entertainment activities such as occur in theatre, music, or dancing facilities, recreational activities such as occur in bowling or exercise training facilities, and assembly activities such as conferences, lectures, and training classes. Office space used to coordinate activities associated with an event or program and storage space for equipment and supplies normally associated with such events or programs are considered accessory uses allowed within the activity or event space.
6. Add definition of 'Warehouse'
Warehouse – A facility used for the storage of products, supplies, and equipment as permitted by the zoning ordinance and other laws and regulations. This definition does not include large scale distribution and logistics facilities prohibited by Zoning Ordinance Section 202.8.B.

Changes to permitted uses listed in RED. Deleted language ~~STRUCK-OUT~~.

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202.4

INDUSTRIAL-BUSINESS/RESIDENTIAL DISTRICT ("I-B/R")

Permitted Uses

1. Agriculture
2. Motels
3. Eating & Drinking Establishments
4. Research and Testing Laboratories
5. Offices
6. Hospitals and Clinics for Humans or Animals
7. Public Utility Buildings *3/6/1973
8. Accredited Commercial Schools *3/9/1982
9. Essential Services *3/13/1990
10. Retail and Professional Service Uses *3/6/1973
11. Trade Service Uses
12. Wholesale Uses *3/6/1973
13. Warehouse Uses
14. Indoor Activity, Assembly, or Event Uses
- ~~15. Accessory Uses *3/6/1973~~
15. Single Family Dwellings
16. Group Day Care *3/13/1990
17. Duplexes *3/10/1992
18. Manufactured Housing on Individually Owned Lots, as defined in Section 104.37 of the Zoning Ordinance *3/8/1994
19. Manufactured Housing Parks *3/13/1984
20. Places of Worship *5/11/2010
21. Accessory Dwelling Units *3/14/2017
22. Adult and Senior Facilities or Services *3/14/2017

Special Exceptions

1. Water Recreation & Storage
2. Municipal Buildings & Libraries
3. Multiple-Family Dwelling *3/6/1973
4. Light Manufacturing *3/6/1973
5. Public & Private Recreational Facilities *3/6/1973
6. Planned Unit Industrial & Business Projects
7. Family Day Care *3/13/1990
8. Home Occupations
9. Motor-Vehicle Refueling Facilities *3/9/2004
10. Motor-Vehicle Service Facilities, including without limitation lubrication centers, repair shops, detail and washing facilities, body shops, and tire and battery shops *3/9/2004
11. Self-Storage Facility *3/9/2021

Required revisions necessitated by HB 1661 adopted as law.

Site Plan Regulations Section VI

D. Board Action on Completed Application

1. Upon determination by the Board that a submitted application is complete according to the Board's regulations, the Board shall begin formal consideration and shall act to approve, conditionally approve, or disapprove within 65 days, subject to extension or waiver.
- ~~2. The Board may apply to the Selectmen for an extension not to exceed an additional 90 days before acting to approve, conditionally approve or disapprove an application. An applicant may waive the requirement for Board action within the time periods specified in these regulations and consent to such extension as may be mutually agreeable.~~
2. Upon failure of the Board to approve, conditionally approve, or disapprove the application, the Board of Selectmen shall, upon request of the applicant, immediately issue an order directing the Planning Board to act on the application within thirty (30) days per RSA 676:4, I, (e)(1). If the Board determines that it lacks sufficient information to make a final decision on an application and the applicant does not consent to an extension, the Board may, in its discretion, deny the application without prejudice, in which case the applicant may resubmit the same or a substantially similar application. If the Board does not act on the application within the ~~thirty (30)~~ 65 day time period, ~~then within forty (40) days of the issuance of the order,~~ the Selectmen shall certify on the applicant's site plan review application that the plat is approved pursuant to RSA 676:4.I.c. ~~unless within those forty (40) days the Selectmen have identified in writing a specific provision of the Site Plan Review Regulations, Subdivision Regulations, Zoning Ordinance, or other applicable regulation or by law with which the application does not comply.~~ Such certification by the Selectmen of the foregoing shall constitute final approval for all purposes including filing and recording under RSA 674:37 and 676:18, and court review under RSA 677:15.
3. If any submitted plat is disapproved, the grounds for such disapproval shall be adequately stated in the records of the Planning Board and in written notice given to the Applicant within 5 business days of such vote.

Subdivision Regulations Section VI

D. Board Action on Completed Application

1. Upon determination by the Board that a submitted application is complete according to the Board's regulations, the Board shall begin formal consideration and shall act to approve, conditionally approve, or disapprove within 65 days, subject to extension or waiver.
- ~~2. The Board may apply to the Selectmen for an extension not to exceed an additional 90 days before acting to approve, conditionally approve or disapprove an application. An applicant may waive the requirement for Board action within the time periods specified in these regulations and consent to such extension as may be mutually agreeable.~~
2. Upon failure of the Board to approve, conditionally approve, or disapprove the application, the Board of Selectmen shall, upon request of the applicant, immediately issue an order directing the Planning Board to act on the application within thirty (30) days per RSA 676:4, I, (e)(1). If the Board determines that it lacks sufficient information to make a final decision on an application and the applicant does not consent to an extension, the Board may, in its discretion, deny the application without prejudice, in

which case the applicant may resubmit the same or a substantially similar application. If the Board does not act on the application within the ~~thirty (30)~~ 65 day time period, then ~~within forty (40) days of the issuance of the order,~~ the Selectmen shall certify on the applicant's subdivision application that the plat is approved pursuant to RSA 676:4.I.c. ~~unless within those forty (40) days the Selectmen have identified in writing a specific provision of the Subdivision Regulations, Zoning Ordinance, or other applicable regulation or by law with which the application does not comply.~~ Such certification by the Selectmen of the foregoing shall constitute final approval for all purposes including filing and recording under RSA 674:37 and 676:18, and court review under RSA 677:15.

3. If any submitted plat is disapproved, the grounds for such disapproval shall be adequately stated in the records of the Planning Board and in written notice given to the Applicant within 5 business days of such vote.
4. The Board shall have the right, before final approval of a subdivision is granted, to determine what constitutes "active and substantial development" in relation to the application under review. By doing so, on a case by case basis, the Board establishes the threshold of development necessary to vest the applicant under the provisions of RSA 674:39, Five-Year Exemption. In the event the Board does not make a specific determination regarding "active and substantial development" at the time of approval, completion of the infrastructure of the approved subdivision shall constitute "active and substantial development."