

Annual Joint Land Use Boards Meeting

Meeting Date and Time: Thursday June 6, 2019 Sanbornton Public Library

The meeting was called to order at 7:00pm by Planning Board Chair Debra Schneckloth

Roll Call

Planning Board: Debra Schneckloth, Don Bormes, Andrew Sanborn, Will Ellis, Selectman John Olmstead

ZBA: Paul Dexter, Alternate Steve Cobb

Conservation Commission: Karen Bordeau

Historic District Commission: Franz Vail, Alternate Sam Swartz

Others: Planning Assistant Steven Laurin

A moment of silence was taken in honor of the 75th anniversary of D-Day.

A zoning ordinance was amended and approved, which was a rewrite of the solar array ordinance that distinguish residential from non-residential. The change in the solar ordinance for residential solar eliminated unnecessary and burdensome requirements. For residential solar, a CZC is required from the Enforcement Officer. Commercial requires a site plan review. Buffers and setbacks were also added for various sizes of solar arrays.

Deb explained that residents wanted solar and it was not an easy process. With the new solar ordinance, it is easier and the changes have mostly to do with commercial as opposed to residential. Conditional use permits are needed for large arrays. There is bonding and decommissioning for commercial solar. The rewrite is a great improvement from the original ordinance. The Planning Board put forth a lot of time to make these improvements. The ordinance was also reviewed by counsel.

Steven Laurin agreed that a lot of discussion and organizing was done to put the setback requirements in place and to make the improvements to the ordinance that were made to be more self-explanatory. Andy Sanborn added that at some point looking into adding agricultural solar to the ordinance would be important. The question of whether or not agricultural solar would currently fall under the category of commercial in the rewritten ordinance was asked. Depending on the size it may or may not, or perhaps community solar.

Don Bormes stated that it would fall under commercial solar per state description because it is being sold for a profit. He stated that he believes all land use boards must take property owners' rights into consideration in regards to solar installations, while understanding the visual impact to abutters. He suggested that the Conservation Commission and ZBA provide input on solar energy systems as well, but Paul Dexter cautioned involving ZBA for potential variances and challenges this process may take.

Don Bormes clarified that ZBA should give feedback on the ordinance since they have the authority to approve or disapprove variances. The ordinance could be written stating that it would be unnecessary to go before the ZBA because it would already be in the ordinance itself. Paul Dexter agreed but cautioned about forming opinions that would cause conflict.

Steven Laurin mentioned that the ZBA would only be appealing the interpretation of the ordinance. The ZBA needs to know what the intent and purpose is of the ordinance is so that it is clear what the intent is. The board could be reviewing an application and they are basing decisions on whether or not it violates the ordinance. If an applicant disagrees with the Board's, then they would take it up with the ZBA.

Don Bormes stated that the ZBA can grant what the Planning Board cannot. The Planning Board cannot grant anything that the ordinance does not allow one to do. The ZBA has that authority.

Karen Bordeau stated doing a natural resource inventory at some point to derive pros and cons. Deb stated that she would like to see more commercial property to put more solar projects in. Looking at the town maps and deciding where that would be. Commercial solar could not be restricted so it unfortunately ended up being in forestry. Prime farmland is limited and there is the ability to have a conditional use permit. Karen also mentioned that when we think of farm land we only think of a farm, however some of our best farmland soils are growing trees, so we need to think about that.

There was a brief discussion about exit 22 being commercial property at some point and now it is not. The only part of that area that there is a possibility would be where that park and ride is off of exit 22. Deb mentioned that without the interest of Sanbornton residents wanting more commercial zones, there is an issue of where these commercial areas would be. Paul Dexter agreed that there is minimal land use for this purpose. The town residents must come to a realization of what they want. Flexibility is needed if commercial is wanted. Encouraging people to build high end homes is an option.

Karen mentioned that each time the town is given a survey, perhaps the same people are completing the survey that strongly oppose commercial zones.

Paul Dexter mentioned that those people who would be building high end homes are unlikely to send their children to public schools, so there would not be a benefit in that aspect. Perhaps looking into cluster developments would be beneficial. More than half of our land is in current use (66 %), which is a revenue loss. Don Bormes stated that everyone who resides in the town has to subsidize that piece of land in order to meet the required amount of money that it takes to run the town and the residents/taxpayers have to make up that difference. A question was posed as to how this can be managed.

It was discussed that there is no infrastructure where "exit 21" would be. There was also some discussion about other areas in town of the infrastructure possibilities, which included exit 22 may having water access. There was also discussion about other areas which have since been purchased.

Andy Sanborn asked about other town ordinances on prime farm land under subdivisions and development. He asked that if solar has restrictions on prime farm land, are there other restrictions on building foundations on this land? The possibility of a farm reverting to a traditional farm, but when a foundation is built, there is no turning back. Karen Bordeau responded that the farm land soils are identified as a natural resource. Andy Sanborn replied that

the foundations for solar arrays are removable. Karen added that New Hampshire is the most forested state and our farm land is a unique classification of soils and is not found just anywhere.

John Olmstead mentioned that there is an increased number of timber cut. Over time Sanbornton has increased in forest area. Karen Bordeaux stated that when a Planning Board looks at a subdivision, they look at set asides for a subdivision which may not be well thought out. In terms of development, she would like to see a stronger review to see what is impacted, perhaps give up some part for conservation. It was mentioned that the purpose of the conservation district ordinance is to preserve natural things. At least 5 % of 10 acres is set aside for the purposes stated in the ordinance.

Karen stated that there is no connectivity for the set asides and there should be some thought put into that. Would an owner of a property give a part of the property for this purpose? Steven Laurin stated that the purpose of the land conservation areas standard to protect environmentally sensitive and ecological important areas including streams, wetlands, ponds and wildlife habitat, agricultural land and forest land. Once an application is in and the PB is accepted a communication is sent to all boards.

Will Ellis asked about thoughts regarding the 5% set aside and if it was worth continuing. Karen Bordeaux said the pros and cons should be reviewed. The best time to collect information would be during the winter months, as animal prints can be easily identified.

Debra mentioned that there will be a discussion with Planning Board on Accessory Dwelling Units (ADU's) and she stated she would like to address. Paul Dexter mentioned that a clarification needs to be made as to what makes it "attached" and "detached." If there is a roof, then it is considered attached. There has been discussion in the past about creating a separate ordinance for detached ADU's, and it was suggested that the definition be made clearer in regard to maintaining internal access of the dwelling. Detached Accessory dwellings can have their own septic, but do not have to. If there was an ordinance for detached, there would be clarification on requirements. By having a detached accessory dwelling, it could provide additional income and alleviate financial burdens on residents.

There are differences between rental units and accessory dwelling...there are different fire code standards. Rental units have more restrictions for fire codes. The definition of a tourist home is any place consistent with a room or group of rooms located in one premise for transient accommodations for sleeping for not more than six persons.

Debra said that the proposed driveway ordinance would be reviewed. The nuisance ordinance was going to combine lighting and noise under this ordinance. There will need to be some changes to the cell tower ordinance regarding minor modifications made to cell towers. It will require a permit but not the Planning Board. The ordinance currently states coming before the Planning Board for minor modifications.

Steven Laurin noted that the Board may also want to consider implementing a time limit on providing CZC permits after the ZBA has granted a use variance or special exception to an applicant, as currently there is no limit. The zoning ordinance could be amended to say that the

Variance/Special Exception expires after a certain period of time (1 year, 2 years, other) if the applicant or their descendent does not obtain a CZC permit for the proposed project. If they want to obtain a CZC permit after the Variance/Special Exception expires, the ordinance could be amended so that the applicant would need to get a new Variance/Special Exception from the ZBA.

Steven Laurin stated that variances are granted via the ZBA but there are minimal details in the documents. He stated that there needs to be more detail in the documents. The wording is not clear about what the variance is for. He stated that it is important to know what the variances granted are for and suggested that they are more descriptive in the future to minimize the various locations that this information is located.

The boards reviewed the meeting minutes of the 2017 and 2018 Joint Land Use Boards meetings. During the open forum, the draft conservation plan was looked at by the boards and there were no questions or comments. The Conservation Commission is developing a master plan which include a mission statement with goals and strategies and was given to members to read over. The Conservation Commission is requesting this be added to the master plan.

Franz Vail of the Historical Commission discussed a grant that was received from the state. There will be a re-survey from building to building and which contribute to the historical district, including character and age, which has not been done in about 40 years. Boundaries should be identified and put on the tax map. There is a plan to inform the community and to promote some awareness about this district. The Winnisquam Echo will be informed so that the community can be made aware. The Historic Commission requested that the Planning Board rewrite the Historic District section of the ordinance. There are some guidelines via the state statute but nothing is currently enforced due to the vagueness of the ordinance. Franz clarified that the Historic Commission does not enforce, but the Selectman do.

The question was asked whether these historical homes would be listed on a registry. The homes individually are not, but only as a district. The RSA's regarding the Historic District is 673:4 and 674:46. Paul Dexter asked what the difference is between historical district versus rural historical. The difference according to the article (9C) is that if it is not on a state road, it is in a rural historical district. Changing the ordinance will be discussed in the Planning Board.

Continuing in the open forum, Steven Laurin suggested that the Board look at the wetlands buffer requirement which is currently 75 feet and decide if they would like to change that. A clarification to the wetlands buffer description in the ordinance should also be considered.

Steven Laurin described a situation about a deck variance where it was described as a non-impervious surface, where a deck is clearly impervious. He suggested that it would be helpful to add more detail in the documents pertaining to what the board made the decision on and why. The variance was exceeded. Don Bormes stated that the primary function of the Zoning Board is to give an allowance to something that typically is not allowed. Steven Laurin suggested to add language in the documents when the Zoning Board makes a decision to include the reason why it was approved. In this particular case the applicant stated that the deck does not increase

impervious surface, which it clearly does. It was suggested that the Zoning Board acknowledge that it does increase impervious surface, however this is why a variance was granted.

Other business was not discussed due to the late hour: Level One Home Occupation – Planning Board Notification: Property Owners/Applicants: Kate and Kenneth Osgood of 38 Oak Hill Road, Tax Map 4, lot 46. Description: Farm store selling on-site pasture raised chicken, pork, and turkey products, eggs, in addition to incidental sales of maple syrup produced off-site. Sales are by appointment.

Meeting was adjourned at 9:30pm.

Respectfully Submitted,

Trish Katis, Secretary Pro Tem

Edited by Audry Barriault