



MEETING AGENDA

TOWN OF PITTSFIELD
BOARD OF SELECTMEN
TOWN OFFICE, 85 MAIN STREET
PITTSFIELD, NEW HAMPSHIRE 03263

TUESDAY, MAY 24, 2016

6:00 p.m. - Call to order

PUBLIC INPUT

AGENDA REVIEW

APPOINTMENTS

1. 6:05 P.M. – Bill Miskoe, town owned property proposal
2. 6:30 P.M. – Clayton Wood, Planning Board, sale of town owned property policy

NEW BUSINESS

ACTION ITEMS

1. Proposed scholarship trust fund, Quintin B. Berkson Scholarship Trust
2. Sale of town owned property policy
3. Website policy
4. Deed for sale of town owned tax deeded property, Clough Road, Map R12, Lot 10
5. Deed for sale of town owned property, Tan Road, Map & Lots R48-6, R44-7, & R44-8
6. Letter from Housing Standards Agency, assessing company concerns
7. Letter, Paul Nickerson, 2016 Zoning Ordinance amendment concerns
8. Sale of town owned tax-deeded property
 - a. Five parcel combined offer
 - i. Tax Map U4, Lot 25 – 1 Fayette Street
 - ii. Tax Map U4, Lot 26 – Depot Street (was #7)
 - iii. Tax Map U3, Lot 127 – Fayette Street (parking lot parcel 1 of 2)
 - iv. Tax Map U3, Lot 128 – Bridge Street (parking lot parcel 2 of 2)
 - v. Tax Map U3, Lot 118 – Franklin Street parking lot

COMMITTEE REPORTS

INFORMATION ITEMS

PUBLIC INPUT

OLD BUSINESS

1. WWTP – personnel issues (update)
2. Town hall basement (4/5/16)
3. Town owned tax-deeded properties (4/5/16)
 - a. Warren Avenue vacant land (U3-55-1) – selective bid to abutters
 - b. Upper City Road vacant land (R18-6) – selective abutter bid (5/3/16)
4. Energy service provider contract, Eversource/Standard Power of America (5/17/16)
5. Sale of town owned tax-deeded property
 - a. Tax Map U2, Lot 36 – 85 Catamount Road (5/17/16)
 - b. Tax Map U5, Lot 41 – 11 Watson Street (5/17/16)

APPLICATIONS and WARRANTS

1. Abatements, 79-E tax relief re-calculation, 31 Barnstead Road, Map U1, Lot 1

CHECK MANIFESTS

1. Accounts Payable
2. Payroll

MINUTES

1. May 17, 2016 – Public Meeting Minutes
2. May 17, 2016 – Non-Public Meeting Minutes

NON-PUBLIC SESSION

PUBLIC INPUT

Select Board

Pittsfield NH

14 May 2016

To the Select Board:

I have been a Pittsfield resident for 16 years. During that time I have read a lot of books. Most of them were provided by the Carpenter Library.

Now I want to provide the library a chance to expand its size and offer more to Pittsfield. This can happen if the library gets a place to do it.

Accordingly, I want to purchase the property at 37 Main Street currently owned by the town. Lot U03 -44.

My plan, if the town will sell it to me, is to donate some, or all of this piece to the Carpenter Library to enable building on to what is there now.

When I state ' some or all ' , it is because it is not clear that the library needs all of Lot 44 for a good expansion. What is needed is an addition to the Carpenter building, ground level access to the existing main floor and some parking.

Lot 44 is big enough to be divided and it has a handsome residential building on the side away from the library. If the library trustees decide that they have no way to use this big house, then I will work with the town to find a better use for it.

This is a proposal which is intended to benefit the Carpenter Library. It is deliberately open regarding other possibilities for Lot 44.

I hope that the Board will understand and accept this offer to purchase 37 Main Street - Lot U03-44.

Best Regards - Bill Miskoe



THE QUINTIN B. BERKSON SCHOLARSHIP TRUST

This AGREEMENT is made effective this ____ day of _____, 2016, between **LARRY C. BERKSON** ("Larry") and **SUSAN B. CARBON** ("Susan"), of Chichester, County of Merrimack, New Hampshire (separately, "Grantor", collectively, the "Grantors"), and the **PITTSFIELD TRUSTEES OF TOWN TRUST FUNDS**, as Trustees, of Pittsfield, County of Merrimack, New Hampshire ("Trustees").

RECITALS:

A. Larry was reared and educated in Pittsfield, New Hampshire. He remembers fondly his youth and the civic pride he and his neighbors felt to be a part of a vigorous, vital and industrious community. Larry credits the excellent education he received in the Pittsfield public school system for the development of the values and work ethic which enabled him to go to college, obtain a Ph.D. and enjoy success in the business world.

B. Susan moved to Pittsfield in 1982 and became deeply involved in the community. She served on the Pittsfield School Board and chaired the effort to bring kindergarten to Pittsfield. She was the first chair of the Zoning Board and served as a judge on the Pittsfield District Court for several years before it merged with the Concord District Court (where she continued serving).

C. Larry and Susan wish to give back to the community that has given them so much happiness and to honor the memory of their son, Quintin B. Berkson, who was raised in Pittsfield and graduated from Pittsfield Middle-High School (sometimes, "PMHS") before graduating from Becker College in Worcester, MA.

D. Larry and Susan recognize that only limited resources are available to the parents of graduating seniors at PMHS, and with diminishing resources of public scholarships, grants and financial aid, many graduating seniors at PMHS are forced by financial necessity to immediately enter the workforce and forgo future education.

Article I. Trust Purposes

A. The Grantors establish this Trust to be a charitable trust, more specifically as a Town Trust Fund, to assist Pittsfield and its current (or successor) School District in its important public purpose of assisting Pittsfield graduates in pursuing higher education, as contemplated in R.S.A. §31:19, I.

B. This Town Trust Fund will be administered exclusively by the current and successor Pittsfield Trustees of Town Trust Funds selected as provided in R.S.A. §31:22, for the

exclusive benefit of Pittsfield Middle-High School graduates, or graduates of any school(s) which succeeds Pittsfield Middle-High School if it is no longer in existence and operating, and the accomplishment of these charitable purposes.

C. The Trust shall be organized and operated exclusively for educational purposes as set forth in Code §§170(c)(2), 501(c)(3), 2055(a)(3) and 2522(a)(2).

D. The Grantors intend and expect that any contributions made to this Trust by Larry, Susan or any other contributors will be deductible contributions for federal income, gift and estate tax purposes.

E. The Grantors intend and expect that any and all contributions to this charitable trust will be exempt from federal income taxation.

Article II. Trust Name

This Trust shall be known as The Quintin B. Berkson Scholarship Trust (sometimes herein referred to as "the Trust" or "Trust Agreement").

Article III. Trust Fund

The Trustees may receive and accept property (excluding real property) by way of gift or bequest, from any person, firm, trust or corporation, to be held, administered, and disposed of in accordance with and pursuant to the provisions of this Agreement; but no gift or bequest of any such property shall be received and accepted if it is conditioned or limited in such manner as to require the disposition of the income or its principal to any person or organization other than a charitable organization or for other than charitable purposes within the meaning of such terms as defined in Article VIII of this Agreement, or as shall in the opinion of the Trustees, jeopardize the federal income tax exemption of this Trust pursuant to §501(c)(3) of the Internal Revenue Code, or the corresponding provisions of any later federal tax laws or any future federal tax code (the "Internal Revenue Code" or "Code").

Article IV. Use of the Trust Fund

A. Annual Scholarship Distributions. Upon the death of the first Grantor and not sooner, the Trustees shall distribute the net income at least annually for the benefit of an individual as a scholarship award or awards ("scholarship awards"), as further provided in this Article IV. Notwithstanding the foregoing, each year in the event the principal of the Trust estate has been reduced by investment losses to a level below its value determined as of the date of receipt by the Trustees ("Book Value"), the net income of the Trust shall not be expended for a scholarship award(s) until the value of the Trust principal is restored to Book Value, as adjusted for capital gains which shall be retained by the Trustees and which shall increase the Trust principal. The Trust principal shall be retained, invested and reinvested.

There shall be no distributions of Trust principal. The scholarship award shall be paid by the Trustees directly to the educational institution in which the recipient (as the term "recipient" is defined under Paragraph B of this Article IV) is about to be or is enrolled, whatever the case may be, at a time determined by the Trustees in their discretion. The Trust shall continue in perpetuity unless terminated as provided in Article V.

B. Eligible Recipients. Students or alumni of PMHS (or students or alumni of the equivalent school(s) which succeeds PMHS) who are applying for admission, or have been admitted to post-secondary, degree-granting, education programs, whether in technical schools, colleges or universities, to the exclusion, however, of on-line diploma entities, are eligible recipients (collectively, "recipients", individually, "recipient"). The Trustees may but need not give preference to residents of Pittsfield. A recipient may reapply for a scholarship award(s) in successive years, as may be needed, to complete his or her degree. The Trustees may but need not give preference to current recipients when making annual scholarship awards.

C. Publication. The Trustees should take all reasonable steps to publicize the availability of scholarship awards from the Trust to eligible PMHS students, their parents, the local Parent Teacher Organization, and the administration of PMHS, including guidance counselors.

D. Policies and Procedures. From time to time as the Trustees deem reasonable and necessary, the Trustees, in the Trustees' sole discretion, may establish policies and procedures for (1) scholarship award applications, (2) the review of applications, (3) the criteria for granting of scholarship awards based on financial need, academic achievement, leadership abilities, interviews, and other criteria adopted by the Trustees, (4) the timing of awards, and (5) the criteria for the revocation of eligibility.

E. Awards Committee. The Trustees may, but need not, delegate all or a portion of such responsibilities to establish policies and procedures to a volunteer "Awards Committee" (the "Awards Committee"). The Awards Committee will serve in an advisory capacity only. The final determination regarding scholarship awards and revocation of scholarships will be the Trustees' alone. The Awards Committee may consist of five (5) but not more than seven (7) members including, but not limited to, a guidance counselor selected by the PMHS school principal, a faculty member selected by the PMHS school principal, a member of the Pittsfield School Board selected by the Chair of the Board, a member of the local PTO (if any), either of the Grantors, if available and willing to serve, and one or more of the Trustees of the Pittsfield Town Trust Funds selected by the Chair of the Trustees. Any additional members shall be selected by the Trustees. If and when possible, in the sole discretion of the Trustees, the Awards Committee and Trustees should structure and administer the scholarship awards such that such awards are "qualified scholarships" as provided under Code §117.

F. By-Laws. The Members of the Awards Committee may serve for such terms and under such conditions as the Trustees may establish in written by-laws adopted and revised from time to time in the sole discretion of the Trustees (“by-laws”). The Grantors hope (but do not direct) that by-laws will provide the Awards Committee with guidelines and criteria for the review of applications and the award of scholarships which consider tangible and intangible factors, including (without limitation) the applicant’s academic achievement, extracurricular activities, community service, demonstrated leadership ability, and need as demonstrated by both a candidate’s academic record and presentation at any interviews the Awards Committee might conduct. The Grantors hope (but do not direct) such criteria will require each recipient’s maintenance of a minimum grade point average and some mechanism for monitoring compliance, such as a recipient’s sending copies of grade reports to the Trustees and/or Awards Committee each time a grade report is issued. The Grantors hope (but do not direct) that the Trustees will require each recipient to sign a non-binding pledge that the recipient will make an effort after graduation to contribute to the Trust to reflect the recipient’s gratitude for the scholarship award, and that the Trustees and/or Awards Committee will maintain records and an updated database of recipients and their addresses to enable them to send annually to each recipient who has graduated written reports of the Trust’s finances and scholarship awards for the prior year, together with a solicitation reminding the recipient of his/her pledge. Any such contributions to the Trust received from prior recipients shall be added to the principal of the Trust estate.

G. Action by Awards Committee. The Grantors hope (but do not require) the by-laws will provide that any action to be proposed by the Awards Committee to the Trustees must be supported by the affirmative vote of a majority of the members of the Awards Committee. The Grantors hope (but do not require) the Trustees will routinely approve the Awards Committee’s proposals notwithstanding that the Awards Committee’s role is advisory only and any determination concerning any action proposed by the Awards Committee’s vote will be subject to the approval of a majority of the Trustees.

Article V. Trust Termination

The Trust shall continue forever.

Article VI. Trustees

A. The Pittsfield Trustees of Town Trust Funds are those Trustees elected as provided in R.S.A §§31:19 or 23. The term “Trustees” shall mean the Pittsfield Town Trustee or Trustees for the time being in office, and any successor Pittsfield Trustees of Town Trust Funds elected by the Town of Pittsfield as provided in R.S.A. §§31:22, 31:23 or 31:31 (or the corresponding provisions of any later New Hampshire laws applicable to trust funds established for a town’s school district).

B. On the date of this Agreement, the Pittsfield Trustees of Town Trust Funds are the following: Cara Marston; Ross Morse; and, Harry Vogt.

C. The number of Trustees shall be at all times not less than two, and whenever for any reason the number is reduced to one, there shall be, and at any other time there may be, appointed one or more additional Trustees. Notwithstanding the foregoing, one or more Trustees, whether original or successor Trustees, for the time being in office, shall have full authority to act even though one or more Trustee vacancies may exist. Vacancies shall be filled by the selectmen for the remainder of the term as provided in RSA 31:22.

D. Any succeeding or additional Trustee(s) shall, upon his or her acceptance of the office by written instrument signed and acknowledged, have the same powers, rights and duties, and the same title to the Trust estate jointly with the surviving or remaining Trustee or Trustees as if originally appointed.

E. No Trustee shall be responsible or liable for the acts or omissions of any other Trustee(s) or any predecessor Trustee. No one dealing with any Trustee need inquire concerning the validity of anything such Trustee does, or see to the application of any money paid or property transferred to or upon the order of such Trustee. No Trustee shall be obligated to examine the accounts and actions of any previous Trustee. The Trustee shall be held harmless from and shall not be responsible for actions or inactions as Trustee unless those actions or inactions constitute gross negligence or willful misconduct.

F. A Trustee may, by appropriate written instrument, delegate all or any part of his or her powers to another or others of the Trustees for such periods and subject to such conditions as such delegating Trustee may determine.

G. The Trustees are authorized to reimburse themselves amounts for reasonable expenses incurred in the administration of the Trust Agreement. Any sum(s) paid to Trustees shall be supported by documentation. No Trustee shall be entitled to receipt of compensation for services rendered.

Article VII. Trustees' Duties and Powers

A. Except as may be expanded or limited by the terms of this Trust Agreement, the Trustee and any successor Trustee(s) shall have all of the fiduciary powers, duties and authorities conferred upon trustees under the laws of the State of New Hampshire in effect from time to time, including but not limited to those conferred by New Hampshire RSA Chapter 564-B, the Uniform Trust Code ("Uniform Trust Code"), as amended.

B. The Trustees' powers are exercisable solely in the fiduciary capacity consistent with and in furtherance of the charitable purposes of this Trust as specified in Article VIII and not otherwise.

C. For so long as either Grantor is alive, the Trustees shall provide a report at least annually, and more frequently upon the surviving Grantor's request, regarding the scholarship awards and the identities of recipients, including, but not limited to the nature and extent the awards, the identities of recipients, a recipient's academics, and whether and to what extent recipients are making contributions to the Trust following graduation from the institution of higher learning.

Article VIII. Miscellaneous

A. In this Trust Agreement and in any amendments to it, the following words or terms shall have the following meanings:

1. "Charitable organizations" or "charitable organization" mean corporations, trusts, funds, foundations, or community chests created or organized in the United States or in any of its possessions, whether under the laws of the United States, any state or territory, the District of Columbia, or any possession of the United States, organized and operated exclusively for charitable purposes, no part of the net earnings of which inures or is payable to or for the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which do not participate in or intervene in (including the publishing or distributing of statements) any political campaign on behalf of or in opposition to any candidate for public office. It is intended that the organization described in this Paragraph A of this Article VIII shall be entitled to exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code.

2. The term "charitable purpose" or "charitable purposes" shall be limited to and shall include only religious, charitable, scientific, literary, or educational purposes within the meaning of those terms as used in section 501(c)(3) of the Internal Revenue Code, but only such purposes as also constitute public charitable purposes under the law of trusts of the State of New Hampshire.

B. This Agreement is made or delivered in New Hampshire and shall at all times be governed by its laws.

C. All trusts created hereunder shall be exempt from the application of the rule against perpetuities.

D. Any person may rely on a copy, certified by a notary public, of the executed original of this Trust Agreement held by the trustees, and of any of the notations on it and writings attached to it, as fully as he might rely on the original documents themselves. Any such person may rely fully on any statements of fact certified by anyone who appears from such original documents or from such certified copy to be a trustee under this Trust Agreement. No one dealing with the Trustees need inquire concerning the validity of anything the Trustees purport to do. No one dealing with the Trustees need see to the application of anything paid or transferred to or upon the order of the Trustees of the Trust.

IN WITNESS WHEREOF, the Grantors and the Trustees execute The Quintin B. Berkson Scholarship Trust on the day and date first above written, and acknowledge receipt of same.

Witness

Larry C. Berkson, Grantor

Witness

Susan B. Carbon,, Grantor

[SPACE LEFT BLANK INTENTIONALLY.
SEE NEXT PAGE FOR ADDITIONAL SIGNATURES]

PITTSFIELD TRUSTEES OF
TOWN TRUST FUNDS

Witness

Cara Marston, Trustee

Witness

Ross Morse, Trustee

Witness

Harry Vogt, Trustee

STATE OF NEW HAMPSHIRE
_____, SS.

On the ____ day of _____, 2016, before me, the undersigned officer, personally appeared **Larry C. Berkson**, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

Notary Public/Justice of the Peace
My Commission Expires: _____

STATE OF NEW HAMPSHIRE
_____, SS.

On the ____ day of _____, 2016, before me, the undersigned officer, personally appeared **Susan B. Carbon**, known to me to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same for the purposes therein contained.

Notary Public/Justice of the Peace
My Commission Expires: _____

STATE OF NEW HAMPSHIRE
_____, SS.

On the ____ day of _____, 2016, before me, the undersigned officer, personally appeared **Cara Marston**, known to me to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same for the purposes therein contained.

Notary Public/Justice of the Peace
My Commission Expires: _____

STATE OF NEW HAMPSHIRE
_____, SS.

On the ____ day of _____, 2016, before me, the undersigned officer, personally appeared **Ross Morse**, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

Notary Public/Justice of the Peace
My Commission Expires: _____

STATE OF NEW HAMPSHIRE
_____, SS.

On the ____ day of _____, 2016, before me, the undersigned officer, personally appeared **Harry Vogt**, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

Notary Public/Justice of the Peace
My Commission Expires: _____

**Pittsfield, New Hampshire
Office of Selectmen**

Policy Statement for the Sale of Town-Owned Property

- 1. Governing Authority:** The governing authority for this policy statement for the sale of town-owned property is article 26 of the March 13 and 17, 2007, town meeting warrant, authorizing the board of selectmen to sell town-owned properties according to procedure specified in RSA 41:14-a. The town meeting approved article 26 under RSA 41:14-c, I.
- 2. Policy Overview:**
 - a. The board of selectmen shall review each town-owned property annually to decide whether to sell that property. The town shall hold every tax-deeded property for a minimum of three years. The board shall offer properties for sale annually according to this policy statement. The board shall deposit all proceeds from these sales into a trust fund for future acquisition and reclamation of real estate in the downtown.
 - b. The sale of town property has three prongs. First, because the sale of town property will most strongly affect abutters, the board of selectmen shall give abutters advance notice of tax-deeded properties and shall suggest that abutters consider financing the former owner to repurchase the property under RSA 80:89 on condition that the former owner will resell the property to the abutters. Second, the board of selectmen shall list the property with a real estate broker to maximize income potential based on appraised value. Third, the board of selectmen shall auction remaining town properties or keep remaining town properties in town inventory.
- 3. Review Schedule:** By April 1, the board of selectmen shall finish the board's annual review of all town-owned property and shall have made a preliminary decision on each property as to whether to sell it or not.
- 4. Notice to Former Owners of and Abutters to Newly Tax-Deeded Property:** By April 1, the board of selectmen shall give notice as follows to former owners of and abutters to property that the town has tax deeded within the past three years:
 - a. The board of selectmen shall notify every former owner of land that the town has tax deeded within the past three years (1) that the former owner has the right under RSA 80:89 to repurchase the tax-deeded property, (2) that the former owner's right to repurchase the property will expire at three years from the date of tax deeding, and (3) that the town may sell the property to some person or persons unknown after the former owner's right to repurchase the tax-deeded property has expired. The board of selectmen's notice to the former owner shall include a copy of this policy statement for the sale of town-owned property.

- b. The board of selectmen shall notify every abutter to land that the town has tax deeded within the past three years (1) that the former owner has the right under RSA 80:89 to repurchase the tax-deeded property, (2) that the former owner's right to repurchase the property will expire at three years from the date of tax deeding, and (3) that the town may sell the property to some person or persons unknown after the former owner's right to repurchase the tax-deeded property has expired. The board of selectmen's notice to the abutters shall also suggest that, if any abutter is interested in acquiring the tax-deeded property, then the abutter may want to consider working with the former owner to finance a repurchase of the property on condition that the former owner will resell the property to the abutter or abutters. The board of selectmen's notice to the former owner shall include a copy of this policy statement for the sale of town-owned property.

5. Guidelines for Deciding Whether to Sell Town Property :

- a. The board of selectmen shall not sell any tax-deeded property within three years of the date of tax deeding. The purpose of this prohibition is to give the former owners of tax-deeded properties the maximum opportunity to repurchase their properties under RSA 80:89.
- b. The board of selectmen's preliminary decision on whether to sell, and all subsequent decisions on whether to sell or recommend to sell, shall consider (1) whether the property has a major structure or not, (2) whether the property is conforming to the zoning ordinance or not, and (3) whether the market conditions are appropriate, relative to both the town's interest in a return and the abutters' interest in an affordable price, for the sale. The presence of a major structure on the property shall weigh toward selling the property (to avoid maintenance and liability responsibility for the town). A nonconformance of the property to the zoning ordinance shall weigh against selling the property (to maintain the integrity of the town's zoning plan) unless (1) the property is a good fit with abutting property, (2) the property has a major structure that would prohibit a merger with abutting property, or (3) the property is in a nonresidential area of the Commercial District or the Light Industrial/Commercial District. The board of selectmen shall not sell any vacant nonconforming lot in the Suburban District or in the Rural District to anyone other than an abutter. The purpose of this prohibition against selling vacant nonconforming lots in the Suburban District or in the Rural District to anyone other than abutters is to maintain property values and the integrity of the town's zoning plan by discouraging development of nonconforming lots in residential areas.

6. Process for Selling Town Property :

- a. The board of selectmen shall review all town properties and decide preliminarily which properties to sell.

- b. The board of selectmen shall determine the fair market values for properties preliminarily marked for sale. In determining the fair market values, the board of selectmen shall use a licensed property appraiser and shall tell the appraiser that the board may impose covenants on the properties to ensure that their sales and subsequent uses do not diminish neighboring property values.
- c. Pursuant to RSA 41:14-a, I, the board of selectmen shall next submit to the planning board and to the conservation commission all properties preliminarily marked for sale for review and recommendation by those bodies.
- d. After the board of selectmen receives the written recommendation of the planning board and the conservation commission, the board of selectmen may remove properties originally marked for sale based on their value as conservation land or green space.
- e. The board of selectmen shall then offer abutters the first opportunity to buy any property marked for sale at the fair market value according to paragraph b minus (some percentage based on the average cost of what the town would have lost by paying a real estate broker and the consignment fee for an auction house). The board of selectmen shall give the abutters (some amount of time) to decide whether to buy the properties or not.
- f. The board of selectmen shall hold 2 public hearings at least 10 but not more than 14 days apart on the sales to responding abutters.
- g. The board of selectmen shall vote on the sales to responding abutters no sooner than 10 days and no later than 14 days after the second public hearing.
- h. Prior to the board of selectmen's vote on the final disposition, upon the written petition of 50 registered voters presented to the selectmen according to RSA 39:3, the proposed disposition shall be inserted as an article in the warrant for the town meeting.
- i. The planning board shall review the remaining properties that did not sell under paragraphs e through h, shall consider potential uses of the properties, and shall recommend to the board of selectmen whether covenants on any given property will be necessary to protect the neighborhood or the town, pursuant to the master plan section 2.9, item 6: "Seek to revitalize, reuse, demolish, or sell tax-deeded properties with restrictions aimed at improving property values."
- j. The board of selectmen shall decide what covenants, if any, the town shall impose on the remaining properties that did not sell under paragraphs e through h to protect the neighborhood or the town.
- k. The board of selectmen shall hold 2 public hearings at least 10 but not more than 14 days apart on the sales of the remaining properties.

- l.** The board of selectmen shall vote on the sales of the remaining properties no sooner than 10 days and no later than 14 days after the second public hearing.
 - m.** Prior to the board of selectmen's vote on the final disposition, upon the written petition of 50 registered voters presented to the selectmen according to RSA 39:3, the proposed disposition shall be inserted as an article in the warrant for the town meeting.
 - n.** The board of selectmen shall then advertise the remaining properties for sale through a licensed real estate broker at the fair market value according to paragraph b for a period of time no shorter than six months and with a broker fee no higher than 7% of the sale price of the property.
 - o.** The board of selectmen may hold an auction for the remaining properties that did not sell under paragraph n. The board of selectmen shall choose a reputable auction house and shall advertise the auction in a minimum of three local newspapers. The board of selectmen may set a minimum amount for which the property is to be sold and may set the terms and conditions for the sale.
 - p.** The goal is to complete all sales by December 1.
- 7. Disposition of Proceeds:** The board of selectmen shall deposit all proceeds from the sales of town property into a trust fund for future acquisition and reclamation of real estate in the downtown.



TOWN OF PITTSFIELD
Planning Board
Town Hall
85 Main Street
Pittsfield, New Hampshire 03263

April 12, 2016

Pittsfield Board of Selectmen
Town Hall
85 Main Street
Pittsfield, NH 03263

RE: Policy Statement for the Sale of Town-Owned Property

Dear Selectmen:

Attached is a policy statement prepared by the planning board at the April 7, 2016 meeting and suggested as a starting point for a policy to be adopted by the board of selectmen. This policy is based on what was learned by the planning board during their review and recommendation for the sale of town-owned properties at tax map R-48, lot 6 and tax nap R-44, lots 7 and 8 pursuant to RSA 41:14-a. Please let me know if you would like me to present and answer any questions regarding the policy. The planning board and I offer any help to the board of selectmen on the refinement and adoption of this policy.

Sincerely;

Clayton Wood

Chairman

Planning Board Members:

Clayton Wood (Chairman)

Pat Heffernan (Member)

Gerard LeDuc (Selectman Ex Officio)

Daren Nielson (Vice-Chairman)

Roland Carter (Alternate)

Carole Richardson (Selectman Ex Officio Alternate)

Jim Pritchard (Secretary)

Paul Nickerson (Alternate)

Cara Marston

From: Clayton Wood <cwood911@gmail.com>
Sent: Tuesday, April 12, 2016 11:43 AM
To: Cara Marston
Cc: Carole Richardson; Daren Nielsen; Dee Fritz; Gerard LeDuc; james pritchard; Jesse Pacheco; Pat Heffernan; Roland Carter
Subject: Policy for Sales of Town Owned Property
Attachments: PB2BOS Letter Sale of TownProperty Policy 20160412.pdf; Policy Statement, Sale of Town Owned Property09.pdf

Hi Cara,

Please forward the attached letter and policy from the planning board to the board of selectmen. Let me know if you would like a meeting to discuss.

Thank you,

Clayton

Town of Pittsfield, N.H.

Website Policy

Purpose

The town of Pittsfield, New Hampshire, 03263, maintains only one website at www.pittsfieldnh.gov. For the purpose of this policy, the website shall be referred to as the “town’s website” unless the context suggests otherwise.

The town’s website replicates, in an electronic manner, many of the services offered by town staff and officials, and its primary purpose is to convey information to users.

Town Website Committee

The town of Pittsfield Board of Selectmen appoints a website committee to administer the town website. Inquiries may be directed to the Committee regarding the content of the town website, with appeal to their decisions to the Board of Selectmen.

Availability of Information

Changes are made periodically to many official documents, including municipal ordinances, policies, regulations, guidelines, and schedules, and these changes may or may not be reflected in the materials or information present on the town website. Additionally, due to website development, materials and information may be deleted, modified, or moved to a different part of the town website without advance notice. The materials on the town website are provided for information purposes only, and reliance upon such materials may not serve as the basis for a claim or cause of action against the town of Pittsfield, or any of its agencies, departments, employees, or representatives. Town website users are advised to consult the official documents of the town of Pittsfield at the Pittsfield Town Hall, 85 Main Street, Pittsfield NH 03263.

News and Information

The town of Pittsfield may post information other than official meeting notices or reports regarding events of information value that is deemed to be of interest to people within the community. The posting of this information is not considered an endorsement of the event by the town of Pittsfield and is provided solely for the convenience of the visitors of this town website.

MP3 Files

The town of Pittsfield may post recordings of public meetings. Not all meetings are recorded with technology that allows easy uploading. Only digital recordings may be uploaded as they are made available, if their meeting body so chooses. Any recordings may be purged from the town website without notice.

Links

The town website provides links to other websites as a convenience to users of this town website. The town of Pittsfield has no control over these external sites and is not responsible for their content, nor does the inclusion of links to such websites imply any endorsement by the town of Pittsfield of the material on such websites.

In order to avoid the appearance of the town of Pittsfield endorsement of political content, links shall not be made to sites that are associated with, sponsored by, or serving of a candidate for elected office, or any political party or organization.

Electronic Communication with Town Officials and Employees

Persons submitting electronic comments or questions to the town of Pittsfield’s officials, representatives, or employees should be aware that the town cannot guarantee, nor does it represent that such communications will remain private and confidential.

Disclaimer of Liability

The information contained on the town website is intended to afford general information on matters of interest, as a public service. The town of Pittsfield does not warrant or make any representations as to the quality, content, accuracy, or completeness of the information provided, or of the links and other items contained on this town website. Such materials are compiled from a variety of sources, and are subject to change without notice. The town of Pittsfield shall not be liable for improper or incorrect use of the material or information contained on this site and assumes no responsibility for any user’s use of, or reliance on, such material or information.

The information on this site is for informational purposes only, and is not intended to serve as legal, accounting or tax advice. The town of Pittsfield disclaims any and all responsibility for positions or actions taken by individuals or corporations or for any misunderstanding and losses, whether direct or indirect, resulting from the use of this information. Users are encouraged to consult with appropriate professional advisors for advice on specific matters.

This disclaimer of liability applies to any damages or injury, including but not limited to those caused by any failure of performance, error, omission, interruption, deletion, defect, delay, computer virus, communication line failure, destruction of data, negligence, or under any other cause of action and users of this site agree that the town of Pittsfield, its agents and employees shall not be held liable for any direct or indirect damages resulting from the use, or inability to use, this town website.

The appearance of external hyperlinks does not constitute endorsement by the town of Pittsfield of the linked web sites, or the information, products or services contained therein. All links are provided with the intent to provide information and awareness. Please let us know about existing external links which you believe are inappropriate in writing to the town of Pittsfield’s website committee.

Website Policy adopted by the Board of Selectmen on _____.

Prepared by: Matthew R. Serge, Esq.
Drummond Woodsum & MacMahon
1001 Elm Street, Suite 303
Manchester, N.H. 03101-1845

DEED

The **TOWN OF PITTSFIELD**, with a mailing address of 85 Main Street, Pittsfield, New Hampshire 03263 (the Grantor), for consideration paid, grants to Kenneth G. Farmer and Sheila M. Farmer, with a mailing address of 20 Clough Road, Pittsfield, New Hampshire, 03263 (the Grantee), WITHOUT COVENANTS, all of its rights, title and interest in:

A certain tract or parcel of land situated in the Town of Pittsfield, New Hampshire, aforesaid, taxed by the Selectmen/Assessors in 2013 to William Brooks, Sr. and Diane Brooks, located at 95 Clough Road, and described in the invoice books as: Map R12, Lot 10. Consisting of 0.100 acres of land, including and buildings Thereon.

This conveyance is subject to the condition that this parcel shall be merged with the Grantee's abutting property, located at 79 Clough Road and identified in the invoice books as Map R12, Lot 7, and that this parcel is not transferrable as a separate deeded lot. This covenant shall run with the land and be binding on the Grantee's heirs, successors and assigns,

MEANING AND INTENDING to describe and convey all of the Town of Pittsfield's rights, title and interest in that portion of the premises described in the Deed

of the Town of Pittsfield's Tax Collector, dated September 15, 2015, and recorded in the Merrimack County Registry of Deeds at Book 3491, Page 2854.

The conveyed premises is not homestead property.

WHEREFORE, the Board of Selectmen of the Town of Pittsfield has executed this deed this ____ day of _____, 2016.

TOWN OF PITTSFIELD

By Its Board of Selectmen

Lawrence J. Konopka, Chairman

**STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK**

Then appeared Lawrence J. Konopka, Chairman of the Board of Selectmen of the Town of Pittsfield, duly authorized to execute the foregoing instrument on behalf of the Town as aforesaid.

Seal:

Cara M. Marston
Notary Public
My Commission Expires: May 23, 2019

Carl E. Anderson, Selectman

**STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK**

Then appeared Carl E. Anderson, member of the Board of Selectmen of the Town of Pittsfield, duly authorized to execute the foregoing instrument on behalf of the Town as aforesaid.

Seal:

Cara M. Marston
Notary Public
My Commission Expires: May 23, 2019

Gerard A. LeDuc, Selectman

**STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK**

Then appeared Gerard A. LeDuc, member of the Board of Selectmen of the Town of Pittsfield, duly authorized to execute the foregoing instrument on behalf of the Town as aforesaid.

Seal:

Cara M. Marston
Notary Public
My Commission Expires: May 23, 2019

Carole A. Richardson

**STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK**

Then appeared Carole A. Richardson, member of the Board of Selectmen of the Town of Pittsfield, duly authorized to execute the foregoing instrument on behalf of the Town as aforesaid.

Seal:

Cara M. Marston
Notary Public
My Commission Expires: May 23, 2019



Town of Pittsfield

Office of Selectmen

P.O. Box 98 ~ 85 Main Street, Pittsfield NH 03263

cmarston@pittsfieldnh.gov ~ telephone (603) 435-6773 ~ fax (603) 435-7922

Abbuter Bid Request Property Sale - (for non-conforming, town owned lots)

Receipt of Payment

Parcel Location:	<u>Clough Road</u>
Map & Lot:	<u>map R12 - lot 10</u>
Buyer(s):	<u>Kenneth G. & Sheila M. Farmer</u>
Selling Price:	<u>\$ 1,500.00</u>
Buyer's deposit:	<u>\$ -</u>
Balance:	<u>\$ 1,500.00 5/18/16 ✓296 \$1,500.00</u>

DEED

The **Town of Pittsfield**, with a mailing address of 85 Main Street, Pittsfield, New Hampshire 03263, for consideration paid, grants to **Mary H. Pritchard, trustee of the Mary H. Pritchard Trust** (Norfolk County Registry of Deeds, Dedham, Commonwealth of Massachusetts, book 11679, page 699), with a mailing address of 52 Needham Street, P.O. Box 17, Norfolk, Massachusetts 02056, with no covenants, all of the town's rights, title, and interest in the following described two tracts of land:

Tract 1:

A certain tract of land situated in the town of Pittsfield, New Hampshire, and bounded and described as follows: a rectangular tract of about one acre more or less bounded on the southeasterly side by Tan Road, on the southwesterly and northwesterly sides by land of Paul E. Metcalf Jr. and Jill A. Metcalf (Merrimack County Registry of Deeds book 1877, page 874), and on the northeasterly side by land of Jessica L. Rokeach and Jason R. Rokeach (Merrimack County Registry of Deeds book 3418, page 588); described in the town's invoice books as tax map R-48, lot 6; and known now or formerly as the pest house lot.

Tract 2:

A certain tract of land situated in the town of Pittsfield, New Hampshire, and bounded and described as follows: a triangular tract of about nine acres more or less bounded on the northwesterly side by Tan Road, on the southeasterly side by Blake Pond and land of Mary H. Pritchard, trustee of the Mary H. Pritchard Trust (Merrimack County Registry of Deeds book 2062, page 1507), and on the southwesterly side by land of Mary H. Pritchard, trustee of the Mary H. Pritchard Trust (Merrimack County Registry of Deeds book 2062, page 1511); described in

the town's invoice books as tax map R-44, lots 7 and 8; and known now or formerly as the Furber lot.

Meaning and intending to describe and convey all of the Town of Pittsfield's rights, title, and interest conveyed to the Town of Pittsfield by deed of Harlan Hilliard, dated August 23, 1900, and recorded in the Merrimack County Registry of Deeds at book 339, page 120.

The Town of Pittsfield sells these two tracts through the town's board of selectmen under article 26 of the March 13 and 17, 2007, town meeting warrant. Article 26 of the March 13 and 17, 2007, town meeting warrant authorized the board of selectmen to acquire or sell land, buildings, or both according to RSA 41:14-a, which in whole says as follows:

I. If adopted in accordance with RSA 41:14-c, the selectmen shall have the authority to acquire or sell land, buildings, or both; provided, however, they shall first submit any such proposed acquisition or sale to the planning board and to the conservation commission for review and recommendation by those bodies, where a board or commission or both, exist. After the selectmen receive the recommendation of the planning board and the conservation commission, where a board or commission or both exist, they shall hold 2 public hearings at least 10 but not more than 14 days apart on the proposed acquisition or sale; provided, however, upon the written petition of 50 registered voters presented to the selectmen, prior to the selectmen's vote, according to the provisions of RSA 39:3, the proposed acquisition or sale shall be inserted as an article in the warrant for the town meeting. The selectmen's vote shall take place no sooner than 7 days nor later than 14 days after the second public hearing which is held.

II. The provisions of this section shall not apply to the sale of and the selectmen shall have no authority to sell:

(a) Town-owned conservation land which is managed and controlled by the conservation commission under the provisions of RSA 36-A.

(b) Any part of a town forest established under RSA 31:110 and managed under RSA 31:112.

(c) Any real estate that has been given, devised, or bequeathed to the town for charitable or community purposes except as provided in RSA 498:4-a or RSA 547:3-d.

On March 3, 2016, and by a letter dated March 10, 2016, and approved March 14, 2016, the planning board reviewed and made its recommendation on the board of selectmen's proposal to sell these two tracts. On February 25, 2016, and by an undated letter, the conservation commission reviewed and made its recommendation on the board of selectmen's proposal to sell the two tracts. On April 5, 2016, and April 19, 2016, the board of selectmen held two public hearings on its proposal to sell the two tracts. On May 3, 2016, the board of selectmen voted to uphold previously executed purchase and sale agreements to sell the two tracts on the following two motions:

Board of selectmen's motion on tract 1:

As the Board of Selectmen has held two public hearings in accordance with RSA 41:14-a, on April 5, 2016 and April 19, 2016 - I make the motion to uphold the previously executed purchase and sale agreement between the town of Pittsfield and Alton Rollinsford, LLC, dated November 7, 2015, the rights of which have been purchased by the Mary H. Pritchard Trust as confirmed by David Alden Moore on April 2, 2016, for the town property displayed on the town of Pittsfield's tax maps as Tax Map R48 Lot 6.

Board of selectmen's motion on tract 2:

As the Board of Selectmen has held two public hearings in accordance with RSA 41:14-a, on April 5, 2016 and April 19, 2016 - I make the motion to uphold the previously executed purchase and sale agreement between the town of Pittsfield and the Mary H. Pritchard Trust for the town property displayed on the town of Pittsfield's tax maps as Tax Map R44 Lots 7 & 8, dated January 5, 2016.

These two tracts are both not

- (a) town-owned conservation land managed and controlled by the conservation commission under the provisions of RSA 36-A,
- (b) any part of a town forest established under RSA 31:110 and managed under RSA 31:112,
- (c) any real estate that has been given, devised, or bequeathed to the town for charitable or community purposes except as provided in RSA 498:4-a or RSA 547:3-d, or
- (d) homestead property.

Therefore, the board of selectmen of the Town of Pittsfield has executed this deed this ____ day of _____, 2016.

TOWN OF PITTSFIELD

by its board of selectmen

Lawrence Konopka, selectman and chair

**STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK**

Then appeared Lawrence Konopka, member and chair of the board of selectmen of the Town of Pittsfield.

Cara M. Marston, notary public
My commission expires May 23, 2019

Seal:

Gerard LeDuc, selectman and vice-chair

**STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK**

Then appeared Gerard LeDuc, member and vice-chair of the board of selectmen of the Town of Pittsfield.

Cara M. Marston, notary public
My commission expires May 23, 2019

Seal:

James Allard, selectman

**STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK**

Then appeared James Allard, member of the board of selectmen of the Town of Pittsfield.

Cara M. Marston, notary public
My commission expires May 23, 2019

Seal:

Carl Anderson, selectman

**STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK**

Then appeared Carl Anderson, member of the board of selectmen of the Town of
Pittsfield.

Cara M. Marston, notary public
My commission expires May 23, 2019

Seal:

Carole Richardson, selectman

**STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK**

Then appeared Carole Richardson, member of the board of selectmen of the Town
of Pittsfield.

Cara M. Marston, notary public
My commission expires May 23, 2019

Seal:



TOWN OF PITTSFIELD
Housing Standards Agency
Town Hall
85 Main Street
Pittsfield, New Hampshire 03263



May 12, 2016

Pittsfield Board of Selectmen
Town Hall
85 Main Street
Pittsfield, NH 03263

RE: Potential Improper Action by the Assessing Company.

Dear Selectmen:

At our May 9 meeting, the HSA voted to inform the board of selectmen that we share the concern that was brought to our attention by the building inspector. Mr. Jesse Pacheco mentioned several properties that have apartments that show up on the tax cards but not traceable to any proper zoning approval. The normal process is that after an apartment is approved by the zoning board, a flag is set for the assessing company to change the tax card info. Mr. Pacheco suspects that the assessing company may change the tax card info if they find an apartment after their assessment. Since the HSA depends on the accuracy of the tax card, we would like to determine if this concern is valid. If the board of selectmen agree, HSA member Clayton Wood has volunteered to work with the town administrator to review the history of the changes to the tax cards assuming that there is a trail to these changes.

Thank you for your time and consideration regarding this matter.

Sincerely,

William Elkins

Housing Standards Agency Chair

Cara Marston

From: Bill Elkins <wdelkins@myfairpoint.net>
Sent: Friday, May 13, 2016 5:31 PM
To: Cara Marston
Subject: Re: letter to SB

Cara
I don't know how new assessments are input in the system or if there is a way the program could tag or red flag a property if the number of res. units changes from the previous assessment. I realize the assessor should not have to compare statistics on every property they look at. HSA is just looking for a solution. The assessors are just doing their job.
I attended the Zoning Board last night and gave the chairman examples of the types of problems we have to deal with. One thing that came out of the meeting is that Housing Standards, Zoning & Building Inspector need to communicate and work together to accomplish our respective goals.

Bill Elkins

On May 13, 2016, at 3:12 PM, Cara Marston <cmarston@pittsfieldnh.gov> wrote:

Loren,
Amidst boards and committees and employees trying to pinpoint the failure of dwelling units getting inspected without proper permission, the assessors have been named as well. I have tried explaining that our contract assessors are contracted to assess, not provide code compliance, and that your contracts are standard, and are approved by NH DRA, and are not part of the "town department structure" who are meant to report their findings to specific departments. Furthermore, if you were to NOT assess an apartment or structure that you have found upon inspection, that would be not performing your job, correct? If we had a town employee as an assessor who was intimate with the town properties and the departments on a regular basis, that relationship may be different as far as more frequent discussions, however this would entail a taxpayer cost for said employee or a greater scope of contract assessing work that included the department involvement, if even permissible by state assessing guidelines. Can you please provide an explanation as to the contract assessor's role in regards to the assessing of property 'as seen' and does not grant 'permission' for the Board? I would like to educate, stop the finger pointing, and move forward.

Thank you,
Cara

Cara M. Marston
Town Administrator
Town of Pittsfield
85 Main Street
Pittsfield, NH 03263
(603) 435-6773 x20
(603) 435-7922 (fax) (purely for nostalgic purposes at this point!)
cmarston@pittsfieldnh.gov
www.pittsfieldnh.gov

Cara Marston

From: loren martin <loren@avitarassociates.com>
Sent: Monday, May 16, 2016 5:26 PM
To: Cara Marston
Subject: Re: letter to SB

Cara
As your contract Assessor, we visit properties and assess what exists. It is not part of our responsibility to ensure that all aspects on a property are permitted. That would be overly burdensome, time consuming and not cost effective. We often pick up and assess sheds, decks, finished basement, 2 family dwellings etc that are not permitted. We are obligated by State Law to consider everything on the property in our determination of fair market value. Assessing records should never be relied upon to determine if an item is permitted or permissible as we are not the body charged with that responsibility. Hope this helps. Please let me know if I can be of further assistance.
Loren

On Fri, May 13, 2016 at 3:12 PM, Cara Marston <cmarston@pittsfieldnh.gov> wrote:

Loren,

Amidst boards and committees and employees trying to pinpoint the failure of dwelling units getting inspected without proper permission, the assessors have been named as well. I have tried explaining that our contract assessors are contracted to assess, not provide code compliance, and that your contracts are standard, and are approved by NH DRA, and are not part of the "town department structure" who are meant to report their findings to specific departments. Furthermore, if you were to NOT assess an apartment or structure that you have found upon inspection, that would be not performing your job, correct? If we had a town employee as an assessor who was intimate with the town properties and the departments on a regular basis, that relationship may be different as far as more frequent discussions, however this would entail a taxpayer cost for said employee or a greater scope of contract assessing work that included the department involvement, if even permissible by state assessing guidelines. Can you please provide an explanation as to the contract assessor's role in regards to the assessing of property 'as seen' and does not grant 'permission' for the Board? I would like to educate, stop the finger pointing, and move forward.

Thank you,

Cara

Cara M. Marston

Town Administrator

Town of Pittsfield

85 Main Street



TOWN OF PITTSFIELD
Planning Board
Town Hall
85 Main Street
Pittsfield, New Hampshire 03263

May 14, 2016

Pittsfield Board of Selectmen
Town Hall
85 Main Street
Pittsfield, NH 03263

RE: Letter of Concern Filed by Paul Nickerson on May 13, 2016

Dear Selectmen:

The Planning Board has discussed Paul Nickerson's concerns at the May 5, 2016 meeting (Agenda Item 8 attached). Paul is an alternate to the planning board and was sitting as a voting member during the discussion. As you can see from the minutes, his concerns are complicated by the fact that the law has recently changed for an accessory apartment. The new law will be in affect on June 1, 2017 and will require that the planning board review the use in the near future. I suggest that you table any discussion until the planning board has completed its discussion and that the ex officio members help to address any remaining concerns.

Sincerely;

Clayton Wood, chair

Enclosure: Excerpt from the Pittsfield Planning Board draft minutes of May 5, 2016

Planning Board Members:

Clayton Wood (Chairman)

Pat Heffernan (Member)

Gerard LeDuc (Selectman Ex Officio)

Daren Nielson (Vice-Chairman)

Roland Carter (Alternate)

Carole Richardson (Selectman Ex Officio Alternate)

Jim Pritchard (Secretary)

Paul Nickerson (Alternate)

Excerpt from the Pittsfield Planning Board draft minutes of May 5, 2016

AGENDA ITEM 8: Members' Concerns

Paul Nickerson stated his concern that the definition of "accessory apartment" in the newly revised zoning ordinance may not have been in the zoning proposal that the voters approved at the March town meeting.

Jim Pritchard presented the ballot questions that were on the warrant, and the proposal that the board had approved on December 3, 2015, and had filed with the town clerk. The ballot questions say that the proposal is a "comprehensive revision" including prior zoning ordinance article 2, Zoning Districts, and article 3, Definitions. The proposed amendment itself says that prior articles 2 and 3 are to be replaced with new articles 2 and 3 as presented in the amendment. New article 2, Interpretation Rules and Definitions, includes the new definition of "accessory apartment."

Paul Nickerson stated his concern that the term "accessory apartment," which replaced "in-law apartment," might have a meaning different from "in-law apartment" because the term "in-law" in "in-law apartment" might restrict the use of in-law apartments to in-laws of people inhabiting the principal dwelling unit.

Jim Pritchard compared the prior definition of "in-law apartment" and the newly adopted definition of "accessory apartment":

- IN-LAW APARTMENTS:** A dwelling unit which meets all of the following:
- a. Is contained within an existing or proposed single family dwelling unit.
 - b. Is clearly incidental and subordinate in extent, use and purpose to the principal dwelling.
 - c. Is not used for rental purposes.

ACCESSORY APARTMENT:

- (a) In this definition of "ACCESSORY APARTMENT," "house" means a DETACHED DWELLING.
- (b) "ACCESSORY APARTMENT" means the ACCESSORY DWELLING UNIT in a house that contains one PRINCIPAL DWELLING UNIT, one ACCESSORY DWELLING UNIT, and no other DWELLING UNITS.
- (c) Except as provided in article 4, section 3, Nonconforming Uses, every permissible ACCESSORY APARTMENT shall satisfy the following conditions and all other applicable conditions in the zoning ordinance:
 - (1) The ACCESSORY APARTMENT shall share a common wall with or be under the same roof with the PRINCIPAL DWELLING UNIT.
 - (2) The ACCESSORY APARTMENT shall not be rented.

Jim Pritchard said that “incidental and subordinate” means accessory, that the two definitions have the same meaning, and that the state law is that the definition of a defined term controls over the otherwise common meaning of the defined term. (*Cormier v. Danville*, 142 N.H. 775, 710 A.2d 401 (1998) (“the words and phrases of an ordinance should always be construed according to the common and approved usage of the language, but where the ordinance defines the term in issue, that definition will govern.”).)

Pat Heffernan and Jim Pritchard said that the key provision of both definitions is the prohibition against renting. The prohibition against renting does not guarantee an in-law inhabitant, but it does encourage an in-law inhabitant and the maintenance of the apartment’s accessory nature.

Jim Pritchard said that Pittsfield’s accessory apartment regulations conform to the new state law on accessory dwelling units (RSA 674:71 through RSA 674:73) except that Pittsfield must require an interior door, which need not remain unlocked, between the two dwelling units. (RSA 674:72, III.)

Paul Nickerson said that the new state law allows municipalities to permit accessory dwelling units as detached from the principal dwelling unit but that the law does not require municipalities to permit such detached accessory dwelling units. (RSA 674:73.) Paul Nickerson said that the newly amended zoning ordinance prohibits detached accessory dwelling units and that this prohibition is good. (Pittsfield Zoning Ordinance article 3, section 3, (b), (6), Table of Uses and Districts, entry for “DETACHED ACCESSORY DWELLING UNIT.”)

Paul Nickerson said that the new state law allows municipalities to restrict lots with an accessory dwelling unit to owner-occupancy of not more than one of the dwelling units. (RSA 674:72, VI.) Paul Nickerson asked the board to consider whether to propose such an owner-occupancy restriction on houses that have accessory apartments.

Because the time was about 9:00 PM, Daren Nielsen moved to defer consideration of potential changes to the accessory apartment regulations to a later meeting.

Jim Pritchard seconded the motion.

Vote to defer consideration of potential changes to the accessory apartment regulations to a later meeting: carried 5 - 0 - 0. (Voting “yes”: Jim Pritchard, Daren Nielsen, Pat Heffernan, Gerard LeDuc, and Paul Nickerson. Voting “no”: none. Abstaining: none.)

Cara Marston

From: Clayton Wood <cwood911@gmail.com>
Sent: Friday, May 20, 2016 11:07 AM
To: Cara Marston
Subject: Re: Paul Nickerson's Concerns

Cara,

I don't know when the planning board will be finished. I wrote the letter so the BOS could address it at May 24 meeting and act on my recommendation that they table it until the planning board has completed its work.

Best,

Clayton

On Fri, May 20, 2016 at 9:45 AM, Cara Marston <cmarston@pittsfieldnh.gov> wrote:

Thank you for this response. You mention the board tabling this for further review. I was planning on this for the 5/24 agenda. Should I hold off for your next meeting or let the board start reviewing this?

Cara

From: Clayton Wood [mailto:cwood911@gmail.com]
Sent: Sunday, May 15, 2016 4:01 PM
To: Cara Marston <cmarston@pittsfieldnh.gov>
Cc: james pritchard <jamesapritchard@yahoo.com>
Subject: Paul Nickerson's Concerns

Dear Cara,

Please make copies of the attached response for the board of selectmen. Thank you for bringing this to the attention of the planning board.

Sincerely,

Clayton

Cara Marston

From: Clayton Wood <cwood911@gmail.com>
Sent: Sunday, May 15, 2016 4:01 PM
To: Cara Marston
Cc: james pritchard
Subject: Paul Nickerson's Concerns
Attachments: PB2BOS Letter Paul Nickerson Concerns 20160515.pdf

Dear Cara,

Please make copies of the attached response for the board of selectmen. Thank you for bringing this to the attention of the planning board.

Sincerely,

Clayton

5-13-16



To The Town of Pittsfield, N.H.

Town Administrator, Board of Selectmen

THE PLANNING board and MR PRITCHARD TOOK OUT OF THE ZONING ORDINANCE (INLAW apartment) and put IN (ACCESSORY APARTMENT) WITHOUT THE VOTING body OF THE TOWN meeting Repealing THE FIRST (INLAW apartment) and adoption OF THE SECOND (ACCESSORY APARTMENT.)

MR PRITCHARD'S words COMPREHENSIVE REVISION does not allow THIS. He said anyone can LIVE IN a INLAW apartment so they are THE SAME. No ONLY Related People to THE OWNER can LIVE THERE and can't be RENTED.

ACCESSORY APARTMENT anyone can LIVE THERE and can be RENTED. Two DIFFERENT KINDS OF APARTMENTS.

We discussed 6 months ago to Leave INLAW APARTMENT till THE STATE came out WITH THEIR VERSION and they did and HIS VERSION will HAVE TO BE reworked anyways. He LEFT NO PAPER TRAIL. WON'T BE IN TOWN REPORTS WHAT WAS DONE!

Respect Fully
Paul Nickerson

Comprehensiveness →
INSURANCE term

Revision
Law Term →

Can't use
Both

Have to use the
ONE that goes
with the FIRST
ONE.

including
all or mostly
all
departure from
or modification
of an accepted
doctrine

including
all or mostly
all modification
of an accepted
doctrine
Meaning
Zoning Ordinance

Don't think you want to

take out the whole zoning ordinance

nized places, the local legislative body shall determine the manner in which a zoning ordinance, historic district ordinance, or a building code is established and amended; provided, however, that any question concerning the establishment and amendment of a zoning ordinance, historic district ordinance, or a building code may be placed on a ballot separate from the ballot used to elect city or town officers. The planning board shall forward to the town clerk all proposed amendments to a zoning ordinance, historic district ordinance, or building code not later than the fifth Tuesday prior to the date for electing city or town officers.

II. No zoning ordinance, historic district ordinance, or building code shall be established or amended until after a public hearing is held in accordance with the procedures required under RSA 675:7 on the proposed zoning ordinance, historic district ordinance, building code or amendment.

HISTORY:

1983, 447:1. 1985, 103:24. 266:1. 1989, 266:25. 1990, 54:1, eff. June 5, 1990.

Amendments

—1990.

Paragraph I: Added the second sentence.

—1989.

Paragraph I: Inserted "and in counties in which there are located unincorporated towns or unorganized places" following "government".

—1985.

Paragraph I: Rewritten by ch. 266 to the extent that a detailed comparison would be impracticable.

Paragraph II: Chapter 103 inserted "historic district ordinance" following "zoning ordinance" wherever it appeared.

Rescinded 1985, 103 amendment.

1985, 103:24 provided for amendment of pars. I and II, effective Jan. 1, 1986. However, 1985, 266:4, eff. Aug. 6, 1985, declared the amendment to par. I made by 1985, 103:24 to be null and void.

NOTES TO DECISIONS

Analysis

1. Purpose of hearings
2. Sufficiency of notice
3. Cure of defects
4. Validity of particular enactments

1. Purpose of hearings

The purpose of public hearings was to insure that the current views of local residents would be taken into account by the council when it considered enactment of a proposed ordinance. *Bosse v. Portsmouth*, 107 N.H. 523, 226 A.2d 99, 1967 N.H. LEXIS 212 (1967). (Decided under prior law.)

2. Sufficiency of notice

While there was no specific statutory requirement that the description of the zones be published, a notice would have been meaningless unless it included some reference to the area involved sufficient to give the reader reasonable warning that his interest might be affected. *Schadlick v. Concord*, 108 N.H. 319, 234 A.2d 523, 1967 N.H. LEXIS 179 (1967). (Decided under prior law.)

3. Cure of defects

A legislative act legalizing the votes and proceedings of a number of town meetings was ineffective to cure the invalidity of a zoning amendment adopted without compliance with the notice provision. *Olson v. Litchfield*, 112 N.H. 261, 296 A.2d 470, 1972 N.H. LEXIS 191 (N.H. 1972); *Calawa v. Litchfield*, 112 N.H. 263, 296 A.2d 124, 1972 N.H. LEXIS 193 (1972). (Decided under prior law.)

4. Validity of particular enactments

A city's adoption of former RSA 156:3-a (now covered by RSA 676:12), allowing building permits to be withheld pending zoning changes, was not subject to the public hearing requirements needed to enact zoning ordinances since former RSA 156:3-a was not a zoning ordinance. *Socha v. Manchester*, 126 N.H. 289, 490 A.2d 794, 1985 N.H. LEXIS 297 (1985). (Decided under prior law.)

Cited:

Cited in *Bedford Residents Group v. Bedford*, 130 N.H. 632, 547 A.2d 225, 1988 N.H. LEXIS 65 (1988).

RESEARCH REFERENCES AND PRACTICE AIDS

Cross References.

Enactment of zoning ordinances, historic district ordinances and building codes pursuant to petition of voters, see RSA 675:4.

Enactment of zoning ordinances, historic district ordinances or building codes by towns not operating under town council form of government and village districts, see RSA 675:3.

675:3. Method of Enactment in Certain Towns and Village Districts.

I. Any town not operating under the town council form of government, or any village district which is specifically authorized by law to enact a zoning ordinance, shall establish and amend a zoning ordinance, historic district ordinance, or building code upon the affirmative vote by ballot of a majority of the legal voters present and voting on the day of the meeting, as provided in paragraph VII. Any proposed zoning ordinance, as submitted by a planning board or any amendment to an existing zoning ordinance as proposed by a planning board, board of selectmen or village district commission shall be submitted to the voters of a town or village district in the manner prescribed in this section.

II. No zoning ordinance, historic district ordinance, or building code shall be established or amended at a town or village district meeting until after the planning board holds at least one public hearing on the proposed ordinance, code or amendment. Notice for the time and place of each public hearing shall be the same as that provided in RSA 675:7.

III. After the public hearing the planning board shall, by vote, determine the final form of the ordinance, amendment, or amendments to be presented to the town or village district, which ordinance or amendment may include editorial revisions and textual modifications resulting from the proceedings of that hearing.

IV. An additional public hearing shall be held if the proposal is substantively altered by the planning board after public hearing. Subsequent public hearings shall be held at least 14 days after the prior

public hearing and with the notice provided in RSA 675:7.

V. Official copies of the final proposal to adopt or amend the zoning ordinance, historic district ordinance, or building code shall be placed on file and made available to the public at the town or village clerk's office not later than the fifth Tuesday prior to the date when action is to be taken. An official copy of the proposal shall be on display for the voters at the meeting place on the date of the meeting.

VI. Each village district must be specifically authorized to zone by the legislature.

VII. If the town or village district has adopted an official ballot for the election of its respective officers, the issue as to the adoption of the proposed ordinance, building code, or amendment shall be presented to the voters of the town or village district by having the town or village district clerk prepare an official ballot separate from the official ballot used to elect town or village district officers which shall include the following question, or by including the following question on the official ballot as prepared by the town or village district clerk:

"Are you in favor of the adoption of the zoning ordinance, historic district ordinance, or building code (or amendment to the existing town (village district) zoning ordinance, historic district ordinance, or building code) as proposed by the planning board?" In the event that there shall be more than a single proposed amendment to be submitted to the voters at any given meeting, the issue as to the several amendments shall be put in the following manner: "Are you in favor of the adoption of Amendment No. _____ as proposed by the planning board for the town (village district) zoning ordinance (historic district ordinance or building code) as follows: (Here insert topical description of substance of amendment.)?" If such action is to be taken at a meeting other than the one at which officers are to be elected, the clerk shall prepare a special ballot containing the question or questions above stated, and the meeting shall open not later than noon and shall remain open at least 8 hours. If such action is to be taken at a meeting in a town or village district which has not adopted an official ballot, the clerk may prepare a special ballot likewise separate from the ballot used to elect town or village district officers for the use of voters in voting on the question. If a majority of the voters present and voting on any question as herein provided shall vote in the affirmative, the ordinance or amendment thereto shall be declared to have been adopted. When submitting any question to the voters under this section, there shall be 2 squares printed after the question, one with the word "yes" beside it and another with the word "no" beside it.

VIII. If an amendment is submitted by the selectmen or village district commissioners, the ballot shall so indicate. A notation on the ballot stating the planning board's approval or disapproval shall immediately follow the question's description.

IX. The method for amending a zoning ordinance, historic district ordinance or building code, as set forth in this section, may also be utilized to repeal such ordinance or code. The ballot question shall use the word "repeal" in place of the words "adoption" or "amendment."

HISTORY:

1983, 447:1. 1985, 103:24. 266:2. 1990, 54:2, eff. June 5, 1990. 1996, 43:1, eff. June 23, 1996.

Amendments

—1986.

Paragraph IX: Added.

—1990.

Paragraph V: Substituted "not later than the fifth Tuesday" for "4 weeks" following "office" in the first sentence.

—1985.

Paragraph I: Chapter 103 inserted "historic district ordinance" preceding "or building code" in the first sentence and added the second sentence.

Paragraphs II and V: Chapter 103 inserted "historic district ordinance" preceding "or building code" in the first sentence.

Paragraph VII: Rewritten by ch. 266 to the extent that a detailed comparison would be impracticable.

Paragraph VIII: Added by ch. 103.

Rescinded 1985 amendment.

1985, 103:24 provided for amendment of pars. I, II, V and VIII, reenactment of pars. III, IV and V without changes and addition of par. VIII, effective Jan. 1, 1986. However, 1985, 266:4, eff. Aug. 6, 1985, declared the amendment to par. VII made by 1985, 103:24 to be null and void.

NOTES TO DECISIONS

Analysis

1. Constitutionality
2. Applicability of procedure
3. Notice and hearing
4. Records of meeting of planning board
5. Submission of amendments to voters

1. Constitutionality

The submission of a zoning ordinance to the voters under the statute was not an unconstitutional exercise of legislative power by referendum, and the provisions for hearings before the planning board and the restriction of the voters to consideration of only those changes as were proposed was not a delegation of legislative power to the board, but a valid limitation upon the power of the town. *Cutter v. Durham*, 109 N.H. 33, 241 A.2d 216, 1968 N.H. LEXIS 109 (1968). (Decided under prior law.)

2. Applicability of procedure

Where RSA 675:3, VII and RSA 675:4, I pertained to ballots, not warrant articles, and the trial court conflated warrant articles and ballots, the trial court misapprehended the relevant statutes and the matter had to be remanded for further consideration. *Lower Bartlett Water Precinct v. Murnik*, 150 N.H. 690, 845 A.2d 1245, 2004 N.H. LEXIS 55 (N.H. 2004).

Whether or not a particular law was a zoning measure subject to the prerequisites for the enactment of such an ordinance under the statute or was an expression of some other phase of the police power, not so subject, was to be determined by the nature and purpose of the particular enactment. *Piper v. Meredith*, 110 N.H. 291, 266 A.2d 103, 1970 N.H. LEXIS 156 (1970). (Decided under prior law.)

An ordinance establishing a height and setback limitation for buildings in a portion of a town came within the police powers of

Rustic Crust 79E Overview

Tax Relief Calculation:

*use difference in valuation to calculate improvements:

Valuation on original structure (prior to fire) if assessed in 2015	\$241,900
Valuation on new improvements	<u>\$1,622,800</u>
Increase in Valuation	\$1,380,900
Tax Rate 2015	\$30.28
Property Tax on Improvements	\$41,813.65

Relief Granted

2015 Increase in Valuation \$1,380,900 x .70	\$966,630
	<u>x \$30.28/1,000</u>
	\$29,269.56
Less Previous Abatement	<u>\$3,463.00</u>
Remaining Abatement Needed for 2015	\$25,806.56

2016 Increase in Valuation \$1,380,900 x .50	\$690,450
	x \$15.14/1,000
Amount of 1 st Issue Abatement Needed For 2016	\$10,453.41