

Planning Board Meeting Minutes
Town of Brookfield, NH
267 Wentworth Road
Brookfield, NH 03872
Public Hearing

**Monday, January 26, 2015 and
Continued Friday January 30, 2015**

Portion A-

- I. Chairman Rick Surette called the meeting to order at 6:31 PM.**
- II. Roll Call: Members, Alternates, Appointment of Alternates per RSA 673:11,673:12**
 - A. Members present: Chairman Rick Surette, Vice-chairman Rob Collins, Geary Ciccarone, David Champy II, and Selectman Rich Zacher.
 - B. Tardy: (none)
 - C. Alternates present: (none).
 - D. Members and Alternates absent: Jim Freeman, Ed Comeau, and John Merrigan.
- III. Appointment of Alternates per RSA 673:11, 673:12.**

(No alternates were present.)
- IV. Public Hearing to Review Proposals to Amend the Zoning Ordinance.**
 - A. At 6:32 PM Chairman Rick Surette called the public hearing to order.
 - B. Chairman Rick Surette instructed attendees in accordance to the Rules of Procedure 14.1.1.
 - C. Planning Board members presented the proposed amendments accordingly;
 1. Proposal to Define Home Based Businesses as Where the Owner Resides on an Adjacent Lot to the Zoning Ordinance.
 - a. Vice-chairman Rob Collins explained that the proposal was primarily a rewording of Article II, A, 1, b of the Zoning Ordinance.
 - b. Dianne Smith commended that Planning Board for their effort in amending the Zoning Ordinance.
 - c. Dianne Smith questioned why the phrases “home based business” and “home occupation” were not listed in the definitions section of the Zoning Ordinance. Vice-chairman Rob Collins responded that when a word or phrase is not listed in a definition section of a document, the courts generally accept that a word is defined by its common usage. Vice-chairman Rob Collins explained that “home occupation” refers to the ability of one to perform a job from the home, while “home based business” is the ability to sell a product from one’s home.

2. Proposal to Correct Typographical Errors in the Zoning Ordinance.
 - a. David Champy II referred to changes in the following sections;
 - i. Article II A d
 - ii. Article IV A 1 b
 - iii. Article V C 4
 - iv. Article VIII B
 - v. Article X HH
 - vi. Article X QQ
 - b. Dianne Smith remarked that some of the proposed wording changes were more than typographical errors. Geary Ciccarone remarked that there is overlap of some of the proposed changes and that those proposed changes will further be explained during the remainder of the meeting.
 - c. Dianne Smith suggested that “buildable lot” be added to the definitions section. Geary Ciccarone explained that due to RSA constraints, changes other than those that have already been proposed cannot be introduced for amending the Zoning Ordinance in time for a vote at the 2015 March Town Meeting.
 - d. Geary Ciccarone summarized the historical timeline of the proposed changes to the Zoning Ordinance by stating that the proposed amendments were submitted by the Town Attorney to insure the document would “pass legal muster”.
3. Proposal to Remove the Requirement for an Increased Lot Size in Certain Circumstances, to Require Frontage on a Class V or Approved Private Road, and to Require Lots Fronting on Kingswood Lake to have 250 Feet of Shore Frontage in the Zoning Ordinance.

Selectman Rich Zacher explained the following regarding *Article II A 3 c*;

 - a. “private way” was changed to “private road”.
 - b. Language was introduced to remove ambiguity regarding “water front”.
4. Proposal to Specify Farm Stand Structures Setbacks in the Zoning Ordinance.
 - a. Geary Ciccarone read the proposed changes to *Article II A 3 d through e*.
 - b. Dianne Smith pointed out that there is no definition for “farmstand structure”. Geary Ciccarone responded that “farmstand” and “structure” are defined in the state statutes.
5. Proposal to Require that Conditional Use Permits are Obtained from the Planning Board and Eliminate the Renewal Process in the Zoning Ordinance.

Chairman Rick Surette explained that the proposed changes to Article II B 4 were necessary to conform with state requirements.
6. Proposal to Conform the Definition of Multi-family Dwellings with State Law and Change the Permitted Density of Workforce Housing in the Zoning Ordinance.
 - a. Geary Ciccarone read the proposed changes to Article II, C, 1, d and 2, b.
 - b. Vice-chairman Rob Collins explained that the current Zoning Ordinance limits the number of units in a way that is contrary to state law.

7. Proposal to Require the Town to Obtain a Court Order Prior to Removing Dilapidated Buildings from Properties.
Chairman Rick Surette read the proposed change in Article III, B and explained that the changes clarified the intent of the wording.
8. Proposal to Clarify the Obtaining of Special Exceptions to Alter or Construct Buildings on Non-conforming Lots and to Amend Definitions of Non-conforming Building/Structure, Non-conforming Lot, and Non-conforming Use as Legally Created but No Longer Conforming to the Zoning Ordinance.
 - a. Chairman Rick Surette read the proposed changes to Article IV, A, 1 through 3 and Article VI, B, 1.
 - b. Dianne Smith made the following comments;
 - i. In Article IV, A, 1 revert “complies” to the original language “within”.
 - ii. In Article IV, A, 1, b questioned why the abutters consideration was deleted. Vice-chairman Rob Collins explained that the language of the original document is redundant since state law recognizes abutters’ rights.
 - iii. In Article IV, A, 2 correct grammatical error “a Special Exceptions”.
 - iv. questioned why the deletions were made concerning instances where special exceptions cannot be granted. Chairman Rick Surette answered that the requirements are listed in the Building Code, therefore making the wording in the Zoning Ordinance redundant. Geary Ciccarone further explained that no special exception may supersede state requirements.
 - v. In Article IV, A, 2 commented that she did not understand the phrase “contiguous buildable area”. Vice-chairman Rob Collins explained that the language refers to differing requirements necessary for building, depending on the slope of the land.
9. Proposal to Clarify the Exclusion of Manufactured Housing Parks in Brookfield, to Provide that Camping Vehicles May Be Occupied on a Seasonal Basis and to Define Tent Camping to be Irrespective of Whether Compensation is Made for such Use in the Zoning Ordinance.
Chairman Rick Surette read the proposed changes to Article VI, B through C and Article X.
10. Proposal to Eliminate any Co-location Requirements Regarding Personal Wireless Service Facilities that do not Comply with State Law and to Insert that Co-location Applications shall be Governed by RSA 12-K in the Zoning Ordinance.
Vice-chairman Rob Collins read the proposal and explained that some changes were made to the law but were not listed in the proposed amended Zoning Ordinance document.
11. Proposal to Amend Article VIII--Small Wind Energy Systems-- to Comply with State Law and Remove References to Meteorological Towers which are Required to Comply with all Normal Zoning Requirements, in the Zoning Ordinance.

- a. David Champy II read the proposed changes to ARTICLE VIII B, C, D, E, F, and I.
 - b. Dianne Smith questioned why the phrase “Board of Selectmen / Building Inspector” is used. Geary Ciccarone explained that the Building Inspector receives the application and makes recommendations to the Board of Selectmen- only the Board of Selectmen have the legal authority to approve or submit, for example, a “cease and desist order”.
 - c. Dianne Smith suggested that the public hearing requirements, as listed in ARTICLE VIII B 17, may be construed as unreasonable “by some”. Chairman Rick Surette responded that the Planning Board would take the suggestion “under advisement”.
12. Proposal to Amend the Definitions of Hydric Soils, Poorly Drained Soils and Very Poorly Drained Soils in the Zoning Ordinance.
- a. Chairman Rick Surette read the proposal and proposed changes to Article X, AAA.
 - b. Dianne Smith observed that the definitions did not change.
 - c. Chairman Rick Surette requested that the administrative assistant verify whether documents provide any changes as supplied by the attorney.
13. Public Hearing- Proposal to Delete the Definitions of "Owner" and "Owner of Record" in the Zoning Ordinance.
- a. David Champy II read the proposal and proposed changes to Article X, OO and PP.
 - b. David Champy II explained that the definitions for “owner” and “owner of record” are self-explanatory.
14. Proposal to Amend the Definition of “Structure” in the Zoning Ordinance. David Champy II read the proposal and proposed changes to Article X, YY. Which adds to the definition of “Structure” the phrase “anything permanently affixed to the ground”.
15. **Proposal to Amend the Restriction of Funnel Development in the Zoning Ordinance.**
- a. Selectman Rich Zacher read the proposal and referred to deletions in Article II A 2 d.
 - b. Dianne Smith remarked that the proposal does not accurately reflect the proposed changes to the Zoning Ordinance document and added that there are other proposed changes that are not reflected in the proposals.
- D. **Motion: Geary Ciccarone moved that the Planning Board close public hearing.** Second: Vice-chairman Rob Collins. The motion passed unanimously excepting one abstention. The public hearing was closed at 9:16 pm.

V. Deliberation

Motion: Vice-chairman Rob Collins moved that the Planning Board continue the deliberation of the meeting on Friday, January 30, 2015. Second: Geary Ciccarone. The motion passed unanimously.

VI. Recess.

At 9:30 PM the Planning Board meeting was recessed.

Portion B-

VII. Continuation of Meeting- Friday, January 30, 2015.

- A. Chairman Rick Surette called the meeting to order at 6:39 PM.
- B. Roll Call: Members, Alternates, Appointment of Alternates per RSA 673:11,673:12.
 - 1. Members present: Chairman Rick Surette, Vice-chairman Rob Collins, David Champy II, and Selectman Rich Zacher.
 - 2. Tardy: (none)
 - 3. Alternates present: (none).
 - 4. Members and Alternates absent: Geary Ciccarone, Jim Freeman, Ed Comeau, and John Merrigan.
- C. Appointment of Alternates per RSA 673:11, 673:12.
(No alternates available.)

VIII. Continuation of Deliberation

- A. A document entitled “Proposed Amendments to the Zoning Ordinance with Possible Proposed Warrant Articles Public Hearing February 2, 2015” as emailed by Vice-chairman Rob Collins was distributed to all Planning Board members (attached).
- B. **Motion: Vice-chairman Rob Collins moved that the Planning Board adopt the document entitled, “Proposed Amendments to the Zoning Ordinance with Possible Proposed Warrant Articles Public Hearing February 2, 2015” as a working document.** Second: Chairman Rick Surette. The motion passed unanimously.
- C. **Motion: Chairman Rick Surette moved that the Planning Board adopt the comments added to the proposed Zoning Ordinance working document as supplied by Vice-chairman Rob Collins.** Second: David Champy II. The motion passed unanimously.
- D. After some discussion the following changes and comments were made for the purpose of organizing the proposed changes to the Zoning Ordinance:
 - 1. **Motion: Vice-chairman Rob Collins moved that the edit of Article IIA1dvi in the track changes document be removed and delete it from the summary document.** Second: Chairman Rick Surette. The motion passed unanimously.
 - 2. Chairman Rick Surette requested that any proposed changes to the Zoning Ordinance, which are not endorsed at the Town Meeting, be recorded by the administrative assistant for consideration by the Planning Board in the future. The

- administrative assistant volunteered to list such proposed changes in the Zoning Ordinance notebook that is displayed in the public area.
3. Dianne Smith commended Vice-chairman Rob Collins for his effort in organizing the proposed amendments to the Zoning Ordinance.
 4. **Motion: Vice-chairman Rob Collins moved that the bullet item “Article II B. 4. (page 8 of 56)” under Amendment #2 be moved to Amendment #5 and change the comments from “Amendment #2” to “Amendment #5” in the track changes document.** Second: Selectman Rich Zacher. The motion passed unanimously.
 5. **Motion: Vice-chairman Rob Collins moved that the bullet item “Article IV A. 1. b. (page 14 of 56)” under Amendment #2 be moved to Amendment #8 and change the comments from “Amendment #2” to “Amendment #8” in the track changes document.** Second: Selectman Rich Zacher. The motion passed unanimously.
 6. **Motion: Vice-chairman Rob Collins moved that the bullet item “Article VII A. (page 27 of 56)” under Amendment #2 be moved to Amendment #11, amend it to “Article VIII A” and change the comments from “Amendment #2” to “Amendment #11” in the track changes document.** Second: David Champy II. The motion passed unanimously.
 7. **Motion: Vice-chairman Rob Collins moved that a bullet item “Article II A.3.e (page 7 of 56)” be added to Amendment #3.** Second: Selectman Rich Zacher. The motion passed unanimously.
- E. David Champy II shared his appreciation for the time and energy that Vice-chairman Rob Collins spent in organizing the proposed changes to the Zoning Ordinance and all Planning Board members agreed.

IX. Adjournment

At 8:51 PM the Planning Board meeting was adjourned.

Respectfully submitted by
George Nick, Administrative Assistant.

_____ Date 2/6/15

Proposed Amendments to the Zoning Ordinance with Possible Proposed Warrant Articles

Public Hearing February 2, 2015

Background

The Planning Board believes that the current Zoning Ordinance has provisions that are contrary to current state laws, contain imprecise, ambiguous or unclear language, and do not contain language that accurately reflects the intent of the Ordinance. To address these issues, the Board enlisted the services of the Board's attorney to suggest required and desirable amendments to the Zoning Ordinance. The attorney, in close consultation with the Board, has suggested the following amendments to the Zoning Ordinance. The exact wording of changes for most of these proposed amendments is detailed in a separate document.

This document contains proposed wording for the warrant article for each proposed amendment, along with details on which portions of the Zoning Ordinance are affected. Section references refer to the original section number. Page references refer to the page number in the separate document with the exact wording changes.

Amendment #1

Are you in favor of Amendment #1 to the Brookfield Zoning Ordinance as proposed by the planning board as follows: to add a definition of home occupation and home based business as businesses located and operated on the property where the owner resides or on an adjacent property used as part of the owner's residential property.

Discussion

This amendment reorganizes the existing language.

Affected Sections

- Article II A. 1. b. (page 2 of 56)

Amendment #2

Are you in favor of Amendment #2 to the Brookfield Zoning Ordinance as proposed by the planning board as follows: to make various minor typographical changes which have no impact on the substance of the zoning ordinance.

Discussion

This amendment is not strictly required because the Board can make minor typographical changes without voter approval. However, the Board's attorney suggests placing it on the Warrant to avoid any possible legal ambiguity in the future.

Affected Sections

- Renumbering in numerous sections due to other proposed amendments.
- Article II A. 1. d. (page 3 of 56)
- Article II A. 1. d. vi. (page 3 of 56)
- Article II B. 4. (page 8 of 56)
- Article II C. 1. d. (page 10 of 56)
- Article IV A. 1. b. (page 14 of 56)
- Article VII A. (page 27 of 56)

- Appendix C 2. (page 54 of 56)
- Appendix C 4. c. (page 55 of 56)

Amendment #3

Are you in favor of Amendment #3 to the Brookfield Zoning Ordinance as proposed by the planning board as follows: amend the building lot requirements and definitions to remove the requirement for an increased lot size in certain circumstances, to require frontage on a Class V or approved private road, and to require lots fronting on Kingswood Lake to have 250 feet of shore frontage.

Discussion

This amendment simplifies and clarifies building lot requirements and eliminates the use of frontage on streams and ponds to meet the frontage requirement for a buildable lot.

Affected Sections

- Article II A. 3. a. (page 6 of 56)
- Article II A. 3. c. (page 6 of 56)
- Article X HH. (page 47 of 56)

Amendment #4

Are you in favor of Amendment #4 to the Brookfield Zoning Ordinance as proposed by the planning board as follows: to require farm stand structures up to 200 square feet to be setback at least 10 feet from the traveled way and, if there is a stone wall along the right of way, to be no closer than the stone wall.

Discussion

This amendment simplifies, clarifies and reorganizes the existing language.

Affected Sections

- Article II A. 3. d. (page 7 of 56)

Amendment #5

Are you in favor of Amendment #5 to the Brookfield Zoning Ordinance as proposed by the planning board as follows: to require that all uses permitted by conditional use obtain a permit from the planning board and to eliminate the renewal process, which is contrary to state law.

Discussion

This amendment removes the concept of time-limited conditional use approval, which is not allowed by state law. Because approved conditional uses are permanent, language related to the renewal process is removed.

Affected Sections

- Article II B. 4. (page 8 of 56)
- Article II B. 4. iv. (page 9 of 56)

Amendment #6

Are you in favor of Amendment #6 to the Brookfield Zoning Ordinance as proposed by the planning board as follows: to change the definition of multi-family dwelling in the workforce housing overlay district to be as defined in state law, and to change the permitted density of multi-family workforce housing to 1 dwelling unit per 1/2 acre from 1 structure per lot.

Discussion

This amendment changes the definition of multi-family dwelling to comply with the state definition. As the state definition does not have an upper limit on the number of dwelling units that a multi-family dwelling may include, a maximum permitted dwelling unit density is added.

Affected Sections

- Article II C. 1. d. (page 10 of 56)
- Article II C. 2. b. (page 11 of 56)

Amendment #7

Are you in favor of Amendment #7 to the Brookfield Zoning Ordinance as proposed by the planning board as follows: to require the town to obtain a court order prior to removing dilapidated buildings from properties.

Discussion

This amendment updates the Ordinance to comply with current legal procedures for dealing with dilapidated buildings.

Affected Sections

- Article III B. (page 12 of 56)

Amendment #8

Are you in favor of Amendment #8 to the Brookfield Zoning Ordinance as proposed by the planning board as follows: to clarify the process for obtaining special exceptions to alter or construct buildings on non-conforming lots, and to amend the definitions of non-conforming building/structure, nonconforming lot, and nonconforming use such that they are a building/structure, lot or use which was legally created but which no longer conforms to the zoning ordinance.

Discussion

This amendment clarifies the Ordinance with regard to non-conforming lots and buildings.

Affected Sections

- Article IV A. 1. (page 14 of 56)
- Article IV A. 2. (page 14 of 56)
- Article IV A. 3. (page 14 of 56)
- Article IV B. 1. (page 15 of 56)
- Article V C. 4. (page 16 of 56)
- Article X LL. (page 47 of 56)

- Article X MM. (page 47 of 56)
- Article X NN. (page 47-48 of 56)

Amendment #9

Are you in favor of Amendment #9 to the Brookfield Zoning Ordinance as proposed by the planning board as follows: to clarify that neither manufactured housing parks nor recreational campgrounds or camping parks are permitted in Brookfield and to provide that camping or travel type house trailers or recreational vehicles may be occupied on a seasonal basis. Further, to change the definition of tent camping to no longer be dependent on whether compensation is made for such use.

Discussion

This amendment clarifies the language related to manufactured housing parks, campgrounds and camping. It also provides for the seasonal and temporary use of RVs as a dwelling.

Affected Sections

- Article VI B. (page 16 of 56)
- Article VI C. (page 16 of 56)
- Article X BBB. (page 49 of 56)

Amendment #10

Are you in favor of Amendment #10 to the Brookfield Zoning Ordinance as proposed by the planning board as follows: to amend Article VII--Personal Wireless Service Facilities-- by eliminating any co-location requirements that do not comply with state law and providing that co-location applications shall be governed by RSA 12-K.

Discussion

This amendment updates the co-location requirements to comply with current state law. The Planning Board has not created a detailed markup of these changes.

Affected Sections

- Article VII (page 16 of 56)

Amendment #11

Are you in favor of Amendment #11 to the Brookfield Zoning Ordinance as proposed by the planning board as follows: amend Article VIII--Small Wind Energy Systems-- to comply with state law by designating the Board of Selectmen/Building Inspector as the body to review applications rather than the planning board, to eliminate the need for site plan approval, to establish the minimum setback requirement as 1 ½ times the system height, and to allow 12 months of discontinuance of use before a system is deemed abandoned. Further, to remove references to meteorological towers, which are required to comply with all normal zoning requirements.

Discussion

This amendment updates the regulation of small wind energy systems to comply with current state law.

Affected Sections

- Article VIII B. (page 28 of 56)
- Article VIII B. 16. (page 29 of 56)
- Article VIII B. 17. (page 29 of 56)
- Article VIII C. 1. (page 29 of 56)
- Article VIII D. 1. (page 29 of 56)
- Article VIII D. 2. (page 29 of 56)
- Article VIII D. 5. (page 30 of 56)
- Article VIII E. (page 30 of 56)
- Article VIII E. 1. (page 30 of 56)
- Article VIII F. 1. (page 32 of 56)
- Article VIII F. 3. (page 33 of 56)
- Article VIII F. 4. (page 33 of 56)
- Article VIII I. (page 33-34 of 56)

Amendment #12

Are you in favor of Amendment #12 to the Brookfield Zoning Ordinance as proposed by the planning board as follows: to amend the definition of hydric soils to be as defined in the Field Indicators for Identifying Hydric Soils in New England and to amend the definitions of poorly drained soils and very poorly drained soils to be as defined in the Site Specific Soil Mapping Standards for New Hampshire and Vermont.

Discussion

This amendment updates the definitions to comply with current state law. The Planning Board has not created a detailed markup of these changes.

Affected Sections

- Article X CC. (page 46 of 56)
- Article X SS. (page 48 of 56)
- Article X CCC. (page 49 of 56)

Amendment #13

Are you in favor of Amendment #13 to the Brookfield Zoning Ordinance as proposed by the planning board as follows: to delete the definitions of "owner" and "owner of record."

Discussion

Affected Sections

- Article X 00. (page 48 of 56)
- Article X PP. (page 48 of 56)

Amendment #14

Are you in favor of Amendment #14 to the Brookfield Zoning Ordinance as proposed by the

planning board as follows: to amend the definition of structure to be "anything permanently affixed to the ground, including but not limited to, dwellings, accessory buildings, and accessory items."

Discussion

This amendment clarifies the definition of "structure."

Affected Sections

- Article X AAA. (page 49 of 56)

Amendment #15

Are you in favor of Amendment #15 to the Brookfield Zoning Ordinance as proposed by the planning board as follows: to amend the restriction of funnel development to provide that no rights in any lot with frontage on a water body shall be granted for purposes of access to the water body unless that lot has at least 50 feet of shoreline for each person to whom rights are conveyed.

Discussion

This amendment simplifies the language related to funnel development and removes redundancies.

Affected Sections

- Article II A. 2. d. (page 6 of 56)
- Article II A. 3. g. (page 7-8 of 56)