

APPROVED

**PLANNING BOARD
PLANNING BOARD MEETING
PUBLIC HEARING ON PROPOSED ZONING AMENDMENTS**

**Wednesday, January 5, 2022 – 6:00 PM
Lincoln Town Hall, 148 Main Street, Lincoln NH**

Due to the current evolving status of COVID-19, this meeting will be a *hybrid* meeting to be presented both in person with social distancing encouraged (space limited to 8-12) and via ZOOM Video Conferencing to allow for town wide participation. A quorum of the members of the board will have to be physically present at the meeting. All others are encouraged to attend via ZOOM.

Join Meeting via Zoom:

<https://us02web.zoom.us/j/89550893657?pwd=VytvRThLR2JBNTFpWbEE2SFY3a1pUZz09>

Meeting ID: 895 5089 3657

Passcode: 905215

Or dial by your location 1-929-205-6099 US (New York)

(See also town website www.lincolnnh.org for the same link, meeting ID and passcode.)

I. CALL TO ORDER by the Chairman of Planning Board

Members Present: Chairman James Spanos, Vice Chairman Joe Chenard, Selectmen's Representative O.J. Robinson, Member Stephen Noseworthy, Member Paul Beaudin, Alternate Mark Ehrman (via Zoom)

Staff Present: Fire Chief and Code Enforcement Office/Health Officer/Zoom Host and Moderator Ronald Beard, Planner Carole Bont, Planning Board Recorder Judy Sherrieff (via Zoom)

Guests:

- **Taylor C. Beaudin**, nonresident, Route 175 Woodstock, NH 03262, contractor who works for Lincoln Trucking and Excavating LLC, 177 Connector Road, Lincoln, NH 03785
- **Susanne (Susan) A. Chenard**, (resident) 11 Liberty Road, Lincoln NH 03251 (Map 107, Lot 061) and Realtor for Loon Reservation Service, 264 Main Street, Suite 12, PO Box 785, Lincoln, NH 03251-0785, and owner of 19 Maple Street (Map 118, Lot 069). Alternate member of the Zoning Board of Adjustment (via ZOOM).

II. CONSIDERATION of meeting minutes from:

- **January 5, 2022**
 - Chair James Spanos, Vice Chairman Joe Chenard Selectmen's Representative O.J. Robinson, Member Stephen Noseworthy, Member Paul Beaudin, Alternate Mark Ehrman

**Motion to approve as presented by Selectmen's Representative O.J. Robinson
Second by Vice Chairman Chenard
All in favor**

III. CONTINUING AND OTHER BUSINESS (Staff and Planning Board Member/Alternates).

- A. Planning Board will hold public hearings in the Large Conference Room* at Lincoln Town Office, 148 Main St., Lincoln, NH. **1st Public Hearing: Wed., January 5, 2022 at 6:00 PM** & a **2nd Public Hearing, if required: Wed., January 26, 2022**, on the following proposed zoning amendments:

Proposed Amendments to Land Use Plan Ordinance (LUPO):

- A. LUPO, Article III APPLICABILITY AND NON-CONFORMING USES
Section C. NON-CONFORMING USES. Change the Board having jurisdiction to determine whether or not to permit an expansion of a nonconforming use from Board of Selectmen to Zoning Board of Adjustment.

**Motion to open public comment by Selectmen's Representative O.J. Robinson
Second by Member Beaudin
All in favor**

**Motion to close public comment by Selectmen's Representative O.J. Robinson
Second by Member Beaudin
All in favor**

**Motion to approve as presented by Member Beaudin
Second by Selectmen's Representative O.J. Robinson
All in favor**

- B. LUPO, Article IV DEFINITIONS. Add the following definitions to the Land Use Ordinance: **Campground, Camping Park, Manufactured Housing and Manufactured Housing Parks.**

Proposed Amendments to Land Use Plan Ordinance (LUPO):

- A. LUPO, Article III APPLICABILITY AND NON-CONFORMING USES
Section C. NON-CONFORMING USES. A non-conforming use may be continued subject to the requirements set forth in this Section.
3. A non-conforming use may not be expanded, except upon a finding by ~~the Board of Selectmen or their designee~~ the Zoning Board of Adjustment that (a) the expansion reflects the nature and purpose of the existing non-conforming use so as not to constitute a different use and (b) the expansion will not have a different or detrimental impact on the neighborhood in which the use is located.
- B. LUPO, Article IV DEFINITIONS. Add the following definitions to the Land Use Ordinance:

- P9. **Campground** – Shall have the same meaning as set forth in RSA 216-I (Recreational Campgrounds and Camping Parks).
10. **Camping Park** – Shall have the same meaning as set forth in RSA 216-1 (Recreational Campgrounds and Camping Parks).
11. **Manufactured Housing** – Shall have the same meaning as set forth in RSA 674:31 (regulation of Manufactured Housing Parks).
27. **Manufactured Housing Park** – Shall have the same meaning as set forth in RSA 205-A (Regulation of Manufactured Housing Parks). Manufactured Housing Park shall be considered a “Business Use”.

Discussion

Should the RSA be noted by number or should the full definition and the RSA number be quoted in the LUPO? The Planning Board discusses the pros and cons of adding the RSA reference number and the written definition.

Motion to open public comment by Selectmen’s Representative O.J. Robinson
Second by Vice Chairman Chenard
All in favor

Motion to close public comment by Selectmen’s Representative O.J. Robinson
Second by Member Beaudin
All in favor

Motion to include the language of the RSA in the definition and the RSA number by Member Beaudin
Second by Selectmen’s Representative O.J. Robinson
All in favor

C. LUPO, Article VI DISTRICT AND DISTRICT REGULATIONS.

Section B. DISTRICT REGULATIONS. Uses in all district shall conform to the requirements for the districts set forth in this section.

1. **LAND USE SCHEDULE.** See Chart Next Page.

RESIDENTIAL USES:

Manufactured Housing:

[Note: Currently, Manufactured Housing is treated as a single-family residence under “Residential Uses” and is allowed in only 3 of the 7 zoning districts: General Use (GU) District, General Residential (GR) District and Rural Residential (RR) District. The proposed amendment would allow Manufactured Housing in 5 of the 7 zoning districts. The proposal is to allow them in the Village Center (VC) District and the Village Residential (VR) District as well.]

Manufactured Housing shall be permitted in the following districts:

- General Use (GU) District, (“Y”);
- Village Center (VC) District, (“Y”);
- Village Residential (VR) District, (“Y”);
- General Residential (GR) District, (“Y”); and
- Rural Residential (RR) District (“Y”).

Motion to open public comment by Member Beaudin
Second by Selectmen’s Representative O.J. Robinson
All in favor

Motion to close public comment by Member Beaudin
Second by Selectmen’s Representative O.J. Robinson
All in favor

Motion to accept changes to the Land Use Schedule by Member Beaudin
Second by Selectmen’s Representative O.J. Robinson
All in favor

BUSINESS USES:

Manufactured Housing Parks:

[Note: Currently Manufactured Housing Parks is not defined or listed as a permitted use in any zone in the LUPO. Propose to treat Manufactured Housing Parks as a “Business Use” and allow Manufactured Housing Parks in 4 of the 7 zoning Districts. The proposed amendment would allow Manufactured Housing Parks in the following districts.]

Manufactured Housing Parks shall be permitted in the following districts:

- General Use (GU) District, (“Y”);
- Village Residential (VR) District, (“Y”);
- General Residential (GR) District (“Y”); and
- Rural Residential (RR) District (“Y”).

Motion to open to public comment by Member Beaudin
Second by Selectmen’s Representative O.J. Robinson
All in favor

Motion to close public comment by Member Beaudin
Second by Selectmen’s Representative O.J. Robinson
All in favor

**Motion to send this to Town Meeting allowing Manufactured Housing Parks in 4 of the 7 Zoning Districts: General Use, Village Residential, General Residential, Rural Residential by Member Beaudin
Second Selectmen's Representative O.J. Robinson
All in favor**

Proposed Amendments to Stormwater Management Ordinance (SMO):

A. SMO, Article III APPLICABILITY.

The requirements of this ordinance shall apply to:

Add Paragraph C.

C. Disturbance – Means filling, grading, dredging, mining, excavation, construction, removal of topsoil, removal of stumps, stockpiling of earth material, or any other activity that results in a temporary or permanent change to the preexisting ground conditions or contours, or both.

2. "A temporary disturbance" may be excluded from the calculation for the area of disturbance as long as the area of temporary disturbance
 - a) can be stabilized within seven (7) days so as not to result in offsite erosion with sedimentation; and
 - b) can be permanently stabilized by the end of construction so as not to result in offsite erosion with sedimentation.

Discussion

Planner Bont discussed the meeting she had with the staff regarding the language to be used in the proposal and Town Engineer Ray Korber added his thoughts in a memo shared with the Planning Board. According to the memo, Town Engineer Korber feels that if the Planning Board adopts the language as proposed for there will be unintended consequences. (See Memorandum dated September 20, 2021 attached to the minutes.) The Planning Board took time to read the memo.

Comments

Planner Bont discussed her concerns about how the proposed changes would be monitored and how would the Town know if the areas were "stabilized" or not. She mentions that not all contractors are the same and some may have a different idea regarding what is considered "adequate stabilization". There is no definition of "stabilization". One contractor might throw some hay down and call it good. Another contractor might put up silt fences or berms, etc.

Planner Bont discussed another issue of concern; she is concerned about the idea that certain people are putting forth the idea that removing a number of trees and replacing those trees with some grass and shrubs has the same impact as a method of "adequate stabilization" for stormwater management purposes. She reminded the Planning Board that according to Town Engineer Ray Korber that that idea is not true. In the past, Korber has indicated that trees can absorb between 10 and 150 gallons of water daily. She is concerned about an adequate number

of trees being on the property to absorb stormwater as trees act like sponges and reduce the run-off.

How much water do trees absorb?

Trees can absorb **between 10 and 150 gallons of water daily**, yet of all the water absorbed by plants, less than 5% remains in the plant for growth. They rely on available water in the soil to “rehydrate” during the nighttime hours, replacing the water loss during the daytime hours.

<https://www.purduelandscapereport.org/article/how-do-trees-use-water/#:~:text=Trees%20can%20absorb%20between%2010,loss%20during%20the%20daytime%20hours.>

How much water does grass absorb?

Clay soils can be hard to water because they take the water in very slowly. On the other hand, clay holds water well and dries more slowly than other soil types. The average lawn consumes **about 1” of water per week** (as measured in a rain gauge or coffee can).

<https://www.spring-green.com/lawn-care-guide/lawn-watering-tips/>

Planner Bont said she had a discussion with, Stuart Anderson, who works for a local architectural firm, (alba architects, PLLC). The topic of choosing to build up vs. spreading out the footprint came up as a possibility to help remedy the run-off issue on smaller steep lots.

Planner Bont said when she suggested building up and reducing the footprint of the homes he is designing, Anderson explained that the people who hire him and others to design and build their homes want mansions; they want to use up the entire building envelope with a building footprint to keep all of the “essential” portions of the home (kitchen, dining area, living area, library, gyms, etc.) all on the main floor. Planner Bont said she does not believe this practice of covering an entire small lot with a home is sustainable for homes densely packed together and located on the side of the mountain with steep slopes and erodible soils.

Planner Bont said a person who wants to build a small home on a lot on US Route 3/Daniel Webster highway or on a flat lot is not causing the problem with stormwater runoff. It is the person who wants to build a large home on a small lot on the side of the mountain with steep slopes and erodible soils who is causing the problem. The water displaced by the building and impervious surfaces has to go somewhere. If the property owner covers the entire lot with impervious surfaces without providing for stormwater management, there will be water that flows downhill to the people below. Planner Bont said she and Mr. Korber are concerned with the negative consequences suffered by the people with homes down below.

Planner Bont said the people who live below, suffer the consequences, and they typically come in and complain to the Planning Staff and eventually the Board of Selectmen. Planner Bont does not think that allowing people to suffer because their homes are below the mansions is the kind of community the Planning Board wants to create. The community as it is built out needs to be sustainable. The steep slopes and erodible soils make these small mountainside lots difficult to build on as the soils have more potential to slide down the hill.

Planner Bont discussed a home which the foundation was cracking due to the failure of the original retaining wall. The property owners came before the ZBA and were granted permission to repair the retaining wall but learned that doing so was too costly to repair. The contractor, in the end, backed out as he decided it was too dangerous. What are you going to do to provide relief for those people whose homes are sliding down the hill?

Rationale for the changes

Selectmen's Representative Robinson discussed the impetus for the Planning Board to propose making changes to the Stormwater Management Ordinance (SMO) was due to some instances in which single-family homes that are right on the margin of the threshold. He states that overall, the SMO has been very effective, for the Town, and has prevented situations like the one Planner Bont just described, which was built prior to the implementation of the SMO.

Selectmen's Representative Robinson went on to say that Contractor Taylor Beaudin brought up some very valid points. Mr. Beaudin brought up that when a home is just at the threshold and a water/sewer line puts them over triggering the SMO. He feels it should be considered undisturbed after the trench is dug, filled and stabilized as it will not affect the long-term runoff.

Selectmen's Representative Robinson noted that in his memorandum, Town Engineer Korber pointed out that there is no definition of what is "substantial", what is "temporary", or where does the seven (7) days start and end. There is room for a lot of interpretation.

Selectmen's Representative Robinson said Town Engineer Korber previously recommended a policy change instead of a change to the Stormwater Management Ordinance (SMO) which would allow the planning staff to review and approve based on the levelness of the lots that are just over the threshold and no more than ten percent (10%) over. This recommendation was rejected by the Planning Board as members of the Planning Board were concerned with staff making the decisions, because staff members were not "elected officials". Selectmen's Representative O.J. Robinson went on to say that changing the definitions in the Stormwater Management Ordinance (SMO) is now convoluting the issue.

Selectmen's Representative Robinson mentioned that the definition of "temporary disturbance" is unfamiliar and has qualifications that need to be interpreted. He brought up the point that Town Engineer Korber made, that if the intention is to make the SMO a little more flexible and easier for the people building, who are on the margin of the threshold for requiring a Stormwater Management Plan, he would recommend making a policy change allowing for judgement calls be made by the Town staff.

Selectmen's Representative Robinson stressed that it was important for the Planning Board to review the intention of the changes. Robinson said he felt to change this by amending the Stormwater Management Ordinance and put in language that is unclear and convoluted is not the way to accomplish increasing the flexibility for home owners that are just on the threshold.

Member Beaudin disagreed with Selectmen's Representative Robinson; he said the staff should not be making the decisions as they are not elected officials and there could be impartiality. He feels that requiring homeowners to request a waiver was the better way to address these issues.

Review Process

The Planning Board discussed some possible reasons for delays in permitting. Member Beaudin feels that the Town Engineer is not always available for various reasons and it would be prudent to hire a second engineer to help.

Waiver Provision

Chairman Spanos and Member Beaudin agreed that the waiver provision in the SMO is under utilized and went on to discuss the amount of disturbed area that is over the threshold at the start of construction will be less at the completion of the project as some areas will be revegetated.

Motion to open to public comment by Selectmen's Representative O.J. Robinson

Second by Member Beaudin

All in favor

Contractor Taylor Beaudin asked what the State of New Hampshire had for a DES ordinance as it relates to the allowable percentage of disturbance.

Member Beaudin explained that the State of New Hampshire has a "Model" Stormwater Management Ordinance and it contains language for guidance and implementation developed for the NH DES and the NH Association of Conservation Districts which allows for twenty thousand square feet (20,000 SF) of disturbance before the Stormwater Management Ordinance is triggered. Towns are not required to follow the State Stormwater Management Ordinance model.

Planner Bont added that most towns do not allow for building on steep slopes or erodible soils like the Town of Lincoln does.

The Planning Board members and Contractor Taylor Beaudin continued to discuss different scenarios where homes have been built on steep and erodible soil in other towns and in Lincoln.

Permit Delays

Contractor Taylor Beaudin is concerned with the length of time it takes to issue a Land Use Authorization Permit. He asks the Planning Board what is the reasonable amount of time, with the current staff, they think it should take to issue a permit.

The Planning Board discussed whether the delays in issuing permits is due to reviews for the Stormwater Management Ordinance (SMO) or in issuing permits in general.

Member Beaudin said he believes the review by the Town Engineer is the cause of the delays. He stated the SMO review and the fact that the engineer is busy is causing the delays and another engineer would solve the problem. He went on to talk about other options (i.e., using the North Country Council or hiring more part-time staff – not full-time staff!).

Contractor Taylor Beaudin asked why the Town does not just accept stamped plans from an engineer which includes stormwater calculations. He wants to know why the Town Engineer has to review the plans.

Planner Bont explained that *there is currently only one engineer who calculates the area of disturbance correctly, and who makes changes swiftly when he is asked to make those changes.*

Member Beaudin replied that he hears that when plans are submitted to the Town and there are changes that need to be made, the plans get held up by the Town Engineer.

Planner Bont disagreed. She said that the Town Engineer does turn things around quickly. There are many times when the developer's engineer needs to address something that is missing or make a correction to a miscalculation as requested by the Town Engineer and it will take the developer's engineer two (2) or three (3) weeks to make the requested changes. Meanwhile, those developers' engineers will turn around and tell their clients that they are waiting to hear back from the Town Engineer. On more than one occasion the Town Manager, Town Engineer and staff have met with the property owner in the office, showed the owner email exchanges between the Town Engineer and the property owners' engineer. Town Engineer Korber explained to the property owner that he is still waiting for a response from their engineer. Then that property owner called their engineer from the Town offices.

Contractor Taylor Beaudin feels that the current Stormwater Management Ordinance (SMO) needs to be broken down by area and the slope of the lot should be considered. He feels the whole problem would be solved if every builder come in with a detailed erosion control plan and a detailed landscape plan.

Contractor Taylor Beaudin feels that the Planning Board was ready to make the changes he wanted to the SMO until Town Engineer, Ray Korber just added his comments about the proposed changes. Why did Town Engineer Korber not express his opinion earlier, implying it was too late to consider the Town Engineer's opinion.

Planner Bont said she recalled specifically asking the Planning Board if they wanted to involve Town Engineer Ray Korber or the Town Attorney Peter Malia in the previous earlier discussions regarding the proposed amendments to the SMO and they said "NO!". Planning Board members agreed.

Contractor Taylor Beaudin said he would like to see the entire Stormwater Management Ordinance (SMO) abolished. He feels that the complaints that come from the abutters below are only due to the fact that there is a building occurring where they do not want one.

Fire Chief/Code Enforcement Officer Ron Beard agreed that some people have complained solely because they do not want a house built above their house and not because their gardens were washed out or their homes were flooded by stormwater run-off.

Chairman Spanos added that the Planning Board is most concerned with post-construction run-off and the goal of the SMO is to reduce that runoff.

Contractor Taylor Beaudin asked how many post construction complaints regarding run-off have they had. The response from the Selectmen's Representative Robinson and Planner Bont is that the Town has received quite a few complaints.

Selectmen's Representative O.J. Robinson stated that the basic problem is that there are developments in Town where the Alteration of Terrain Permit (AoT) was based on small lots with small houses and no one is building those small houses. They are now building very large house on those small lots. The problem with building large houses on very small lots is that those large houses are causing problems with water run-off for the people downhill. This is a serious problem; houses have slid, foundations crumble, and people die.

Selectmen's Representative O.J. Robinson went on to say that the solution is to get an Alteration of Terrain Permit (AoT) for the types of building that are going to be built on the property that might include a larger lot size to figure into the calculation of run-off.

Contractor Taylor Beaudin asked about the Alteration of Terrain (AoT) Permit and asked if the AoT was based on what the square footage requirement are or the number of bedrooms.

Selectmen's Representative O.J. Robinson explained that for the South Peak Resort, the AoT application that was submitted and the AoT Permit that was issued was based on the erection of houses that had a two thousand square foot (2,000 SF) footprint and a two thousand square foot (2,000 SF) gravel driveway. None of the houses built in the South Peak Resort are that small. None of the driveways in South Peak Resort are gravel driveways; driveways are paved.

Selectmen's Representative O.J. Robinson explained that in the South Peak Resort, the development does not allow gravel driveways. The pavement for a paved driveway (versus a gravel driveway) would cause more run-off and would require re-calculation due to the increased impervious area. The foot print of the house is considered an impervious surface and any other impervious surfaces, such as patios, would be added to the total.

Planner Bont added that the estimated water use for the development was based on the developer's engineer's estimated number of bedrooms per home.

Contractor Taylor Beaudin states that the problem is the length of time it takes to get a permit.

Planner Bont explained that the biggest problem with delays is due to incomplete applications. For example, applications are submitted where people have failed to or refused to list their plumber, their electrician or their contractors, etc.; people submit an application and submit a poor-quality hand sketch with no measurements on it whatsoever; people do not want to submit required surveys; people submit a plan that does not include the proposed area of disturbance; people submit plans without any measurements for the proposed area of disturbance or do not show the setback lines, etc.

Contractor Taylor Beaudin clarified that the delays in permitting that he experienced are due to the Stormwater Management Ordinance (SMO) and the review process.

Contractor Taylor Beaudin commented that people are more inclined to cut down all of the trees on a lot to gain more space in order to avoid dealing with a stormwater plan. Vice Chairman Chenard agreed with Contractor Taylor Beaudin.

Chairman Spanos left the public comment period open while the Planning Board discussed how they wanted to proceed.

Brainstorming

Alternate Mark Ehrman added his perspective to the discussion. He feels that the stormwater issue is a big one. The amount of storm water run-off is likely to be more of a problem in the future due to changes in the weather. He brought up the idea of requiring bonds from developers and asked what would happen when an unfinished home begins to slide and the house cannot be repaired and the homeowners abandon it. What recourse would the Town have then? He feels it is important to protect the abutters and to keep the Stormwater Management Ordinance (SMO) as it is.

Member Beaudin offered a suggestion to implement a little of what Contractor Taylor Beaudin has talked about as well as what Alternate Ehrman's concerns are. He suggested having an engineer stamp the plans and then have the homeowner get a bond which could be called if a project was to encounter problems.

Selectmen's Representative O.J. Robinson commented that it would require a definition of what a "problem" is.

Member Beaudin gave an example of how he would see this idea working. He explained that if a property owner had their own engineer follow the Town's Stormwater Management Ordinance (SMO) and stamp the drawings. Then if later it was noted that there is a problem, then the Application and Site Plan would then go to the Town Engineer and Code Enforcement Officer for review and the bond would be called to pay for the services that are needed to fix the problem.

There were additional questions from the members of the Planning Board about how that would work.

Chairman Spanos asked about the Town being authorized to enter onto private property and dig up a lawn to fix their run-off.

Member Beaudin mentioned that an inspection would be performed prior to the homeowners getting a "Certificate of Occupancy" Permit.

[Note: The Town of Lincoln is not authorized to issue Certificate of Occupancy Permits. The Town of Lincoln can only issue Land Use Compliance Certificates certifying that the buildings comply with the Land Use Plan Ordinance (LUPO) also known as the "zoning ordinance".]

Planner Bont added that many homeowners and their contractors do not ever get their Land Use Compliance Certificate. Planning Board members asked why don't they get their Land Use Compliance Certificates.

Planner Bont explained that many times property owners and/or their contractors never inform the Town that their project is completed. They never come in to submit their Construction Control Affidavits from the contractors, electricians and plumbers and all of the other NH State licensed people who did the work. The Planning Office is currently working on the back log from 2014.

Code Enforcement Officer Beard explained that in some cases the exterior appears complete but the interiors are not complete and the builders move on. The people move in. The Town never hears a word.

Code Enforcement Officer Beard mentioned that in some towns a fee (a retainer) is required when the permit is issued, the property owners/contractors will need to inform the Town Office that the project is complete in order to receive the retainer fee back.

Member Beaudin wondered how people are allowed to move into their homes without a Land Use Compliance Certificate.

Planner Bont noted that many times if a lender like a bank is not involved, the contractors and the property owners do not inform the Town Offices of their completion of the home. The Town does not have a system in place to deal with this scenario. If a bank or lender is involved, the lender or bank is looking for a Certificate of Occupancy or a Land Use Compliance Certificate before they will issue a final payout.

Selectmen's Representative O.J. Robinson and the Planning Board believe this is an issue they should address and would like to have it on the agenda and ask the Town's Attorney Peter Malia for his thoughts on the matter.

Contractor Taylor Beaudin referred back to Alternate Ehrman's comments regarding bonds. Taylor Beaudin said that for people building a multi-million-dollar home a retainer or bond is fine, however, when a thirty-year-old school teacher buys a lot up on Mansion Hill that is a different situation – requiring a bond would not be fair.

Chairman Spanos responded that most likely a teacher would be building a modest house and would not trigger the Stormwater Management Ordinance (SMO).

The Planning Board discussed the need for part-time help in the Planning Office to help expedite the permitting process. Member Beaudin suggests a fee for an expedited review of a land owner's plans to help defray the cost of employing another engineer or office staff.

Planner Bont explained that her budget only includes a fifteen (15) minute review by Town Engineer Ray Korber and if he reviews the plans and the project does not require a Storm Water Management Plan, he lets the staff know and the staff lets the owner/engineer/contractor know and the process moves on.

Member Beaudin wondered if the definition of "temporary disturbance" was going to be added to the current Stormwater Management Ordinance (SMO) and they are only going to add the definition of "disturbance".

Motion, which has been modified, to include the definition of disturbance to the Stormwater Management Ordinance as well as the Land Use Plan Ordinance as provided which means "filling, grading, dredging, mining, excavation, construction, removal of topsoil, removal of stumps, stockpiling of earth material, or any other activity that results in a temporary or permanent change to the preexisting ground conditions or contours, or both" to the SMO and the LUPO.
By Member Beaudin

Second, which has been modified, Selectmen's Representative O.J. Robinson
All in favor

Discussion regarding moving forward with Stormwater Management Ordinance (SMO) changes

The Planning Board members discussed the need to talk more about possible changes to the SMO.

Member Beaudin said he wanted to discuss the square footage and percent of disturbance thresholds.

The Planning Board began talking about the pros and cons of increasing the thresholds. Fire Chief/Code Enforcement Officer Ron Beard reminded the Planning Board that when a project goes over the threshold, triggering the SMO, it is easier to apply for a waiver than it is to have their engineers rework the plans.

Chairman Spanos proposed increasing the square footage from fifteen thousand (15,000) to seventeen thousand (17,000) square feet.

The Planning Board discussed what impacts that change would have.

Selectmen's Representative O.J. Robinson raised his concern that the slope, soil and vegetation of the lot are not being considered which may not be a problem for a flat lot but could pose a big problem on a steep lot.

The Planning Board discussed possible scenarios and the waiver process.

Selectmen's Representative O.J. Robinson inquired if it would be a good idea to have thresholds that are directly related to the degree of slope on each lot. He feels that they are trying to make things simpler but in the process are actually making it harder which is moving in the wrong direction.

Member Beaudin disagreed with Selectmen's Representative O.J. Robinson's statement as he feels the amount of time it takes to go through the waiver process would still cause delays in issuing building permits.

Video Recording ended after one hour and fifty-six minutes [1:56] (7:56 PM) when we lost the internet and started to process for YouTube automatically. Planner Bont went into the office to locate and start the audio recorder. The audio recording picked up again at approximately 8:15 PM.

Chair Spanos offered to poll the Planning Board about whether they would support increasing the threshold for area of disturbance from 15,000 SF to 16,000 SF or 16,500 SF or 17,000 SF. Or from 50% of the lot, 55% or 60% or 65% of the lot?

Member Noseworthy said "If everyone says it is only a little bit off", a little bit could help.

Selectmen's Representative O.J. Robinson said no matter what you make the square footage or percentage, as far as the property owners are concerned it will always be "a little bit off" because the developer will always try take advantage and try to move the line or push the size of the building envelope. If you increase the square footage to 55% of the lot, they will want 56% of the lot, if you increase it to 60%, they will want 61% and so on.

Member Beaudin said, “we” will be able to see whether applicants do that in their applications for Land Use Authorization Permits. “We” should be able to see how often people want to move the line. The Planning Board can say, “we” moved the line once already, now you can come into the Planning Board for the waiver.

Chair Spanos said that is what the Planning Board said when the Planning Board drew the first line at 15,000 SF and 50% of the lot.

Member Noseworthy asked if the Planning Board moved the line would it take care of the problem over there, as the lots all about the same size over there?

Many people were talking over each other – not sure what was said by whom here – unintelligible.)

Member Beaudin interrupted and spoke directly to his nephew Contractor Taylor Beaudin. Member Beaudin said that Contractor Taylor Beaudin was talking about when he puts in sewer lines, water lines or utility lines for his clients he is “just a little bit over” [the threshold of 50% of the lot or 15,000 SF requiring a Stormwater Management Plan]. Most of the contractors he works with were “missing” and going over the threshold “by just a little bit”, [meaning they were disturbing slightly more than 50% of the lot or more than 15,000 square feet, requiring a Stormwater Management Plan]. Member Beaudin said, “We never got a definition of what just a little bit was.”

Contractor Taylor Beaudin said, “I don’t know if that would cover it.” He thinks they are talking about two different things. The problem is the time – speeding up the permitting process. He suggested the Town find another engineering firm to help with the permits and tell the new engineering firm – you have got only five (5) days to go out and do everything if you already start out with 15,000 SF or 50% with the waiver. On the other hand, if you go to sixty percent (60%) or twenty thousand square feet (20,000 SF) or whatever number you are using and you see that people are still coming in over that number. Then the Planning Board could change the SMO every year, if they wanted to.

Member Beaudin said to Contractor Taylor Beaudin he was willing to bend for Contractor Taylor Beaudin and make some policy changes and let Contractor Taylor Beaudin go over and then get the disturbed area that was over the threshold amount reclaimed within five (5) days in the interest of getting it done – but not something like 3 weeks or so though.” He would support something like that so that people could get their applications and if they needed just a little bit more room, then they would get their answer and there is a definitive time limit.

Chair Spanos asked why should the people requesting a waiver of the Stormwater Management Ordinance requirements be put ahead of everyone else?

Member Beaudin said what he is saying is, what OJ is saying is going back to way Town Engineer Ray Korber said. We will make a policy change that if there is just a little bit more required that the staff can grant that waiver for cause, BUT there should be a time line that goes

with that. If there is a time line that goes with that, then Member Beaudin said he could go with it.

Selectmen's Representative Robinson said that there is a time line within five (5) days to make a decision whether to grant or not grant the waiver. They just have to go out and look at it. We are not talking about a huge development; we are talking about a house lot. For example, Taylor Beaudin could come in and say I need just a little bit more room because I am putting in a utility line up there and I have got to dig over here and he can get his answer within five (5) days.

Taylor Beaudin said, Town Engineer Ray Korber could look at the subject property and see that the lot is flat. Member Beaudin said Taylor Beaudin or anyone else should be able to get the answer within five (5) days. If Town Engineer Ray Korber is not available, they can hire someone else.

Chair James Spanos asked Member Beaudin, so you think that the staff should be able to do that within five (5) days? Member Beaudin said the Town could contract someone else to do it within five (5) days.

Planner Bont said, if the Town had an employee who was doing just that job then it would be feasible, but the Town does not.

Member Beaudin said the Town could contract to hire someone to do just that.

Selectmen's Representative Robinson said to Member Beaudin, just to contract with someone to do that job would take more than five (5) days.

Member Beaudin said the Town would have to work on making that happen. The Town Offices would have to develop of list of engineers that the Town could call to do that task.

Selectmen's Representative Robinson said he was fine with a timeline, however, he thought that five (5) days was unrealistic. A request for a waiver would have to be accompanied with a full set of plans so that Town Engineer could calculate.

Member Beaudin disagreed. He said this is a policy change.

Selectmen's Representative Robinson said you are asking Town Engineer Ray Korber and staff to look at the whole thing and grant them a waiver of up to 10% of the 50% or 15,000 SF. He is not going to know if the area of disturbance that is greater than 10% or 15,000 SF is less than 10% unless there is a set of plans.

Chair Spanos said, first of all the application would have to be complete before the five-day clock would start.

Member Beaudin disagreed. Taylor Beaudin would go in and he would tell the owner I need this much more space to put in your utility line. The owner would call his engineer and then the engineer would draw something up and submit it to Planner Bont. Planner Bont would say, "Yup. Looks it's a minor adjustment here." She would send it to Town Engineer Ray Korber. Town Engineer Ray Korber okays it. Then it is done.

Selectmen's Representative Robinson said that is not how the Stormwater Management process works. The applicant comes with a plan indicating where the area of disturbance is. The

engineer calculates the square footage and come up with a total area of disturbance. If it is 52% of the lot size, that triggers the Stormwater Management Ordinance. They bring that plan with the application to the Town. To grant that within five (5) days seems unrealistic to him. He is not an engineer, but the engineer has to look at the plans. Then he has to look at the site. Every week the Town Engineer is involved but sometimes he zooms in and does not come here physically.

Member Beaudin said that is why the Town needs additional engineering services. The Town needs to develop a list of other engineers who can assist.

Selectmen's Representative Robinson said it has got to be at least ten (10) business days to give an answer from the time a complete application has been submitted with a plan.

Taylor Beaudin asked Planner Bont how much time it usually takes to determine whether an application is complete.

Planner Bont said the original plan was to have Finance, Assessing & Planning Assistant Lisa Peluso who works at the front desk to review the applications to see if the applications are complete. However, that is not what has been happening. Lisa Peluso also answers the phone for everyone in the office, including the town clerk and tax collector when they are not there. She (wo)mans the window. She collects and processes the accounts for the Solid Waste Department. She tracks the escrow accounts and answers emails and inquiries for the Planning and Zoning Departments. She also processes applications for Short Term Rentals. She solicits, accepts, processes and tracks as well as sending reminders for the Short-Term Rental applications. She also does numerous other tasks for everyone else in the office, including tasks for the Finance Director and Assessing Clerk, assisting with deed transfers, which includes inputting information in the Property Assessment data base. Lisa Peluso does not have the time to stop everything she is working on in the office to spend an hour reviewing an application when it comes in. Furthermore, applications are coming in by US mail, UPS and Federal Express, sometimes directed to her, sometimes to me, as well as in person.

Planner Bont said right now, a number of applications are coming in from South Peak Resort and The Landing at Loon Mountain. A number of people who are thinking about buying or selling a lot are also emailing and/or calling the Town offices to get information about the developments, assessments, permits, renting space to start new businesses in Town, etc. They call and speak to her or Lisa Peluso too.

Lisa Peluso forwards the plans that the Town receives digitally (provided the owner or contractor remembers to send the digital version of the plans to us) directly to Town Engineer Ray Korber. Town Engineer Korber then spends about 15 minutes looking the plans over to see if there is an issue with Stormwater Management.

Almost all of these site plans submitted with the Applications for Land Use Permit Applications show areas of disturbance that are very close to the line in terms of whether they are disturbing more than 50% of the lot or more than 15,000 square feet.

Taylor Beaudin asked if Town Engineer Ray Korber determines whether the applications are complete or not.

Planner Bont said no. The Site Plan is only a very small piece of the application for a Land Use Authorization Permit. The applications are rather large and have a wealth of information. Most people fail to complete the application for a variety of reasons. Taylor Beaudin said he has never filled out an application for a Land Use Permit.

Energy Code Compliance

- Some fail to fill out and submit the EC-1 Residential Energy Code Compliance Form to the State of NH DES, indicating that the proposed project meets the State of NH Energy Code. They submit their application to us instead of the approved Certificate of Compliance.

Subcontractors

- Some don't want to identify their contractor or the subcontractors who will be doing the job.
- Some don't include any identifying or contact information for their subcontractors.
- Some have subcontractors listed who are not licensed in the State of NH.

Driveway Permits

- Some fail to fill out the application for a Driveway Permit.
- Some fail to include a sketch with their application for a Driveway Permit.

Escrow Agreements and Money

- Some argue against providing an escrow agreement or against the money to put in the escrow account for third party review or the amount of money.

Retaining Walls

- Some fail to submit plans for retaining walls prepared by a structural engineer.
- Some engineers fail to submit a Pre-Construction Control Document signed by the structural engineer who will be overseeing and certifying that the retaining walls in excess of four feet in height were constructed in accordance with the engineering plans and in accordance with the NH State Building Code.
- Some structural engineers who designed the retaining walls, then refuse to sign the Post-Construction Control Document to sign off on the retaining wall because they were not paid to watch the erection of the retaining wall.
- Some surveys do not have any information about the height of the retaining walls on the plan or do not clearly identify the circles as retaining walls or indicate whether the retaining walls are existing and part of the infrastructure within the overall development or whether the retaining walls are part of the proposed project.

Surveys for Site Plan

- Some fail to submit a survey.
- Some surveys fail to include the setback lines.
- Some surveys fail to show the measurements of the footprint of the building on the ground.
- Some fail to put any measurements for the building on the site plans.

- Some surveys fail to show the area of disturbance.
- Some surveys fail to show any measurements or a total of square footage for the proposed areas of disturbance.
- Most surveys submitted fail to put any information on the plans indicating the heights of the retaining walls on the plans.
- Almost all of the surveys did not accurately measure the area of disturbance, underestimating the area so as to be less than the threshold amount to trigger the Stormwater Management Ordinance.

Building Plans

- Some fail to put any measurements for the building on the building plans.
- Some fail to show the size or dimensions of the home or the height of the home measured from ground level to the primary eaves on the uphill side of the structure; they submit a conceptual plan instead.
- Some fail to identify rooms on the building plans. Is it a bedroom? Living room? Bunk Room? Library?

Water & Sewer Tap Fees and Bedroom Impact Fees

- Some fail to submit money for Water and Sewer Tap Fees or Bedroom Impact Fees with their form.
- Most fail to accurately count the number of fixtures that use water and sewer services.
- Most fail to accurately count the number of bedrooms.

Permit Fees & Costs

- Some fail to submit any money or the correct amount of money for Permit Fees and Costs.

Planner Bont said this means that she needs to review the entire application and the plans to determine whether the application is complete or not; what is missing and what needs further information. Right now, she is having Deputy Fire Chief Ryan Fairbrother assist her by marking up the plans. We have to chase people down to get this information.

Member Beaudin said just hand the incomplete applications back to the applicant.

Planner Bont said that was what she was trying to explain to Member Beaudin before. We do not have the staff to stop everything they are doing every time an application comes in, to spend an hour reviewing everything to make sure the application is complete.

Member Beaudin said it does not matter when the incompleteness of the application is discovered. Call them and tell them to come get their application because it is incomplete as soon as you discover it is incomplete. When you get a chance to look at the application three days after it comes in, then contact the applicant and tell them to come and pick it up because it is incomplete.

Planner Bont said that when she goes to the window and looks at the application, she does exactly that. However, most of the time she is not the person who goes to the window to accept

the application submitted. Lisa Peluso is. Most application are delivered by UPS or FedEx or by mail. Most applications are not delivered in person.

Taylor Beaudin suggested that when the application comes in, Town Staff should send it directly to Town Engineer Ray Korber.

Planner Bont explained that this is exactly what Lisa Peluso does. As soon as an Application for a Land Use Authorization Permit comes into the office (with digital plans) she sends the digital plans to Town Engineer Ray Korber for his fifteen minute once over. If he needs to review the plans for either Stormwater Management Ordinance purposes or for any proposed retaining walls, he lets her know that he needs an escrow agreement and money in escrow.

At this point the audio recorder cut out as well. No further video or audio recordings to use to prepare minutes are available. The remaining minutes are as remembered.

Board voted to amend the proposed amendments to the Stormwater Management Ordinance in Article III Applicability, Paragraph B, by reducing the threshold amount to require a Stormwater Management Plan from 15,000 Square Feet to 17,000 Square feet.

Board voted to amend the proposed amendments to the Stormwater Management Ordinance in Article III Applicability, Paragraph B, by reducing the threshold amount to require a Stormwater Management Plan from 50% of the lot to 55% of the lot.

Board voted to add the RSA language as well as the RSA citation to the definitions of "Campground" or "Camping Park", "Manufactured Housing", and "Manufactured Housing Parks".

Board voted to add paragraph C the definition of "Disturbance" Means filling, grading, dredging, mining, excavation, construction, removal of topsoil, removal of stumps, stockpiling of earth material, or any other activity that results in a temporary or permanent change to the preexisting ground conditions, or contours or both.

Board voted to hold a second public hearing on Wednesday, January 26, 2022 at 6:00 PM as previously advertised.

And More:

A. Discussion re: South Peak Bedroom Allowance Under the Basis of Design

Discussion was started, but then put off until the next Planning Board meeting on January 26, 2022.

- V. **PUBLIC PARTICIPATION AND OTHER BUSINESS:** Public comment and opinion are welcome during this open session. However, comments and opinions related to development projects currently being reviewed by the Planning Board will be heard only during a scheduled public hearing when all interested parties have the opportunity to participate.

VI. ADJOURNMENT

Respectfully submitted,

Judy Sherriff

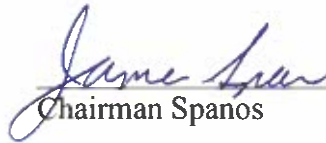
Recording Secretary (Video Recorder)

Carole Bont, Planner

Recording Secretary (Audio Recorder)

Date Approved:

1/28/2022


Chairman Spanos

