

Planning Board Meeting Minutes

September 12, 2023

6:30 PM

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Chairman Scott C. Burns called the meeting to order at 6:30 PM.

**Members Present:** Scott Burns – Chairman, Alan Theodhor, Tim O’Neil, Frank Lombardi, Shawn White – Selectmen’s Rep., and Joyce McGee – Secretary.

**Members Absent:** Steve LaRoza – Alternate

**Site Visit:** Scalley Enterprises – Clover Lane: The Board walked down to the Clover Lane development to see the layout of the 4 housing units. A lot of green area (open space), nothing has been submitted on septic designs or if they are connecting onto Town system. Each unit has the base structure built.

Board returned to continue rest of meeting agenda.

**Minutes:** A motion was made by Tim O’Neil to approved the September 5, 2023 minutes as written, seconded by Alan Theodhor. All in favor, motion carries. APPROVED

**Other Business:**

**Development Permit(s):** Gagnon, Noah & Laura – 119 Colby Road, Tax Map 232 Lot 012: To construct a 16’x24’x18’ Barn, all setbacks are met. A motion was made by Frank Lombardi to approve the construct of a barn as submitted with the condition of using Best Agricultural Practices, seconded by Alan Theodhor. No further discussion. All in favor, motion carries. APPROVED WITH CONDITIONS

**Corey, Tim & Bobbie – 42 View Street, Tax Map 103 Lot 031:** To construct a 24’x40’x20’ one story garage, all setbacks are met. A motion was made by Frank Lombard to approve the construct of a one story garage with the condition that no living quarters will be located within the garage, seconded by Shawn White. No further discussion. All in favor, motion carries. APPROVED WITH CONDITIONS

**Duguay, Arthur & Jane – West Side Road, Tax Map 243 Lot 012:** To install a temporary metal 12’x16’ carport/ storage shed, on a dirt floor. NHDES File #2023-01517 was approved to impact a 960 sq. ft. area in order to create an access road (see property file). A motion was made by Alan Theodhor to approve the temporary carport/storage shed as submitted with the stipulation that when removed owner would need to come back and file for a permanent structure, seconded by Frank Lombardi. No further discussion. All in favor, motion carries. APPROVED WITH CONDITIONS

**Gosselin, Brian – 309 Lancaster Road, Tax Map 218 Lot 003 & 004:** Secretary McGee spoke with Mr. Gosselin to get an update on his commercial garage and where it stands. Mr. Gosselin advised that he is still working with financing and hopes to have more information in a week or two. The Board will await to hear from him.

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**Correspondence:**

**-Eversource – Transmission Line Update:** Board would like to see the pole height map. Secretary McGee will reach out to Tom Tetreau of Stantec.

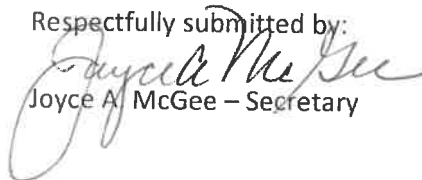
**-Changes to Planning & Zoning Laws in 2023:** Secretary McGee handed-out 2023 legislature session changes (see attached).

**Development Code: Additions or Changes for 2024** - Need clarity on one definition; Open Space – include any Commercial activity over 10 acres; Floodplain update; Conex boxes were some of the topics of discussion.

**Webinar: Controlling Short-Term Rentals: What Can Towns Do?** Board didn't have time to hear webinar. Secretary McGee will forward the session and also provide a hand-out of the presentation.

**A motion was made by Tim O'Neil to adjourn the meeting at 7:50 PM, seconded by Shawn White. All in favor, meeting adjourned.**

Respectfully submitted by:

  
Joyce A. McGee – Secretary

Scott C. Burns - Chairman



# Changes to Planning & Zoning Laws in 2023:

## *A Guide for Municipalities*



New Hampshire Department of  
**BUSINESS AND  
ECONOMIC AFFAIRS**

*A Joint Advisory of the New Hampshire Municipal Association and the New Hampshire Office of Planning and Development at the  
Department of Business and Economic Affairs*

*September 2023*

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During the 2023 session, the legislature enacted a number of pieces of legislation that affect local planning and zoning processes and regulations. This guide serves as a summary of the effect of those changes.

### Summary of Changes Pursuant to HB 42

**HB 42** requires that no homeowner's association in a municipality whose land use board approved the existence of the homeowner's association as a conditional of approval may take action to dissolve without first having a hearing before the approving land use board pursuant to RSA 676:2. RSA 676:2 pertains to joint meetings between municipal land use boards and gives discretion to each involved board as to whether to accept the invitation from the other to hold a joint meeting. As a homeowner's association is not a municipal land use board, newly created RSA 292:8-m would override the local land use board's authority to decline the invitation for a joint meeting.

Presumably, the local land use board's chair would chair the hearing and, as required by RSA 676:2, II, procedures for joint meetings or hearings relating to testimony, notice of hearings, and filing of decisions shall be consistent with the procedures established by RSA chapter 676 for individual boards. **This change goes into effect January 1, 2024.**

### Summary of Changes Pursuant to HB 252

**HB 252** alters 31:39, I(n) to read as follows: (n) Regulating noise, except that no "quiet hours" ordinance or bylaw that attempts to regulate noise from activities related to farms, agriculture, and farming as defined in RSA 21:34-a shall be enforceable within a town. This exception shall not apply to agritourism as defined in RSA 21:34-a, II(b)(5).

Existing RSA 674:32-c, II created a special process for land use boards to grant "waivers" of "noise" and other local regulations. RSA 674:32-c, II provided that if local regulations are "unreasonable in the context of an agricultural use or activity," including by effectively prohibiting the use or activity, the board must grant the waiver unless it "would have a demonstrated adverse effect on public

health or safety, or the value of adjacent property.” Now, no such waiver process is necessary for agricultural activity (except for agritourism).

Of note RSA 674:44, II(n) still allows planning boards to adopt site plan review regulations which regulate noise including from farms, agriculture, and farming. **This change goes into effect August 19, 2023.**

#### **Summary of Changes Pursuant to HB 296**

**HB 296** is a relatively short, two-sentence amendment to RSA 153:5, the fire code statute. It states, in part, that “the provisions of the state fire code and associated rules shall not supersede the authority of local land use boards under planning and zoning provisions of Title LXIV of the RSA to regulate and permit driveway access, when not governed by RSA 236:13, for detached one or two-family dwelling units in a structure used only for residential purposes, and provided that minimum driveway width shall not be less than 12 feet for driveways over 150 feet in length.” The intent of the legislature was to avoid situations where the planning board approved a plan, construction started, and then an issue arose with the fire code.

The new law continues, “Before issuing the approval, the local land use boards shall give due consideration to any written recommendations of the municipal fire chief regarding fire department access, to include width, vertical clearance, grade, suitability of road surface, bridges, dead-ends, and the ability to pass and turn around once in the driveway.” In communities that have a Technical Review Committee (TRC), the consideration of written recommendations of the municipal fire chief can be satisfied through the TRC process. In communities that don’t have a TRC, these written recommendations can be brought forward for due consideration during the public hearing (if required) and/or included in the staff report to a Planning Board about an application. **This change goes into effect October 3, 2023.**

#### **Summary of Changes Pursuant to SB 78**

**SB 78** makes a number of changes to RSA 674:36 relative to performance bonding. Previously, a planning board had the discretion to prescribe the type and amount of security, and specify a period for completion of the improvements and utilities to be expressed in the bond or other security, in order to secure to the municipality the actual construction and installation of such improvements and utilities. The changes made by **SB 78** include:

- A planning board may not limit the type of security to only one type of security. Instead, it must allow at least two of a letter of credit, cash, or passbook. No forfeiture or automatic call bonds are allowed to be required by the planning board.
- Cost escalation factors applied by the planning board are now allowed to be up to 15 percent per year, instead of 10 percent. However, no cost increases are allowed for engineering, administration, or other non-construction reasons.
- A planning board must allow road and utility construction to start without a bond, however, a bond for infrastructure, including roads and utilities, must be in place prior to sale of any parcel or an application for a building permit for structures. Previously, planning boards could require a bond to be in place prior to commencement of any construction. Planning