

**TOWN OF HENNIKER  
PLANNING BOARD**

*Draft Minutes*  
**November 24, 2008**

**Attendance**

**Members Present:** Kristin Claire, Chairwoman; Gary Guzouskas, Vice-Chairman; Terry Stamps; Jim McElroy; Scott Osgood; Ron Taylor, Selectman, ex-officio; Ed Miner, Alternate; Leon Parker, Alternate Selectman, ex-officio

**Others Present:** Laura Scott, Planning Consultant; Jennifer Astholz, Recording Clerk; Dr. Roger Belson; John Kjellman

Chairwoman Claire called the meeting to order at 7:00 pm. Alternate Ed Miner will vote in the absence of Kellie Dyjak.

**2009 Town Meeting Warrant Article Public Hearings**

1. Institutional. Delete references to “Institutional” uses in Article II Definitions, Article V Village Proper (RV) District, Article VI Residential Neighborhood (RN) District, Article VII Rural Residential (RR) District, and Article VIII Commercial District Regulations, sections §133-29, §133-30, and §133-31, and §133-32.

Jim McElroy read the notice of the warrant article. Upon review of the definition, the Board found it to be out of date and no longer applicable to current zoning regulations as the mentioned uses are covered elsewhere. The Board proposes to remove the definition to simplify the zoning ordinance documents.

Chairwoman Claire opened the public hearing at 7:04 pm.

Dr. Belson asked where a medical facility would now be allowed. Ms. Scott, Planning Consultant, stated that the Board proposed this for the 2008 Town Meeting. She stated that doctor’s offices, etc. would be allowed under Commercial Professional Offices. Ms. Scott stated that “houses of worship” was already listed in other places in zoning regulations.

John Kjellman stated that New England College is an institution, and he questioned how they would be impacted. It was stated that they fall under the Educational District, and zoning regulations would depend on what they were proposing.

Dr. Belson asked how a nursing home facility would be proposed without an institutional definition. He asked if the Board members know why the term “institutional” was originally designated in the zoning regulations.

Ron Taylor stated that all other types of institutions have been defined elsewhere. Chairwoman Claire closed the public hearing at 7:10 pm.

Leon Parker asked under what definition a nursing home would be covered. There was discussion about professional services. Mr. Parker stated that would not adequately cover the residential housing component of nursing homes.

Dr. Belson asked if there is any harm in keeping the definition in the regulations. Chairwoman Claire said that she has struggled with clearly defining the term. She stated that an applicant would have to go before the ZBA anyway for a special exception. She stated that a nursing home may be allowed in the Educational District where a health-care facility would probably be allowed. Ms. Claire also stated that she would rather tackle the issue of creating a provision for nursing homes in the zoning regulations rather than having the ZBA rule on it without anything to clearly base their decision.

Mr. Parker stated that there are various types and levels of care of nursing homes that would have to be addressed.

Scott Osgood stated that removing the term “institutional” is more of a housekeeping issue. Ms. Scott stated that no other towns that she is familiar with have provisions for “institutional” uses.

Chairwoman Claire stated that removing the institutional definition is not in any way an attempt to keep businesses from coming to Town. She stated that removing the ambiguous definition is a step in the process so that other types of planning can be done in town (i.e. Planned Urban Developments).

Dr. Belson asked if there is any allowance for summer camps. Ms. Scott stated that it could fall in the Commercial Recreational district. Ms. Claire stated that some zoning ordinances, such as not allowing for more than one building per lot, create strict standards that do not make sense for some uses.

Mr. McElroy **MOVED** to advance the warrant article concerning the use of the term “institutional” to the ballot. Terry Stamps **SECONDED** the motion. Motion **PASSED, 7-0.**

2. Article XIII Administration. Amend §133-51 to allow the Board of Selectmen to choose a designee to act on their behalf; amend §133-52 to allow the Board of Selectmen to choose a designee to act on their behalf, to adopt fees, and to delete language about zoning enforcement; and delete §133-53 Issuance of Permit.

Scott Osgood read the proposed changes and the public hearing notice. He stated that the proposed change would allow the Board of Selectmen to appoint a designee on their behalf. The Board of Selectmen submitted a letter stating that they support the proposed changes.

Chairwoman Claire opened the public hearing at 7:25 pm.  
(Eleanor Kjellman arrived in the audience.)

Dr. Belson stated that he cannot imagine that citizens would want one designee to enforce the entire chapter of zoning regulations.

Chairwoman Claire stated that an appointed designee would really enforce the provisions of the chapter; the designated person would not have any other authority.

Mr. Parker stated that the Board of Selectmen is ultimately responsible, but this action allows them to appoint a designee to act on their behalf.

Ms. Scott stated that the proposed changes reflect what the Town is currently doing. She stated that the Town has a Code Enforcement Officer appointed by the Board of Selectmen. The Board of Selectmen does not go out to measure setbacks, etc. The Board does not abdicate its responsibility but allows them to appoint a designee if they so choose.

Eleanor Kjellman said that reading the proposed language sounds like the designee would have the power to adopt fees, etc, which gives that person a lot of power. Ms. Scott stated that the proposed language is clear, but the hearing notice is not clear on this point. The Board clarified that an appointed designee may only act on enforcement issues delegated by the Board of Selectmen.

Dr. Belson stated that it is somewhat confusing, and it would be better for the Board to make the intent perfectly clear to the voters. Ms. Stamps suggested that the following language be added: "The enforcement of Chapter 133 of the Henniker zoning ordinance is the duty of the Board of Selectmen or their designee."

Chairwoman Claire stated that there is the opportunity to file an appeal of administrative decision if necessary. Mr. Parker stated that the first level of appeal is to go to the Board of Selectmen if there is a problem with what was done by the Code Enforcement Officer.

Ms. Kjellman stated that process could be costly to a person.

Mr. Parker stated that the process has been that a complaint comes to the attention of the Board of Selectmen. The Board sends someone out to check out the complaint. That person is responsible for reporting back to the Board of Selectmen for further input, if necessary. Mr. Parker stated that there is a positive need for this change as it can help to handle issues more quickly.

Mr. Taylor stated that he does not see any change in the practical application. This warrant article changes the language to make it clear how the process works.

Chairwoman Claire closed the public hearing at 8:49 pm. The Board made suggested changes in the wording of the article. Ron Taylor **MOVED** that a second hearing on this warrant article be held in December 2008 to reflect the changes. Gary Guzouskas **SECONDED** the motion. Motion **PASSED, 7-0.**

3. Junkyards. Amend "Junkyard" in Article II Definitions to reference NH RSA 236:112(I) as the definition; and amend §133-12 to add the NH RSA requirements for fencing (RSA

236:123), setbacks from state highways (RSA 236:118), and the operation or maintenance requirements (RSA 236:114).

Gary Guzouskas read the public hearing notice aloud. He stated that the proposed changes refer to New Hampshire state laws. He stated that adopting this warrant article would not add any new restrictions nor change any existing laws. The Board is proposing to strike out text and replace it with the State RSA's, making them standard with what is in the State Statute.

Chairwoman Claire opened the public hearing at 8:04 pm.

Ms. Scott explained that if a lawful junkyard existed at the time of zoning changes, the junkyard is grandfathered. With junkyards, the RSA's have to be met and this is just making it easier to know what is expected. She stated that even if the Planning Board does not propose this warrant article, or if it fails at Town Meeting, junkyards must still comply with State law. The Board of Selectmen is charged to license each junkyard in town.

Ms. Kjellman asked why there are problems if State law already exists. Mr. Taylor stated that there are no legal junkyards in Town at this time.

Ms. Claire closed the public hearing at 8:13 pm.

Terry Stamps asked about the history of the original language that is being deleted. Ms. Scott thought that it looked like former RSA language.

Mr. McElroy **MOVED** to advance this warrant article to the ballot. Mr. Guzouskas **SECONDED** the motion. Motion **PASSED, 7-0.**

4. Small Wind Energy Systems. Add a definition for "Small Wind Energy Systems" to Article II Definitions; and add a section §133-20.1 "Small Wind Energy Systems" that allows small wind energy systems in all zoning districts, requires setbacks from property boundaries per NH RSA 674:63 III, requires abutter notification of pending building permits for small wind energy systems per NH RSA 674:62, and regulates abandoned small wind energy systems per NH RSA 674:65.

Terry Stamps read the public hearing notice aloud. She explained that this ordinance is proposed because in July 2008 HB 310, which encourages renewable energy systems, passed. She stated that the final model ordinance is now available and includes more detailed information. She recommended that the Board again review the model ordinance or propose it in its entirety. She stated that the model ordinance has valuable details that may be worthwhile.

Leon Parker stated that he thought it is was the Board's consensus that the Planning Board was going to suggest that the Board of Selectmen propose a separate ordinance as a Town ordinance. Ms. Scott stated that she sent that to the Board of Selectmen to consider. She stated that if the Planning Board does not put this forward, the Board of Selectmen can make the decision as to what to put forward for a Town ordinance. She stated that monitoring small wind energy systems is not the function of the Planning Board.

Ed Miner asked if they have to state that residents are allowed to erect these systems in all zoning districts. He stated that the Board should just try to put information into the zoning regulations to show the requirements to the public. Ms. Scott stated that Town Ordinances are readily available for the public to review.

Ms. Claire stated that if these systems are not enforced by the Planning Board, it should not be advanced in the process by the Board.

Eleanor Kjellman stated that she is concerned that people will take the opportunity to use alternate energy systems; however, without regulations, one can create problems for others.

Mr. McElroy stated that the Board cannot prohibit the small wind energy systems everywhere, but they do not have to allow them everywhere. He stated that the systems require 150% fall setback area. Ms. Stamps suggested that the Board of Selectmen work on allowances and then determine where they would be allowed.

Mr. Parker stated that these systems currently cost approximately \$60,000 and will be large units. Mr. Taylor stated that someone told him that there is about a 35-year payback time on the investment.

Ms. Claire stated that some inherent characteristics make these systems self-regulating. She closed the public hearing at 8:27 pm.

Mr. Guzouskas **MOVED** to *not* forward this to the ballot. Mr. McElroy **SECONDED** the motion. Motion **PASSED, 5** (Mr. Taylor, Mr. Guzouskas, Ms. Stamps, Mr. McElroy & Mr. Osgood) – **2** (Ms. Claire, Mr. Miner).

Ms. Scott stated that this zoning amendment was designed only to assist the public with information and does not change any of the requirements.

Ms. Claire stated that she is concerned that if this amendment passes and the Board of Selectmen add more specific requirements, there may need to be future changes to the zoning ordinance.

Mr. McElroy stated that zoning ordinances and Town ordinances should be put forward at the same time to avoid confusion.

5. Article XI Signs. Amend §133-43, §133-44A, §133-44C, §133-44I, §133-4 K, §133-44L, and §133-47A to clarify the purpose and intent of the Sections; amend §133-44 E to clarify that signs may be externally illuminated; amend §133-44F to remove reference to “pinwheels and decorative tinsel”; amend §133-44G to clarify how signs need to be maintained; delete current language in §133-44H and insert language exempting government-sponsored signage from these regulations; remove the provision from §133-44J granting the Board of Selectmen the ability to grant a waiver for sign height; add §133-44M describing the design and look for sign framework; delete §133-45A and replace it with language defining and regulating “Attached Business Sign”; delete §133-

45B; renumber §133-45C to §133-45B and clarify the number of “Freestanding Business Signs” allowed; renumber §133-45D to §133-45C and clarify the purpose and intent of the section; renumber §133-45E to §133-45D and clarify the regulations regarding advertising flags and banners; amend §133-46 table to delete “Multiple Business Listing”, rename “Principle Business” to “Attached Business”, and add sign size dimensions for CR1 District; add language to §133-46 describing how to measure “Attached Business Signs” and “Freestanding Business Signs”; and amend §133-47B to increase the size of temporary “For Sale” and construction signs.

Chairwoman Claire opened the public hearing at 8:40 pm.

John Kjellman asked if there is a problem in Town that this is trying to fix.

Ms. Scott stated that the Board has looked at this in the past as the section regarding signs has always been confusing. She stated that there are administrative difficulties with how to determine how many signs are allowed, the sizes of the signs and how to measure signs. She stated that the section about signs was not added to the newly created CR-1 district. The Board spent four or five meetings making changes to make the document easier to read. Ms. Scott stated that from a personal standpoint as the Town Planning Consultant, the sign ordinance was difficult to read. She stated that changes made do not impose further restrictions; in fact, some regulations have been loosened. Ms. Scott stated that they do not regulate political signs. She stated that wording can be added under Section 133-45(D) stating that the Town does not regulate political signs.

Dr. Belson stated that he thought there were a lot of problems with the wording in this ordinance. He suggested that it be completely rewritten to more clearly capture the Board’s intent. He stated that it is not clear if this ordinance is aimed at only business signs or all signs used in Town. He stated that definitions of terms is needed and a list of exceptions should be made.

Mr. Kjellman suggested some grammatical changes to the purpose statement. He also expressed that this appears to be somewhat overregulating.

The Board decided to review the article section by section.

Chairwoman Claire read the definition of “sign” from the zoning ordinance. She stated that Section 133-44A is a general opening statement. Dr. Belson questioned whether the ordinance regulated signs posted in storefront windows. Ms. Kjellman asked if the ordinance was designed to regulate signage outside of buildings or whether its purpose was to monitor what is posted inside a home or business as well. She stated that the wording currently tells people what they are allowed to hang in their windows.

Mr. Kjellman stated that a statement should be added to the beginning of the document excepting residential uses. Ms. Scott stated that a statement can be added that this applies to non-residential uses. Mr. Parker stated that the ordinance can make a provision for identification of residential properties. He also stated that the ordinance is designed to maintain the character of

the Town. Mr. Guzouskas suggested wording changes to suggest more positive connotation of the statements. *“All signs, flags or advertising devices that are placed on any premises or are visible from the outside of any structure in the Town of Henniker shall meet specification in this article.”*

Ms. Scott is making the suggested changes to the document and will have the changes available at the next meeting.

Mr. Taylor stated that the Planning Board has no authority to regulate signs on State Roads in Town.

No changes were suggested to Section B. It is noted that Section C only applies to businesses. No changes were suggested to Section D.

Regarding Section E (Illumination), Dr. Belson asked if the intent was to restrict compact fluorescent bulbs for external lighting. Mr. Kjellman stated that small, internally lit signs can be attractive, and there can be glare from spotlighted signs. Ms. Claire suggested changing the wording to: *“No internally lighted signs, including neon, tubular glass or fluorescent, shall be permitted in any districts.”*

Mr. Miner stated that it is obvious that there are substantial concerns about this ordinance, and it will take more time to work on it. He suggested scheduling another time to work on the wording of the ordinance.

Mr. Parker stated that there are things happening that are obviously against the character of the Town now. Ms. Claire agreed that there are issues that need to be addressed quickly. It was the consensus of the Board to continue to review the document and hear the public’s input at this time.

Section F was grammatically corrected.

Section G: It was suggested that the word *erected* be changed to *placed* throughout the ordinance.

No changes were suggested to Section H.

There was discussion about signs near sidewalks in Section I. A request was made by the Board of Selectmen about putting signs by sidewalks above the level of the snowplow. The word *freestanding* was inserted (*“No freestanding sign shall be placed closer than 20 feet from side or rear property lines.”*) Mr. Parker stated that he has heard concerns about the setback as some buildings are right up to the property line, especially in the center of Town. He stated that the required setback may be changed.

No changes were made to Section J.

Section K: Mr. Parker suggested deleting the sentence *“Any changes thereafter to such sign shall be made in conformance with this chapter.”*

Section 133-45 Sign types was also reviewed.

The word *location* was added to the first sentence of Section A.

In Section B, the word *advertising* was changed to *business*.

No changes were suggested to Section C.

The intent of Section D was discussed. Mr. Kjellman asked if a business could have a sale one time per month for 10 days. This could be changed to allow 120 days and let the business decide when it is best to use it. Ms. Scott stated that this was done to track permitting. Mr. Kjellman stated that if it is so bad that the Town doesn't want it, why allow 120 days. If it's not that bad, why worry about regulating it?

It was noted that the Board of Selectmen issue permits for signage on Town property i.e., Proctor Square. There was discussion about the permitting process. The Board of Selectmen grants permits and designate fees. Mr. Taylor stated that the Board of Selectmen's intent is not to charge for a permit for flags or "open" signs. Permitting regulations are in the Town Ordinance. Ms. Claire stated that the Planning Board is responsible for designating the types of signs and flags that are allowed, and the Board of Selectmen grant permits and collect fees.

Members of the public suggested other exceptions to the sign ordinance. These suggestions include warning signs, electrical fence signs, no trespassing signs, political signs, holiday decorations, yard sale signs, residential homestead property signs. Ms. Scott stated that she never thought these were to be regulated signs.

Ms. Kjellman stated that it should be clearly stated that people are allowed to have political signs on their own property.

The public hearing was closed at 9:55 pm.

Mr. McElroy **MOVED** to carry discussion forward to the December 22, 2008 meeting. Ms. Stamps **SECONDED** the motion. Motion **PASSED, 7-0.**

### **November 12<sup>th</sup> Meeting Minutes – Review and Approve**

Minutes of the 11/12/08 meeting were reviewed and corrected. Ms. Stamps **MOVED** to accept the minutes as amended. Mr. McElroy **SECONDED** the motion. Motion **PASSED UNANIMOUSLY.**

### **Board Member Binder**

- ❖ 2009 Meeting Schedule (Tab #2)
- ❖ 10/28/08 Budget Update (Tab #3)

The Board updated their member binders with applicable information.

**Adjournment**

Mr. Guzouskas **MOVED** to adjourn at 10:11 pm; Ms. Stamps **SECONDED** the motion. Motion **PASSED UNANIMOUSLY.**

Respectfully submitted,

Jennifer Astholz  
Recording Clerk