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| <b>PLANNING BOARD and<br/>ORDINANCE &amp; REGULATIONS COMMITTEE (ORRC)</b> | <b>November 16, 2021, 7:00 PM</b> |
| <b>TOWN OF HAMPTON FALLS</b>   | <b>TOWN HALL</b>                  |

**DRAFT**

**PLANNING BOARD MEETING**

**A. CALL TO ORDER**

Todd Santora, Chairman called the combined meeting to order at 7:03 PM.

T. Santora explained that this was a combined meeting of the Planning Board and the Ordinances and Regulations Committee (ORRC), which is a subcommittee of the Planning Board. The reason it was decided to merge the two meetings was because there was no Public Hearing scheduled for Planning Board tonight, so ORRC was rescheduled from 6:00PM to 7:00PM concurrent with Planning Board, and the revised time for ORRC was properly noticed. These minutes should be duplicated and filed under both Planning Board and also under ORRC in the Town Clerk's records.

**B. ROLL CALL – PLANNING BOARD**

**Present:** Todd Santora, Chairman; Eric Cimon, Vice-Chairman; Edward B. Beattie, Selectmen's Representative; Shawn Hanson, Lisa Brown-Kucharski, Abigail Tonry, Members.

**Absent:** Andrew Brubaker, Member.

**Non-voting:** Mark Sikorski, Building Inspector; Glenn Coppelman, RPC Circuit Rider Planner; Rachel D. Webb, Town Secretary.

**B. ROLL CALL – ORDINANCE & REGULATIONS COMMITTEE**

**Present:** Todd Santora, Eric Cimon, Abby Tonry, Shawn Hanson, Edward B. Beattie, Selectmen's Representative

**Non-voting:** Lisa Brown-Kucharski (not on ORRC), Glenn Coppelman, RPC Circuit Rider Planner; Mark Sikorski, Building Inspector; Rachel D. Webb, Town Secretary.

**C. PUBLIC HEARING**

There were no cases to be heard for a Public Hearing.

**D. REVIEW AND APPROVAL OF PREVIOUS PLANNING BOARD MEETING MINUTES: October 26, 2021.**

**MOTION:** To approve the minutes of the Planning Board from October 26, 2021, as amended.

**MOTION:** S. HANSON

**SECOND:** L. BROWN-KUCHARSKI

**UNANIMOUS**

**E. OTHER PLANNING BOARD BUSINESS**

1. Review of Zoning Ordinance errata pages, distributed for substitution to update existing Zoning Ordinance books. R. Webb said that she would email members the list of the errata the next day, and that the website would be updated by the end of the week. T. Santora said that it can prove challenging to substitute updated pages, and that this had been an issue in the past. G. Coppelman commented that it may make sense to reprint the entire Zoning Ordinance after the March 2022 Town Meeting, to include any changes resultant from the residents' vote.

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**ORDINANCE AND REGULATIONS COMMITTEE**

**C. REVIEW AND APPROVAL OF PREVIOUS ORDINANCE AND REGULATIONS COMMITTEE (ORRC) MEETING MINUTES: June 22, 2021, July 27, 2021, September 28, 2021, and October 26, 2021.**

1) Review of the ORRC minutes of June 22, 2021, S. Hanson identified there was one misspelling of Edward B. Beattie's name within the members present section. E. Cimon noted that he was abstaining because he was absent.

**MOTION: To approve the minutes of the ORRC from June 22, 2021, as amended.**

**MOTION: S. HANSON**

**SECOND: E. BEATTIE**

**ABSTAINED: E. CIMON**

**4 in favor; 1 abstained; MOTION PASSED**

2) Review of the ORRC minutes of July 27, 2021, T. Santora noted that he was abstaining because he was absent.

**MOTION: To approve the minutes of the ORRC from July 27, 2021, as written.**

**MOTION: S. HANSON**

**SECOND: E. CIMON**

**ABSTAINED: T. SANTORA**

**4 in favor; 1 abstained; MOTION PASSED**

3) There was no ORRC meeting held in the month of August 2021.

4) Review of the ORRC minutes of September 28, 2021.

**MOTION: To approve the minutes of the ORRC from September 28, 2021, as written.**

**MOTION: S. HANSON**

**SECOND: E. CIMON**

**UNANIMOUS**

5) Review of the ORRC minutes of October 26, 2021, E. Cimon noted that he was abstaining because he was absent.

**MOTION: To approve the minutes of the ORRC from October 26, 2021, as written.**

**MOTION: S. HANSON**

**SECOND: E. BEATTIE**

**ABSTAINED: E. CIMON**

**4 in favor; 1 abstained; MOTION PASSED**

**D. CONTINUE DISCUSSION ON FINAL DEFINITION CHANGES TO ZONING ORDINANCE (Hazardous Materials, Non-Conforming, Workforce Housing)**

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The ORRC had previously divided the separate definition subjects among the Committee members, so that one person would work on one subject, and then present their recommendations to the committee for discussion and action.

- 1) Hazardous Materials (presented by S. Hanson): There are eight references in the Index of the Zoning Ordinance regarding Hazardous Materials, comprising at least two definitions, and covering the four subject areas of: Wetlands Conservation District, Underground Storage Tanks, Home Occupations, and Aquifer Protection District, as follows:
  - a) Page 6: Art. I, definition of Hazardous Materials, definition is too abbreviated;
  - b) Page 13: definition of Toxic or Hazardous Materials, need to add bulleted list from page 53 definition;
  - c) Page 30: Art. III, Section 8.2, regarding wetlands conservation district;
  - d) Page 32: Art. III, Section 8.4.1.3, regarding wetlands conservation district, prohibited uses, storage of other hazardous material;
  - e) Page 51: Art. III, Section 12.4.1.7, regarding Home Occupations hazardous material/waste;
  - f) Page 53: Art III, Section 13.3.15, regarding Aquifer Protection District, toxic or hazardous materials has bulleted list; same definition as at page 13, need to add bullets to page 13 definition;
  - g) Page 56: Art. III, Section 13.6.1, regarding Aquifer Protection design and operation guidelines safeguards;
  - h) Page 78: Art. IV, Section 9.1.1 and 9.1.2, regarding underground storage tanks, similar to page 30 Art III, Section 8.2 but less detail

E.Cimon suggested to reference the most comprehensive definition, and then cross-reference that definition in all locations of the ordinance. A. Tonry agreed with that approach.

T. Santora posed the question of having RPC (Jennifer Rowden, Land Use Program Manager) assist with writing the specific language of the definition, to get it right, as she formerly worked at NH DES.

S. Hanson further elaborated that he is researching the NH Code of Administrative Rules citation, referenced in our “Hazardous Materials” definition (Env-Hw 103.62), and has determined that it has either been recodified with new numbers, or deleted; so, S. Hanson is awaiting a response from Matt Jones at NH DES (who is the NH specialist on underground storage tanks) to assist with this citation reference to determine if it is still viable, or if it has been deleted or changed/updated.

After substantial discussion there was consensus to: (a) consolidate the definitions as listed in 8.2 and 9.1 to also reflect in definitions on page 6 and page 13, (b) add reference to “as in the current NH Code of Administrative Rules, as may be amended from time to time”, and (c) delete the references to Env-HW 103.62. Additionally, there was consensus to leave the section 13 (pages 53 and 56) aquifer protection district references as is, until further clarification is obtained from the State.

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**MOTION: To bring forth amendments to the Zoning Ordinance definitions for Hazardous Materials for Public Hearing at the Planning Board meeting of December 21, 2021.**

**MOTION: S. HANSON**

**SECOND: E. CIMON**

**L. BROWN-KUCHARSKI abstained, as she is not a member of the ORRC.**

**5 in favor, MOTION PASSED**

S. Hanson will draft the proposed amendment and submit it to R. Webb for review by G. Coppelman.

- 2) Non-Conforming (presented by T. Santora): There are nine references to “Non-Conforming” in the Zoning Ordinance, with the following three (3) considered for amendments to reduce definition ambiguities:
  - a) Page 17, Art. III, Section 2.1, regarding Lots of Record;
  - b) Page 24, Art. III, Section 6.1, regarding Non-Conforming Uses definition; and
  - c) Page 53, Art. III, Section 13.3.8, regarding Aquifer Protection District, Non-Conforming Use.

Re-wrote definition to: *“A Non-Conforming Use is hereby defined as any structure, lot, or use of land that lawfully existed prior to enactment of this (OR THE APPLICABLE) ordinance, and no longer conforms with current regulations of the district in which it is situated.”* The consensus was to consolidate all three definitions into the one, singular definition.

**MOTION: To bring forth amendments to the Zoning Ordinance definitions for Non-conforming for Public Hearing at the Planning Board meeting of December 21, 2021.**

**MOTION: S. HANSON**

**SECOND: E. CIMON**

**L. BROWN-KUCHARSKI abstained, as she is not a member of the ORRC.**

**5 in favor, MOTION PASSED**

- 3) Dwelling Unit and Elderly Multi-Family Housing Unit (presented by Abby Tonry): There are numerous references to the following terms throughout the Zoning Ordinance, which cover the general subject of housing, and whose definitions need consolidation: “Dwelling Unit”, “Accessory Housing Unit”, “Elderly/Multi-Family Unit”, and “Affordable Unit”.

After discussing these topics, combined with the two prior topics of “Hazardous Materials/Waste”, and “Non-Conforming” and the work needed to get them all ready for a Public Hearing in December, it was the consensus of the Board to rescind the prior motions, until they are complete and ready for approval.

**MOTION: To withdraw the two prior motions regarding the subjects of Hazardous Materials/Waste and Non-Conforming, until those proposed amendments are complete and ready for Public Hearing.**

**MOTION: A. TONRY**

**SECOND: S. HANSON**

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- 4) Workforce Housing (presented by Eric Cimon): There are numerous references to Workforce Housing/renter-occupied, Workforce Housing/owner-occupied, throughout the Zoning Ordinance.

S. Hanson, T. Santora, A. Tonry, and E. Cimon will prepare summaries of their proposals, based on the discussions at this meeting, in time to be mailed with the regular Planning Board packets the Wednesday prior to the next regular meeting. The next meeting of the ORRC will meet at 6:00 PM on December 21, 2021, the same night as the next regularly scheduled meeting of the Planning Board.

**E. CONTINUE DISCUSSION ON AIR BNB/VRBO SHORT-TERM HOUSING RENTALS**

This agenda item was not discussed.

**F. COMMUNICATIONS TO BOARD MEMBERS**

1. 2021 Proposed Zoning Amendments.

- a) Recommendation by NH Municipal Association and Planning Board Attorney to add a sentence to clarify permissive zoning in Hampton Falls, specifically, if something is not defined, then it is not allowed. G. Coppelman drafted specific language, with a recommendation for location within the Zoning Ordinance, Article III, District Regulations, Section I, to add the sentence, following the sentence that starts with: “Subsequent to passage of the Ordinance, buildings or land shall hereafter be used, constructed, altered or changed only in conformity with the regulations specified herein for the zoning district in which it is located. *Any use of a building, structure, or land not expressly permitted in this Ordinance shall be PROHIBITED.*”

**MOTION: To move forward to Public Hearing December 21, 2021, the proposed zoning amendment language, as written, regarding permissive zoning clarification.**

**MOTION: S. HANSON**

**SECOND: L. BROWN-KUCHARSKI**

**UNANIMOUS**

- b) In response to discussion of commercial vehicles parked for the purpose of gaining additional signage for a business, G. Coppelman recommended to add a new subsection to the Zoning Ordinance in Article IV Signs & Special Regulations section 3.3.6, Signs on Parked Vehicles, as follows: “*Signs on Parked Vehicles: Signs placed or painted on a vehicle that is parked in a location such that the primary purpose is to advertise a product or service, or to direct the public to a business or activity located on or off the premises are PROHIBITED. Signs displayed on trucks, buses, or other vehicles, which are being operated and stored in the normal course of a business, such as signs*

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*indicating the owner or business using the delivery trucks, moving vans and rental trucks, are allowed. Such a vehicle must be parked or stored in an area appropriate to its use.”*

**MOTION:** To move forward to Public Hearing December 21, 2021, the proposed zoning amendment language, as written, regarding Signs on Parked Vehicles.

**MOTION:** E. BEATTIE

**SECOND:** E. CIMON

**UNANIMOUS**

- c) Recommendation by G. Coppelman to add a new section to the Subdivision Regulations, to mirror the same requirement in Site Plan Review Regulations: As-Built Drawings, and also to add the requirement to the Conditions of Approval checklist. *“Prior to release of Bond and/or Certificate of Occupancy, the applicant shall have prepared by a competent surveyor or engineer as “as-built plan” representing the details of the final site construction. It will be reviewed by the Town Engineer to ensure compliance with the approved plan. Three paper prints of this information shall be submitted to the Board. The Board shall decide whether any differences from the approved plan are sufficiently material as to require a re-submission of portions or all of the project plans to the Board under these regulations or any part thereof.”* Since this is a “regulation”, (and not an “ordinance”) it can be voted by the Board at a Noticed Public Hearing. It would not need to go onto the Warrant, nor be voted by the residents.

Most of the Board members were in support of this proposal and stated that it was their opinion that this would be a good idea, and that it was reasonable. G. Coppelman explained that there are several instances where adjustments could be made during construction by a developer, after subdivision approval, that otherwise would not be documented and may be important information to know for future (re)development/owners or abutters’ benefits. The “as-built plan” would become a record of the Town, and not recorded at the Registry of Deeds. The consensus was to continue this discussion until next month.

**G. ADJOURNMENT**

**MOTION:** To adjourn the meeting at 9:15 PM.

**MOTION:** A. TONRY

**SECOND:** L. BROWN-KUCHARSKI

**UNANIMOUS**

***NEXT PLANNING BOARD MEETING SCHEDULED TUESDAY, December 21, 2021, at 7:00 p.m.***