

MINUTES
Public Hearing
Sanbornton Planning Board

Meeting Date and Time: Thursday, January 4, 2024 at 7:00 PM

Meeting Place: Old Town Hall, 19 Meeting House Hill Road

The meeting was called to order by Andy Sanborn at 7:03 PM

1. Roll Call

Regular Members present: Chair Andy Sanborn, Selectman Brandon Deacon, Will Ellis, Jody Slack

Regular Members absent: Kalena Graham

Alternate Members present: Thomas Lynch, Patti Bartlett

Planning Board Assistant, Stephen Laurin

2. Seating of Alternates for Absent Members

Andy Sanborn designated Patti Bartlett and as a voting member.

3. Approval of draft Planning Board minutes from December 7, 2023 – Jody Slack made a motion to approve the draft minutes of December 7 as submitted. Tom Lynch seconded the motion and the motion passed 5-0-0.

Will Ellis would like to note for the record that it was mistakenly stated in the November 16 meeting that ADU's require shared electrical service with the primary dwelling. Mr. Ellis said that only the driveway is required to be shared between the primary and accessory dwellings.

4. New Business

- a. Discussion of Kevin Leonards' comments on the Sanbornton 127 Solar Project (Megwood-Norwich Solar) Decommissioning Plan and costs.

Planning Board Chair Sanborn asked Board members if they want to establish an escalation factor to whatever bond amount the Board agrees to tonight, or leave it to the Selectmen to adjust the amount at periodic future reviews of adequacy.

Martha Staskus, P.E., representing Norwich Technologies, noted that the Decommissioning Plan makes reference to the New York State Energy Research and Development Authority (NYSERDA) with regard to labor costs adjusted for New Hampshire, and to increases in the Consumer Price Index and the Bureau of Labor Statistics. Their plan suggests review every 5 years, but she noted that they would be ok with shortening the review period.

Kevin Leonard expressed his concern that if the Planning Board does not establish an escalation factor upfront, the future periodic reviews may fail to happen. If the owners go out of business or simply refuse to decommission the facility, the Town will be stuck with an inadequate amount to do it.

The Board discussed the advantages and disadvantages of establishing an escalation factor tonight versus requiring periodic review by the Selectmen in the future. Future review has the advantage of actual historical inflation data, but requires that the Town not forget to do the reviews.

Will Ellis said some of the plans' cost estimates are much too low. For example, \$200.00 for seeding the site is inadequate. With regard to establishing an escalation factor or future review, Mr. Ellis agreed with Kevin Leonard that they could do both.

Ms. Staskus noted that the plan purports a 30-year life span of the project, and currently calls for a cost review in 15 years and then every 5 years after that. The plan proposes to establish a Letter of Credit.

In response to questions from Kevin Leonard, Martha Staskus said they will need to revise stormwater management structures and obtain Alteration of Terrain approvals for any changes they make during the life of the project, including tree removals and when they restore the site.

At the request of Chair Sanborn, Martha Staskus agreed to raise the amount for seeding to \$500.00.

After further discussion, the consensus of the Board was to not include an escalation factor and to instruct the BOS to review the surety amount after 15 years and adjust it based on the CPI. There would be BOS review every 5 years thereafter.

Kevin Leonard reiterated his belief that the \$56,000 surety amount is grossly low. He suggested that the Norwich Solar engineering firm would have had better estimates for the cost of earth work by using the NHDOT cost reports.

Brandon Deacon stated that the Planning Board needs to have a dollar amount for decommissioning, and the developer has proposed \$56,000. Whether or not that amount is adequate, it is the amount that has been presented. He acknowledged that the Planning Board should ensure that land within the Town is properly developed, but this is a private project on private land and the Town is ultimately not liable for the failures of the developer.

Brandon Deacon made a motion to accept the Decommissioning Plan. Andy Sanborn seconded the motion, and the motion passed 5-0-0.

b. Public Hearing on proposed Zoning Ordinance amendments.

Amendment #1

Article 3.50, definition of Structure

There were no comments from the public on Amendment #1.

Amendment #2

Article 10, Commercial Zoning District

Roger Matte, 265 Calef Hill Road, asked for more information about mixed-use and whether this proposal applies to existing mixed-use sites in Town. Andy Sanborn said that with passage of this change, anyone who wanted to have both residential dwellings and businesses on their property in the Commercial Zoning District would have to come to the Planning Board for Site Plan Review. Other Board members responded that this does not apply to existing mixed-use sites in Town. Some of those have been established without any Town approvals and are operating illegally.

In response to his question about low-income housing, Board members responded that this proposal does not change anything about types of housing options, adding that Workforce Housing, Section 8 housing, etc. are already allowed now. In response to a question from Jason Young, 32 Wild Acres Road, this

proposal simply allows a property owner have both residential dwellings and a business on the same piece of property in the Commercial Zoning District. Tom Lynch reiterated that that cannot be done now, and the intent is to give people more flexibility to use their property.

Andy Sanborn noted that this change does not affect the Residential District, Agricultural District, Forest Conservation District or Recreational District; only the Commercial District where apartments and multi-family housing is already allowed. He said that anyone who wants to change the use of their property, such as adding residences, would be required to go to the Planning Board for Site Plan Review, which includes abutter notices, general public notice, and compliance with Fire/Life Safety and all other Town regulations and Ordinances.

Brandon Deacon said, as an example, if someone is operating an approved Hotel and wanted to add or convert units to residential units, that would be a change of use and would require Site Plan Review.

Andy Sanborn added that the NH Legislature is talking about expanding housing opportunities in New Hampshire and may make Towns do something to provide more housing. We are trying to get ahead of that before the State requires us to do something that we may not want in Sanbornton.

In response to a question from Ken Ferrere, 897 Sanborn Road, Tom Lynch said that multi-family housing is already allowed in this district and that under this proposal if a property-owner wanted to put in multi-family housing, they would not be required to include a business. He added that there are no large commercial districts in Sanbornton and those areas generally do not have public sewer and water, so there has been no clamoring to develop multi-family housing in Town.

Amendment #3

Article 18, Zoning Board of Adjustment

Stephen Laurin explained that the proposal adds language about granting an Equitable Waiver of Dimensional Requirements. This is already an existing power by State Statute, and is simply being added to our Zoning Ordinance. One other change, also spelled out in State Statute, would have Variances and Special Exceptions granted by the Zoning Board prior to August 19, 2013 expire if they have never been acted on. If this proposal passes, the property-owner has 3 years to act on any unused Variance or Special Exception. The Town is required to post notice announcing this change at the Town Office building for one year.

There were no comments from the public on Amendment #3.

Amendment #4

Article 19, Amendments

Andy Sanborn said this change is made simply to comply with State Statutes, 675:3 and 675:4, regarding the process to amend the Zoning Ordinance.

There were no comments from the public on Amendment #4.

Amendment #5

Article 20, Enforcement

Stephen Laurin explained that this proposal clarifies the existing authority of the Selectmen and Selectmen's agent to enforce the Zoning Ordinance, and to clarify when a permit to construct a structure is required.

Peter Drouin asked if a 20'x10' structure that does not require a permit is taxed. Brandon Deacon said that the Assessing Department has standards that they would use to make that call.

Amendment #6

Article 21, Penalty

Stephen Laurin said this change is made simply to comply with State Statutes, RSA 676:15, Injunctive Relief, and New Hampshire 676:17, Fines and Penalties.

There were no comments from the public on Amendment #6.

The Planning Board agreed that there is no need hold a 2nd Public Hearing since there were no changes made to the proposed ordinance amendments.

Tom Lynch made a motion to move the 6 proposed amendments to the March 12, 2024 ballot for a vote. Andy Sanborn seconded the motion, and the motion passed 5-0-0.

5. Old Business

None

6. Other Business

Andy Sanborn announced that the Zoning Board is changing its procedure regarding variance applications. They are an appeals Board and rather than receiving requests from an applicant, they now require denial from a Town Board or Town Official.

Will Ellis questioned why the Town is charging for roof-mounted solar arrays. Stephen Laurin said a solar array is defined as a structure and requires a permit for an accessory structure. The Board briefly discussed the impact of solar arrays and the need to ensure zoning compliance. Mr. Laurin noted that the erection of a roof-mounted solar array on a grand fathered home that is located within the property setback would technically be a violation of the zoning ordinance. The courts have addressed situations where there is a technical zoning violation by coming up with a concept called 'natural expansion'. Mr. Laurin said he has issued a couple of Zoning Compliance permits for solar arrays on the roofs of legal, non-conforming structures by noting that locating the arrays within the setback is a natural expansion of the home.

7. Planners Update

None

Meeting adjourned at 8:46 pm. The next Planning Board meeting is scheduled for Thursday, January 18.

Respectfully Submitted,

Stephen Laurin