

**Pittsfield Planning Board
Town Hall, 85 Main Street
Pittsfield, NH 03263
Minutes of Public Meeting**

DATE: Thursday, February 4, 2016

AGENDA ITEM 1: Call to Order

Chair Clayton Wood called the meeting to order at 7:00 P.M.

AGENDA ITEM 2: Roll Call

Planning board members present:

Clayton Wood (chair),

Pat Heffernan (vice-chair),

Jim Pritchard (secretary),

Daren Nielsen,

Paul Nickerson (alternate), and

Larry Konopka (alternate for the selectmen's ex officio member)

Planning board members absent:

Gerard LeDuc (selectmen's ex officio member) and

Roland Carter (alternate)

Members of the public appearing before the planning board: None.

“Members of the public appearing before the planning board” includes only members of the public who spoke to the board. It does not include members of the public who were present but who did not speak to the board.

Clayton Wood said that Eric Nilsson had resigned as the alternate for the selectmen's ex officio member and that the board of selectmen had appointed Larry Konopka as alternate for the selectmen's ex officio member.

AGENDA ITEM 3: Agenda Review

Clayton Wood said that he wanted to discuss the draft town meeting warrant.

AGENDA ITEM ADDED: Draft town meeting warrant

Clayton Wood said that the board's vote on amendment 2 (presented via warrant article 3) was misstated on the warrant as 5-0 when the vote was actually 4-1. (Planning board minutes of December 3, 2015, agenda item 6.)

Clayton Wood noted that each of the warrant articles has a parenthetical note stating both the origin of the warrant article and the board's vote if the origin of the warrant article was a town board. Clayton Wood said that the planning board had not added these parenthetical notes to the board's descriptions of proposed zoning amendments 1 through 4 (presented via warrant articles 2 through 5). Clayton Wood said that state law does not require the parenthetical notes. Clayton Wood asked whether the board wanted to have these parenthetical notes. Clayton Wood suggested that the board should include these parenthetical notes in the future if the board wants them.

Jim Pritchard said that the planning board's requests to the board of selectmen for the wording of particular warrant articles are advisory. (RSA 39:2: "The warrant for any town meeting shall be under the hands of the selectmen...") Jim Pritchard said that whether to put these parenthetical notes on the ballot is the selectmen's decision. Jim Pritchard said that the ballot has included parenthetical notes for many years but that the parenthetical notes have grown to include board votes only recently. (Comment of recording secretary Jim Pritchard: The practice of adding parenthetical notes for warrant articles originating with town boards appears to have begun in 1986. 1985 warrant article 13 has a parenthetical note "[BY PETITION]", but none of the other warrant articles has a parenthetical note stating the warrant article's origin.)

Clayton Wood and Daren Nielsen said that the important thing was that the wording of the warrant articles should be accurate.

Jim Pritchard said that article 7 has a typographical error. The second parenthetical note is missing its left parenthesis.

Clayton Wood said that he saw no problem with article 27, to revise the planning board's authority to regulate the subdivision of land according to current RSA 674:35, I.

Jim Pritchard said that warrant article 27 differs from the other warrant articles in that warrant article 27 does not have a parenthetical note stating the warrant article's origin, which is the board of selectmen. (Board of selectmen minutes of December 30, 2015, appointment no. 3, Clayton Wood.) (Comment of recording secretary Jim Pritchard: Jim Pritchard was mistaken; none of the warrant articles that come from the board of selectmen states the article's origin. Town administrator Cara Marston, who composed the warrant, intended this format.)

AGENDA ITEM 4: Public Input

No public input.

AGENDA ITEM 5: Approval of the Minutes of the January 7, 2016 Meeting

Jim Pritchard moved to approve the minutes of January 7, 2016, as written in draft.

Clayton Wood seconded the motion.

Discussion:

Jim Pritchard asked for the following change:
Agenda item 7, page 10: Change "Weber" to "Webber"

Vote to approve the minutes of January 7, 2016, with the change that Jim Pritchard requested: carried 4 - 0 - 1. Voting "yes": Jim Pritchard, Daren Nielsen, Pat Heffernan, and Clayton Wood. Voting "no": none.
Abstaining: Larry Konopka.

AGENDA ITEM 6: Subdivision Regulations Review.

Jim Pritchard referred to article 4, section 1, (d), (16) (page 22 of the January 4, 2016, draft): "Every sheet showing land in a town other than Pittsfield shall show the other town's approval of the way that the sheet shows the land in the other town." The board had agreed to clarify the meaning of this requirement for a completed application. Jim Pritchard referred to examples that the Merrimack County Registry of Deeds had provided to show how the

registry wants this requirement satisfied. Jim Pritchard said that, to satisfy the registry's requirements, he had deleted article 4, section 1, (d), (16), and had replaced it with new content in old article 4, section 1, (d), (17), which becomes new article 4, section 1, (d), (16), as follows:

- (16) Every sheet to be recorded in the registry of deeds shall have
- (A) a blank area for the registry of deeds's use 7 inches long and one inch wide at the upper left corner of the sheet but including no part of the sheet's margin (see RSA 478:1-a, II);
 - (B) a statement saying as follows: "The subdivision regulations of the Town of Pittsfield, New Hampshire, are part of this plat, and approval of this plat is conditioned upon completing all requirements of the subdivision regulations excepting only any waivers made in writing by the Pittsfield Planning Board and attached to this plat.";

Comment: The requirement for this statement comes from current (2010) subdivision regulations section 6, C, 1 (page 23).

- (C) the names, addresses, and signatures of the owners of the land under consideration;
- (D) a signature block for the planning board's endorsement by the board's agents according to article 5, section 8, (b);
- (E) a signature block for the endorsement by the planning board of each municipality, other than Pittsfield, in which the plat shows land or ways, if the plat does show land or ways in any municipality other than Pittsfield (RSA 674:53, IV);
- (F) a signature block for the endorsement by the planning board of that municipality, other than Pittsfield, from which the land under consideration has or is planned to have its sole defined-way access via a private road or class IV, V, or VI highway, if the land under consideration has or is planned to have its sole defined-way access via a private road or class IV, V, or VI highway located in a municipality adjoining Pittsfield (RSA 674:53, IV);

- (G) a statement by each planning board, if the plat needs endorsement by more than one planning board, that that planning board’s endorsement applies only to that part of the plat under that planning board’s jurisdiction; and

Comment: The registry of deeds requires this statement that each planning board’s endorsement is limited to that part of the plat under that planning board’s jurisdiction.

- (H) a statement by the planning board of each municipality abutting the land under consideration but having no jurisdiction through its planning board over the plat, that that municipality abuts the land under consideration but that the municipality’s planning board has no jurisdiction over the plat.

Comment: The registry of deeds requires this statement by the abutting municipality’s planning board.

*****End of new article 4, section 1, (d), (16), and comments. The clarification of old article 4, section 1, (d), (16) (page 22 of the January 4, 2016, draft)—“Every sheet showing land in a town other than Pittsfield shall show the other town’s approval of the way that the sheet shows the land in the other town.”—is in new article 4, section 1, (d), (16), (E) through (H).

Jim Pritchard and Clayton Wood said that the registry’s requirements for land in or just abutting another municipality derive from RSA 674:53, Land Affected by Municipal Boundaries. RSA 674:53, II, makes necessary a new and additional article 5, section 1, (c) (thus pushing old paragraph (c) to paragraph (d)) as follows:

If the boundary or a part of the boundary of the land under consideration is a municipal boundary, or if the sole defined-way access to the land under consideration is via a private road or class IV, V, or VI highway located in a municipality adjoining Pittsfield, then the board shall inquire in writing to the appropriate administrative officials in the adjoining municipality or municipalities as to the existence of facts or regulations that, under RSA 674:53, I, III, or IV, or otherwise, would preclude approval of or affect the application. Response shall be made to such inquiries within the period provided by RSA title 64 for approval or disapproval of the underlying

application. A response that invokes an ordinance or regulation of such adjoining municipality may be appealed in that adjoining municipality in the same manner as any other administrative decision. An adjoining municipality in which is located an existing private road or class VI highway that serves as an applicant’s sole means of fulfilling the defined-way access requirements under RSA 674:41 shall have the same regulatory powers under that statute with respect to that road or highway as if the proposed building or development were located within that same municipality. (RSA 674:53, II.)

* * * * * * * * * *End of new paragraph (c). Old paragraph (c) (pushed to new paragraph (d) to make room for new paragraph (c)) was on page 40 of the January 4, 2016, draft.

Jim Pritchard said that the registry of deeds’s requirement for signature blocks from multiple municipalities in order for an application to be complete indicates that the planning board must, when applicable, ask the abutting municipality’s administrative official about the abutting municipality’s jurisdiction before Pittsfield’s planning board starts the completeness review.

Jim Pritchard referred to article 7, section 14, (c), Sample Form of Letter of Credit, (page 58 of the January 4, 2016, draft) and said that he had made a few minor changes.

Jim Pritchard referred to article 8, Survey Monuments, (page 62 of the January 4, 2016, draft) and said that he had added a requirement that curves be marked at intervals less than or equal to 100 feet as measured along the curve. New article 8, section 1, (k), says as follows:

“other points where survey monuments (permanent boundary markers) are necessary to avoid more than 100 feet, as measured along the boundary, between survey monuments on any curved INTERIOR LOT LINE, on any curved STREET boundary or right of way boundary, or on any meander line.”

The current (2010) subdivision regulations do not require any marking along curved boundaries.

Jim Pritchard said that he had revised article 8, section 2, Survey Monument Types, to specify that granite markers shall be used at road boundaries and that galvanized iron or galvanized steel rods or pipes may be used at all other boundaries.

Jim Pritchard referred the board's previous concerns, on January 7, 2016, about the reasonableness of soil mapping. (See planning board minutes of January 7, 2016, agenda item 6, page 8, and the draft regulations of January 4, 2016, article 4, section 1, (d), (19), (G), (4), (page 31)): "The construction plan shall show soil types and their boundaries..." Jim Pritchard said that he had inspected a few subdivision plans from the Merrimack County Registry of Deeds and had found that all of the plans had soil mapping. Jim Pritchard said that he had not remembered anyone asking for a waiver of the current (2010) requirement for soil mapping.

Jim Pritchard clarified that erosion and sedimentation control could be required even in a residential subdivision where no houses are explicitly shown, because houses prevent water from infiltrating the soil and thus create storm water runoff and erosion. Jim Pritchard referred to the subdivision for eight houses on Tan Road (Merrimack County Registry of Deeds plan number 16737) and said that the planning board had considered storm water runoff and had required the developer to do something to mitigate the runoff.

Daren Nielsen referred to article 4, section 1, (d), (19), (H), (page 33 of the January 4, 2016, draft subdivision regulations) and asked where "erodibility class (K factor) greater than or equal to .43 in any layer as found in table 3-1 of *Stormwater Management and Erosion and Sediment Control Handbook For Urban and Developing Areas in New Hampshire, 1992*" had come from.

Jim Pritchard said that "erodibility class (K factor) greater than or equal to .43 in any layer as found in table 3-1 of *Stormwater Management and Erosion and Sediment Control Handbook For Urban and Developing Areas in New Hampshire, 1992*" had come from *Stormwater Management and Erosion and Sediment Control Handbook For Urban and Developing Areas in New Hampshire, 1992*." (*Stormwater Management and Erosion and Sediment Control Handbook For Urban and Developing Areas in New Hampshire, 1992*, appendix F, Model Erosion and Sediment Control Regulation.)

Clayton Wood, Jim Pritchard, and Pat Heffernan noted that 2000 square feet to trigger erosion and sedimentation control for certain types of soil is a small area. (Article 4, section 1, (d), (19), (H), (page 33 of the January 4, 2016, draft subdivision regulations).)

Pat Heffernan said that the proposed erosion and sedimentation control regulation is unenforceable because Pittsfield does not have the expertise to enforce it.

Pat Heffernan referred to article 4, section 1, (d), (19), (G), (11) (page 33 of the January 4, 2016, draft subdivision regulations):

“The construction plan shall include a time schedule stating the anticipated starting date and the anticipated completion date of construction in the SUBDIVISION.”

Pat Heffernan said that, if the proposed construction were approved, then the contractor should be able to do the work now or later whenever he wanted.

Jim Pritchard said that the requirement for a schedule is in the current (2010) subdivision regulations.

Pat Heffernan’s proposal prompted board discussion about (1) abandonment, (2) how much investment does it take to be vested, and (3) meaningful construction security. Jim Pritchard and Clayton Wood said that time limits on construction activity are necessary because conditions may change. Clayton Wood cited RSA 674:39, Five-Year Exemption. If a developer does nothing on a project, then RSA 674:39, I, (a), protects the approval from new regulations for only two years. Regarding how much investment does it take to be vested, Jim Pritchard referred to and read from *Grandfathered - The Law of Nonconforming Uses and Vested Rights*, (2009 edition) page 14, by H. Bernard Waugh.

Jim Pritchard returned to the erosion and sedimentation control regulation, article 4, section 1, (d), (19), (H), (page 33 of the January 4, 2016, draft subdivision regulations). Jim Pritchard referred to the comment under this regulation:

The current subdivision regulations section 10, D, 1, (page 37) says as follows:

All subdivisions except minor subdivisions involving less than five (5) acres shall prepare and construct adequate erosion and sediment control measures and prepare plans for runoff erosion and sediment control.

“All subdivisions except minor subdivisions involving less than five (5) acres” can be restated as “All subdivisions that create more than three lots or that include 5 acres or more.” This condition for requiring an erosion and sediment control plan seems overly broad because a large subdivision could create only two lots and disturb soil only minimally.

* * * * * * * * *End of comment quotation.

Jim Pritchard said that the new regulation will reduce the number of cases when erosion and sedimentation control is required, because the new regulation is more specific. Jim Pritchard said that the new conditions for requiring erosion and sedimentation control were his first derivation from the model erosion and sedimentation control regulation. Jim Pritchard suggested that he distribute the model regulation to the board members so that they would know what the model regulation says.

Clayton Wood said that the board needed to understand erosion control regulation because erosion can very easily ruin a building.

Jim Pritchard said that his goal was to require erosion control when and only when actually necessary.

AGENDA ITEM 7: Selectman’s Report

Larry Konopka said that the board of selectmen had sold at the auction on November 7, 2015, two parcels of land without following proper procedure. The two parcels in question are (1) tax map R-48, lot 6, known informally as the pest house lot, on Tan Road, and (2) tax map R-44, lots 7 and 8, also on Tan Road. (See Merrimack County Registry of Deeds Book 339, Page 120, for both parcels.) (Comment of recording secretary Jim Pritchard: Larry Konopka referred to the two parcels as three parcels, as shown on the tax map, but the town’s deed describes the parcels as two parcels.) The board of selectmen should have asked for a recommendation from each of the planning board and the conservation commission and should have held two

public hearings before selling the land. (2007 town meeting warrant article 26 and RSA 41:14-a.) The board of selectmen is now asking for these recommendations.

Jim Pritchard said that he had been the buyer of one of the two parcels (R-44, lots 7 and 8) and that, consequentially, he would express no opinion on what the planning board's recommendation should be but that the tax map shows the parcel designated as tax map R-44, lots 7 and 8, incorrectly. Jim Pritchard presented tax map R-44 overlaid with original town layout lots 103, 104, and 105. Jim Pritchard said that the triangular part of lot 103 on the southeasterly side of Tan Road is the parcel that the town designates as tax map R-44, lots 7 and 8.

The board discussed the difference between what the tax map shows and the triangular part of lot 103 on the southeasterly side of Tan Road.

AGENDA ITEM 8: Members' Concerns

No board member stated any concerns.

AGENDA ITEM 9: Public Input

No public input.

AGENDA ITEM 10: Adjournment

Pat Heffernan moved to adjourn the meeting.

Larry Konopka seconded the motion.

Vote to adjourn the planning board meeting of February 4, 2016: carried 5 - 0 - 0. Voting "yes": Jim Pritchard, Daren Nielsen, Pat Heffernan, Clayton Wood, and Larry Konopka. Voting "no": none. Abstaining: none. The planning board meeting of February 4, 2016, is adjourned at 8:50 P.M.

Minutes approved: March 14, 2016

Clayton Wood, Chairman

Date

I transcribed these minutes (not verbatim) on February 6, 2016, from notes that I made during the planning board meeting on February 4, 2016, and from a copy that Chairman Clayton Wood made on February 5, 2016, of the town's digital recording of the meeting.

Jim Pritchard, planning board recorder and secretary