



**TOWN OF PITTSFIELD
PLANNING BOARD
TOWN HALL, 85 MAIN STREET
PITTSFIELD, NH 03263**

WORK SESSION MINUTES OF Thursday July 22, 2021

ITEM 1. - CALL TO ORDER

Call to order at 6:01 p.m. by Adam Gauthier, Chair of the Planning Board.

ITEM 2. – ROLL CALL

Adam Gauthier – Chair

Matt St. George – Vice Chair

Ray Ramsey

Randy Severance

Carl Anderson – Selectman Rep.

MEMBERS ABSENT

Jim Adams – Selectman Alt Rep.

Ed Trzcinski - Alternate

OTHERS PRESENT

Bonnie Theriault – Administrative Assistant

Matt Monahan - CNHRPC

ITEM 3. –PUBLIC INPUT

None.

**ITEM 4. – MEET WITH MEMBERS OF CENTRAL NH REGIONAL PLANNING COMMISSION FOR THE
PROCESS OF UPDATING LAND USE REGULATIONS AND APPLICATIONS**

Board members received a letter from CNHRPC with an initial overview of Pittsfield's subdivision and site plan regulations which are transcribed below;

DATE: JUNE 24, 2021

TO: PITTSFIELD PLANNING BOARD

FROM: STEVE HENNINGER & MATT MONAHAN, CNHRPC

RE: INITIAL REVIEW OF SUBDIVISION AND SITE PLAN REGULATIONS

These regulations can be described as opposites in intensity and complexity. It will be beneficial to combine these regulations into a single "Land Use Handbook" document.

The Subdivision Regulations are extensive, detailed, and legalistic, while the Site Plan Regulations are

brief, contain few standards and confuse regulations with guidance. Excessive detail and too much brevity can equally create challenges regarding clarity. In this case, both issues are present, and a combined document could help rectify this issue.

Subdivision Regulations

The Subdivision Regulations contain an extensive amount of state law citations and case law references. Most of the case law and statutory citations could be deleted without changing the regulations and making them easier to read and understand.

In Article 1. Section 2(b) and 3 can be deleted in their entirety.

Definitions should be in the back of the regulations since they are used only when clarification is needed.

There are sections in the regulations which may appear to be unnecessary, such as the entirety of Article 6. The Article may be needed at most once a decade but will save a lot a time, effort, money and frustration and which can take years to resolve if processes are not in place to address these issues.

There appears to be a lot of complete or partial duplication in Article 4.1, entitled Contents Required for Every Subdivision. This will take some time to work through.

Article 2 Interpretations. This Article is significantly confusing to the reader. It should be deleted and replaced with simpler language with better clarity.

Site Plan Regulations

The Site Plan Regulations are almost entirely lacking in design standards leaving most design features such as parking landscaping, drainage, site access, etc. to the purview of the Planning Board. In such a situation the Board then has to determine if the design features are designed properly or need to be slightly or significantly modified with little guidance to do so. Such a situation can create difficulty between the Board, the developer, abutters and the community in general. Specific standards are needed to provide direction for those preparing plans, for the Board members, and for the community. This would allow for more consistent implementation and would enable the Board to focus more on unusual or controversial aspects of an application and hopefully leave more time for long range planning and coordination.

The Regulations do not provide enough clarification as to how to determine if an application is a major or minor application. It cites examples in the regulations, but this should best be included in a Handbook and not in the regulations themselves.

Finally, a process for determining the applicability of site plan review for smaller projects should be incorporated. This would help provide some clarity about whether smaller projects need Site Plan approval or not.

Moving Forward

The objective for updating the regulations should focus on simplifying the Subdivision Regulations and providing more detail for the Site Plan Regulations. Combining the two Regulations into one "Land Use

Handbook” document can help accomplish this through shared standards and processes, as well as create greater efficiency.

Board members welcomed Matt Monahan (CNHRPC) back for the second Work Session and discussions. Matt Monahan presented Board members with a Power Point presentation explaining the three basic parts of the process in updating land use regulations and applications; The Planning Board roles and responsibilities, processing applications, and moving forward with updating regulations. Topics discussed during this presentation were as follows;

REGULATORY FRAMEWORK

RSAs

- State laws describing what towns may do; not a “home rule state”
- Can only do what laws expressly permit
- Innovative Land Use RSA (674:21) provides some flexibility for Towns (Conditional Use Permit – CUP one such element)

Zoning Ordinance

- Land use document as separate from “police powers”
(noise, speed limits, Illicit Discharge Detention Ordinance)
- Adopted at/changed at Town Meeting (674:18)
- Governs, in general, uses of land and dimensional requirements

Planning Board Regulations:

- Guides *how* development is to occur (zoning addresses *if* development will occur) – permission vs. process
- RSAs control (674:36, 674:44, 674:4)
- Changed by Planning Board with 10-day notice and public hearing – not Town Meeting (674:36, 674:44, 674:4)
- Site Plan, Subdivision, and Excavation Regulations (674:36, 674:44, 674:4,155-E:1)
- Planning Board has authority to waive contents based on good cause

OVERVIEW OF SITE PLAN REVIEW

- RSA 674:44
- New or expanded non-residential uses
- A change of use of a non-residential use
- Multi-family units of 3 or more units subject to site plan review
- Planning Board cannot require site plan approval for one or two family homes

OVERVIEW OF SUBDIVISION REVIEW

- RSA 674:36
- Dividing land into one or more parcels
- Adjusting lot lines between two or more parcels
- New lots and lots with newly adjusted lot lines must be in compliance with zoning

OVERVIEW OF EXCAVATION REVIEW

- RSA 155: E governs and contains “Express Standards” (i.e., during excavation) and “Reclamation Standards”
- 155: E permits are not transferrable to a new owner and may be good for up to five years
- The Planning Board is the “Regulator” for the Town of Pittsfield charged with implementing RSA 155: E
- Essentially, the review process is about considering stormwater management during construction and reclamation of the site afterwards

OVERVIEW OF CONDITIONAL USE PERMITS

- Derived from Innovative Land Use RSA: RSA 674:21
- Innovative Land Use RSA:
 - Spells out a list of things that can be done, “including but not limited to...”
 - Stipulates the requirements for Conditional Use Permits (CUP)
 - Allows Planning Board some authorities of the ZBA (Land use; dimensional requirements)
 - Planning Board’s Role & Authority, as well as the CUP application materials & Planning Board’s scope of review is specified in the ordinance; RSA 674:21 is also invoked in the ordinance
 - Follow Board’s Procedure on Plats

OTHER BOARDS & ACTORS INVOLVED IN PLANNING PROCESS

Zoning Board

- Quasi-judicial board
- Variances (relief from ordinance if all 5 criteria are met which are defined by RSA)
- Special Exceptions (a use that is permitted if certain criteria, as spelled out in the zoning ordinance, are met)
- Appeal of Administrative Decision (such as a denied building permit; can also be the first step in the variance process)
- Equitable Waiver of Dimensional Requirements (after the fact error, such as accidentally building in the setback)

Building Inspector

- Enforce Building Code
- Enforce Zoning Ordinance provisions of a nondiscretionary nature (yes/no – like setbacks, permitted uses, etc.)
- Issue Building Permits
- Conduct Inspections
- Issue administrative decisions for all the above

Board of Selectmen

- Acceptance
- Class VI Road Designation

- Bonds
- Oversee Building Inspector

Road Agent

- Issue Town Driveway Permits on a Town Road

Conservation Commission

- Review wetland crossings
- Review potential donations of conservation land

SUMMARY OF ROLES OF PLANNING BOARD AND OTHER ACTORS IN DEVELOPMENT PROCESS

Planning Board

- Site Plans, Subdivisions, Excavation, and Conditional Use Permits

Zoning Board

- Variances, Special Exceptions, Appeals of Administrative Decisions

Board of Selectman

- Accept Roads, Accept Bonds, Class V Road Designation

Building Inspector

- Issue Building Permits

Road Agent

- Driveway Permits, Road Inspections, Design feedback

Conservation Commission

- Wetland Crossings and Conservation Land

PLANNING BOARD'S PROCEDURE ON APPLICATIONS

Major elements for all applications include:

- Meeting notice/abutter notice
- Determining if an application is complete
- Acting on any waiver requests
- Determining if an application has regional impact (i.e., a "DRI")
- Opening and closing the public hearing; acting on an application
- Notices of Decision
- Conditions of Approval
- Meeting Minutes
- Legal obligation to work with applicant, abutters, and the public, while balancing public interest

The essential steps of all applications include:

- Receipt of application
- Determination of completeness (including waiver consideration)
- Regional Impact determination
- Public hearing
- Action on the application (including conditions of approval)
- Notice of Decision and meeting minutes (record subdivision mylars and site plan notice of decision)

Determination of completeness

- Applicant's application must be scheduled on the Board's agenda within 30 days of receipt of an application or the next regularly scheduled meeting the board can notice for determination of completeness
- What makes an application "complete," must be described in the regulations
- Waivers may need to be granted for completeness
- Completeness means "sufficient information is included for the board to make an informed decision."
- Must give the applicant a chance to provide the missing items; can continue the process to the next meeting to do so if agreed upon with the applicant
- If deemed incomplete, the Board must cite what from the regulations/checklist is missing; vote it "incomplete without prejudice."

Waivers:

- Waivers may be needed to determine if an application is complete
- Applicable items required by the Site Plan or Subdivision Regulations and/or checklist need to be provided by the applicant, or a waiver must be granted.
- A waiver is relief granted for an item required by the Site Plan or Subdivision Regulations and/or checklist.
- Waivers are granted when the item may be required by the regulations/checklist but might not be needed on the specific plan
- May be full or partial
- There is no "precedence" that if it is done for one project it has to be done for another
- Remember: will granting the waiver still allow for the Board to make an informed decision?

Developments of Regional Impact:

- RSA 36:56
- All Land Use Boards must make a determination on every application
- Determination means they just have to vote yes or no
- CNHRPC & RSA can provide some guidance on process and criteria:
 - *RSA definition has five or so thresholds
 - *CNHRPC has draft language about thresholds and process that can be adopted in regulations

Public Hearing and Decision on Applications

- Board initiates public hearing after application is deemed complete and regional impact status

determined

- Must act within 65 days unless an extension is agreed upon with the applicant
- Public hearings must be noticed in the paper and notices sent to abutters 10 days (excluding the day of the meeting and day of notice)
- A written Notice of Decision (NOD) must be issued within five business days
- If an application is denied, specific reasons must be given in the NOD

Sample action on an application

- Chair reads application as presented on agenda
- Chair calls for planner/staff to summarize application & main issues (or does so themselves)
- Chair reads, then calls for consideration of requested waivers; Planning Board deliberates and votes
- Chair calls for consideration of completeness; Planning Board deliberates and votes.
 - *Board must vote to accept the application as complete or deem it incomplete. If voted incomplete, a specific reason must be given (from checklist, regulations, or zoning) and it must be voted "incomplete without prejudice." Board can also continue the application to a specific future meeting if the applicant agrees.
- Chair calls for consideration of regional impact; Planning Board deliberates and votes
 - *If not voted a DRI, process continues. If voted a DRI, application is continued to the next meeting pending notice to CNHRPC & impacted communities.
- Chair opens public hearing
 - *Following formal recognition by the Chair, the Applicant or agent presents an overview of the application (background, existing use, proposed use, what is around the site, any waivers, any other relevant items or considerations).
 - *Abutters and Public comment. Board listens to the concerns of abutters and considers the merits of the application. Speakers should state name and address.
 - *Board can continue the public hearing to a certain date if applicant agrees.
- Chair closes public hearing; Planning Board deliberates and votes to approve or deny the application.
 - *Board votes to approve or deny the application as presented. Approval can be an approval or a conditional approval. If conditional approval, Chair indicates potential conditions of approval (or recognizes staff or someone else to list discussed conditions) prior to a motion being made by a member. If denied a specific reason or reasons must be specified in the motion.
- **Note about motions and votes: need a motion, then a second, then all members do a roll call vote. Motions referring to a list of items can be done by referring to the list as state by that person. For example: [Motion by board member] "Motion made to conditionally approve the subdivision as presented, subject to the conditions listed by the Chair." [Seconded by board member] "Second." [Chair calls for vote] "Motion made by Mr. Smith, Seconded by Ms. Jones. Roll call vote, all favor signify by saying aye." [each member votes] "Bill Smith, aye." "Sally Jones, aye." ...

Other Factors

- Can impose fees for expenses and special studies – paid for by the applicant
- May allow a pre-application review of a plan
- Preliminary conceptual consultations are permitted. This is nonbinding by both parties and must be a general discussion – no formal plans. No abutter notices
- Design review, also nonbinding, involves the submittal of a plan and requires abutter notice
- Board should not impair participation and/or notice
- Outside technical reviews or staff reviews are authorized
- Site visits are authorized
- Court reviews are limited to compliance with constitution and regulations
- Court may reverse decision only if error of law or an unreasonable decision
- Intent is fair and reasonable treatment of all parties – applicants, abutters and the public

REGULATORY FRAMEWORK SUMMARY

Summary of Planning Board Regulatory Framework:

- Planning Boards can only follow the specific processes outlined in the RSAs

Planning Boards act on the following types of applications:

- Site Plans (new or expanded multi-family three or more uses; commercial uses)
- Subdivisions – including lot line adjustments
- Excavations
- Conditional Use Permits

Planning Boards use the following regulations:

- Rules of Procedure
- Zoning Ordinance
- Site Plan Regulations
- Subdivision Regulations
- Excavation Regulations

COMMON ELEMENTS IN PLANNING BOARD REGULATIONS

Planning Board Regulations:

- Standards (stormwater, landscaping, roads)
- Definitions
- Application process (receipt of application, completeness, DRI, waivers, public notice, abutter notice, public hearing, Notice of Decision)
- Applicability
- Severability

THINGS TO CONSIDER & NEXT STEPS

Things to consider:

- Major and Minor thresholds, especially on the Site Plan side. This can allow the Board to request more information for major applications (especially studies) while allowing for

expedition of minor applications

-Technical Review Committee? This can either be an “advisory” group that reviews applications or a TRC that actually approves minor site plans (they can play an advisory role for other applications)

-Cell Towers

Next Steps:

-CNHRPC to develop document

-Goal: update the regulations in three to four meetings

The Work Session ended at 8:56 p.m. Board members thanked Matt Monahan for coming and said they looked forward to working with him again at the next Work Session.

ITEM 5. – MEMBERS’ CONCERNS

Bonnie Theriault said she had recently received a letter regarding building on a Class VI road. The letter is transcribed below;

From: Diane Rider <jfrider2005@yahoo.com>
Sent: Wednesday, July 21, 2021 4:21 PM
To: Bonnie Theriault <btheriault@pittsfieldnh.gov>
Subject: Class VI Road Waiver early in process

Hi Bonnie,

Below is my question to the planning board regarding Map & Lot 000RO1; 000011 Zone R

Dear Planning Board Members,

I have received the certification of zoning compliance back from Scott LaCroix with a go ahead to continue the process of subdividing our 36 acres into 3 lots on Range Rd. which is a Class VI Road. After the subdivision we plan to apply for building permits for the 2 new parcels. In reading through the approval process, I saw that the issue of the Class VI Road is addressed much later in the process. I am concerned that we will become financially invested in this project without assurance that the building permits will be issued. Is it possible to address that issue at the beginning of this process?

Twenty-one years ago, we approached the planning board for a building permit for our present home. That was before we purchased this property and the actual purchase was contingent on being able to obtain a building permit. At that time the planning board and/or the board of selectman issued a non-binding, letter of good faith saying that the town would provide a building permit. We then proceeded with the purchase.

Thank you for your help.

Best regards,

Diane Rider

After searching through regulations and a brief discussion, Board members decided to table the decision and requested for Bonnie Theriault to look into the criteria for building on Class VI roads further before a response could be offered for Mr. & Mrs. Rider.

ITEM 6. - ADJOURNMENT

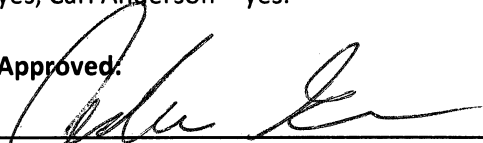
Ray Ramsey: I make a motion to adjourn at 9:15 p.m.

Carl Anderson: Second.

Discussion: None.

Motion carried 5-0-0. Adam Gauthier – yes, Matt St. George – yes, Ray Ramsey– yes, Randy Severance – yes, Carl Anderson – yes.

Approved:



Adam Gauthier, Chairman

10/14/2021
Date