

Henniker Planning Board
Approved Minutes
July 23, 2008

Members Present: Jim McElroy; Kellie Dyjak; Scott Osgood; Ron Taylor, Selectman, ex-officio; Ed Miner, Alternate; Leon Parker, Alternate Selectman, ex-officio

Members Absent: Kristin Claire; Gary Guzouskas; Terry Stamps

Others Present: Laura Scott, Planning Consultant; Don Armstrong; Cordell Johnston
Jennifer Astholz, Recording Secretary

Jim McElroy, Chairman pro-tem, called the meeting to order at 7:09 pm. He stated that Mr. Miner will be a voting member tonight.

Public Forum – 2009 Town Meeting Zoning Ordinance Recommendations

Mr. McElroy stated that the public forum to discuss the 2009 Town Meeting Zoning Ordinance Amendments was advertised in various places around Town. He stated that the Board's approach has been to focus on maintenance and upkeep of the regulations. The Board wanted to create a chance for other Town agencies and the public to voice their input on planning issues.

Don Armstrong, resident, stated that SB342, which defines "affordable" and "workforce" housing has passed. He stated that the bill was generally created by developers and those in the construction industry. He stated that he has spoken with members of other Planning Boards throughout the State who are quite frustrated with the bill. Mr. Armstrong stated that the State definition of workforce housing states that the mortgage, taxes and insurance must not be greater than 40% of the area's median income. He stated that the "area" can be a problem, i.e. Nashua will be compared to Massachusetts' towns which follow different regulations. Also, he stated that a developer must only provide one unit within a development at this standard. Mr. Armstrong stated that there are discrepancies about when it expires.

There was discussion about a "town's fair share" and/or declaring a limit of workforce housing. Mr. Armstrong stated that he believes it would be better to declare a 10% threshold and limit it for 10 years. He mentioned HB1442 (which is related to RSA 49). He stated that if a person applies for a tax break and it is federally funded, then it applies for 10 years and must be re-applied for every 10 years.

The Board discussed the possible need to revise subdivision regulations to accommodate new requirements.

Cordell Johnston distributed copies of three bills that may require the Planning Board to amend the Zoning Ordinances: 1) workforce housing; 2) Growth Management Ordinance; 3) Small Wind Energy Systems.

1) Workforce Housing: Mr. Johnston stated that paragraph three of SB342 refers to RSA 674:58 and 674:59. He stated that the next paragraph is in the bill but needs to be updated in the State RSA's. Mr. Johnston stated that information from the Regional Planning Commission shows Henniker has more than its fair share of affordable housing; therefore, it may just be monitored on a yearly basis, rather than changing things with a Town vote.

Mr. Johnston stated that there will be several upcoming educational opportunities in the fall. He stated that he and Ben Frost from the NH Housing Finance Authority will be doing a series of law lectures in September and October 2008, and they will be speaking on the issue of workforce housing. Mr. Johnston will be doing a section on the updates to the Right to Know Law.

2) Growth Management Ordinance (GMO)—HB1260: Mr. Johnston stated that a town's GMO will probably be considered invalid after the passing of this bill. He stated that a GMO can no longer be adopted unless it proves that the town's infrastructure is not sufficient to accommodate projected growth. He stated that the bill incorporates existing judicial decisions that have struck down GMO's around the State.

Ms. Scott stated that GMO's were always designed to be temporary. She also stated that Henniker GMO does have a sunset provision and an annual analysis of supporting data is compiled and reviewed by the Planning Board.

Mr. McElroy stated that the GMO has been done to show that Henniker is taking its fair share of regional growth.

3) HB310 Small Wind Energy Systems: Mr. Johnston stated that this bill states that a town has to allow backyard wind towers which typically supply wind power to a single-family home. He stated that the height ordinance cannot apply to wind towers, and reasonable accommodations must be made for them. A new ordinance must be adopted to accommodate this. Mr. Johnston stated that a wind tower has to be at least 100' - 120' high to work. There is a provision in the RSA which calls for a setback requirement of 150% of the tower's height. He stated that OEP will issue a technical bulletin with a model ordinance to assist towns.

Don Armstrong stated that another bill was passed prohibiting the sale of outdoor wood-fire boilers, effective January 1, 2009, unless they meet specific criteria. He stated that the Board may want to review zoning ordinances concerning this, although DES regulates emissions. Mr. McElroy stated that fire safety aspects are handled by the Fire Chief. There was discussion about replacing existing systems.

Mr. Armstrong, referring back to workforce housing, stated that DES requests that the well and septic systems be wholly contained on each lot.

Leon Parker, Alternate Selectman ex-officio, stated that he will be attending a DES seminar on August 11, 2008 and will report to the Board any applicable information about the Shoreline Protection Act.

Mr. McElroy closed the public forum at 7:45 pm.

2009 Town Meeting Draft Warrant Articles – Zoning Ordinance Amendments

Zoning Board of Adjustment: Ms. Scott stated that the ZBA members would like this to go forward this year. Ron Taylor stated that he is willing for the Planning Board to hold the necessary hearing for it as long as a representative of the ZBA is there to present the changes. There was discussion about the need to change the zoning ordinance versus including the information in the ZBA's "Rules of Procedures." Leon Parker stated that the Supreme Court has changed much of the information, and making these changes to the Zoning Ordinance would align the Ordinance with court decisions. Ms. Scott said that she would have the ZBA review the draft document and also talk to legal counsel to make sure that there have been no court rulings that would change the proposed language prior to the Planning Board holding a hearing.

Excavation: The Board discussed whether this information is necessary in the zoning ordinance as it reiterates the RSA. Ms. Scott stated that she based the proposed changes on what other communities have in their zoning regulations. She stated that this helps people to find the excavation regulations. Kellie Dyjak stated that the public expects to find the Town's rules and regulations in Site Plan, Subdivision Regulations and Zoning. She stated that it would be much easier for people to find relevant information about excavations with this proposed language in the Zoning Ordinance.

Structures: Mr. Taylor stated that he will put this on the ballot by petition and the Planning Board does not need to propose this.

Administration: The Board discussed the necessity of changing Article XIII as proposed or whether the section could be eliminated all together. Ms. Scott stated that she suggested these changes to give the Board of Selectmen more flexibility in authorizing Boards/individuals to assist them with their duties. . The Board requested that Ms. Scott send a memo to the Board of Selectmen, with the proposed zoning changes, asking for their input on the matter.

Institutional: The Board suggested that this item be listed first on the ballot since it is eliminating this from the Zoning Ordinance.

Manufactured Housing: Mr. Taylor suggested only putting forth the suggested changes to Article II and Article IV at this time and not worrying about the proposed changes to the Manufactured Housing Park regulations.

Educational District: Mr. Osgood stated that NEC should be given a chance to give their input as this involves a lot of their property. Ms. Scott stated that the definitions proposed are listed as allowed uses under the Educational District, but there are no

definitions for them. Mr. Taylor stated that the list is too long, so the most important ones should be considered first. The Board compiled the following list to include this year: Fraternity/Sorority; Fraternity/Sorority House; Health Care Facility; House of Worship; Dormitory; Article VIII (Allowed Uses); Section 133-33E: Accessory Uses (to include the definition change.)

7/9/08 Meeting Minutes – Review and Approve

The minutes were provided to the Planning Consultant by the Recording Secretary. Ms. Scott suggested changes and tracked the changes on the document for review by the Board.

There was discussion about the conditions of approval listed for Case 2008-004. Ron Taylor **MOVED** to accept the truncated version of the conditions of approval. Ed Miner **SECONDED** the motion. Scott Osgood supported keeping the original version of the conditions of approval. The Board voted **3 in favor** (Ms. Dyjak, Mr. Taylor, Mr. Miner) of the motion; **2 against** (Mr. Osgood, Mr. McElroy). Motion **PASSED** to include the truncated version in the minutes.

Ms. Dyjak **MOVED** to approve the minutes as edited and amended. Mr. Taylor **SECONDED** the motion. The motion **PASSED, 4-1** (Mr. Osgood dissenting.)

UNH Cooperative Extension Community Profile Program

Ms. Scott stated that the application for this grant is due on August 15, 2008. She called the Merrimack County office and was told that Henniker is the only town who has contacted them thus far. The Board reviewed the application and completed information. Ms. Scott will make the requested revisions and will solicit support from the other Town boards and committees so that the application may be submitted in a timely manner.

Miscellaneous

1. Memo dated 6/30/08 to BOS re: PB fees update was reviewed.
2. Summary of Right to Know law was distributed to the Board.
3. Shoreland Protection Act Factsheet was distributed to the Board. Mr. Parker will be attending a workshop in August and will report information to the PB
4. Ms. Scott stated that she will email communication about coordinating a site walk date for an applicant.
5. Ms. Scott stated that she plans to work 3 days per week, instead of two, to try to catch-up on the proactive items that the Board of Selectmen and Planning Board would like to work on.

Mr. Taylor **MOVED** to adjourn at 9:40 pm. Ms. Dyjak **SECONDED** the motion. Motion **PASSED, 5-0**.

Respectfully submitted,

Jennifer Astholz
Recording Secretary