

Meeting Minutes
September 20, 2022
SB, KM, JS, BH, KS, JA, RC, KS

**PLANNING BOARD
RINDGE, NEW HAMPSHIRE
September 20, 2022**

DATE: September 20, 2022 **TYPE:** Work Meeting **APPROVED:** 10/4/2022

TIME: 7:00 pm

CALL TO ORDER: 7:00pm

ROLL CALL MEMBERS: Sam Bouchie, Kim McCummings, Julie Sementa, Bob Hamilton, Katelyn Smith

ROLL CALL ALTERNATES: Joel Aho, Robert Chamberlain

ABSENT: Jonah Ketola, Holly Koski

EX OFFICIO: Bob Hamilton

PLANNING DIRECTOR: Kirk Stenersen

APPOINTMENT OF ALTERNATES: Joel Aho for Jonah Ketola; Robert Chamberlain for Holly Koski

OTHERS PRESENT: Roni Hamilton, Kelen Geiger, David Drouin, Richard Mellor, Al LeFebvre, Karl Pruter

Call to order and Pledge of Allegiance

Roll call by Chairperson

Announcements and Communications

Acting Chairman Sam Bouchie asked Planning Director Kirk Stenersen for an update on the status of member, Holly Koski. Planning Director Kirk Stenersen said that it is his understanding that Holly has sold her house in town and is moving out of Rindge. The Board discussed the process for filling this term until March 2023. Vice Chairman Sam Bouchie asked if we have an official letter from Holly at this time. We do not, so nothing will happen until we receive her formal resignation.

Bob Hamilton announced that the Women's Harvest Fair will take place this Saturday, September 24, 2022 from 9AM to 2PM at the Recreation Dept. building.

Kim McCummings said there are four weeks left for the Farmer's Market. She encouraged all to come and check it out.

Approval of Minutes:

September 6, 2022

MOTION: Bob Hamilton moved to table the approval of these minutes until the October meeting. Julie Sementa seconded the motion. **Vote: 7-0-0**

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Wetlands Ordinance Discussion

Mr. Hamilton said, in 2008, Warrant Article 15 (by petition) appeared on the ballot to repeal the Wetland Conservation District Ordinance. Bob Hamilton read the warrant article as it appeared on the 2008 Town Meeting ballot.

“Shall the Town vote to repeal the Town of Rindge Wetland Conservation District Ordinance? The Town of Rindge shall allow the State of New Hampshire Wetlands Bureau to continue to regulate and protect the wetlands within the Town of Rindge. This amendment if it passes would include repealing any amendments to the Town of Rindge Wetlands Conservation District Ordinance proposed at this Town Election (by petition) (Not recommended unanimously by the Planning Board) (Not recommended by the Budget Advisory Committee)”

Bob Hamilton said he does not understand why the Budget Advisory Committee would vote on this as it is not a monetary issue. He said that this article did fail at that time but is asking if the Planning Board is looking to entertain another warrant article similar to that and if anyone has considered this, or if anyone would like to speak in support of the Town of Rindge Wetlands Conservation District Ordinance. Bob Hamilton said that he would like to hear the Board’s discussion on this prior to going over and changing the existing Wetlands Ordinance.

Acting Chairman Sam Bouchie said that this would then eliminate the Town of Rindge Wetlands Conservation District Ordinance and defer to the State. Bob Hamilton asked if this Board would entertain a warrant article such as was on the ballot in 2008 to eliminate the Town of Rindge Wetlands Conservation District Ordinance versus going through all the work to change the existing ordinance.

Board members entered into a discussion which included the following:

- State Regulations are not as restrictive as the Town of Rindge Wetlands Conservation District Ordinance.
- Joel Aho said that, although this sounds like you are giving more power to the State, you are not giving them any more power than they already have. Bob Hamilton said that the Town would follow the state regulations and not the Town ordinance which is more restrictive.
- Katelyn Smith said that everyone on Rindge is on well water and that needs to be protected. She would not be in favor of this. She said the state regulations do not go far enough to protect that.
- Bob Hamilton said that one of the fears of state control is that they do not have enough enforcement authority. Mr. Hamilton said that Town does not have enough enforcement authority as well.
- Kim McCummings said she is in agreement with Katelyn Smith.

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- Robert Chamberlain asked what specifically locally has been addressed that is not addressed at the state level. Acting Chairman Sam Bouchie said he has never sat down and compared them line for line.
- Kim McCummings said that the majority have private wells and there is only one town well. Bob Hamilton said there are a few public water supply wells, only one of which is under the Town of Rindge control (Payson Hill).
- Bob Hamilton said there is a problem with a difference of interpretation leading to appeals to the ZBA. This is the hot topic.
- Planning Director Kirk Stenersen said there are definitely differences which include the following:
 - The setback for septic systems: the Town has 100 feet; the State depends on the soils and is either 75 feet or 50 feet.
 - There is also the question as to how buffers are interpreted as well as setbacks to structures and pervious and impervious surfaces. The State has no restrictions on that.
 - There is also the State Shoreland protection for lakes and ponds over 10 acres. There are definitely differences.
- Joel Aho said that it would be shocking to him if the state was not addressing the importance of drinking water.
- Katelyn Smith said there would be a difference of shallow wells versus those coming from aquifers.
- Kim McCummings said she believes that the differences before us can be worked out.

Bob Hamilton said that he has no idea if this type of warrant article may be put forth by petition but it is clear that this Board is not in favor of this.

MOTION: Bob Hamilton moved that this work meeting be done without any public input so that we can get through this tonight as quickly as possible. David Drouin asked the Chair for a Point of Order. Mr. Drouin said that this Board had already asked a member of the audience for input. Bob Hamilton said he asked for a name of a street. Sam Bouchie seconded the motion.

Vote: 5-2-0 Kim McCummings and Julie Sementa voted no.

Wetlands Ordinance Work Meeting

Planning Director Kirk Stenersen said that he has provided the Planning Board with a marked-up ordinance which is based upon discussions at previous meetings, as well as the letter from the Conservation Commission dated September 1, 2022 with changes that they would like to see for Sections 4, 6, 7 and 12. Planning Director Kirk Stenersen began to review the changes that have been suggested.

Section 2: Description of District

Add the words: *“a minimal disturbance of”* to Section 2: Description of District, line 8, so that the edited sentence reads:

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In addition, the Wetlands Conservation District includes a zone of minimal disturbance of 150 feet around all surface waters and *a minimal disturbance of 50 feet around all Vegetated Wetlands greater than 3,000 square feet in area.*

Vice Chairman San Bouchie asked for input from the Board.

- Bob Hamilton said he doesn't see the need for this change, but it doesn't hurt anything.
- Joel Aho said because there have been differences in interpretation and as long as the intent is what it should be, clarification is good even if it is redundant.
- Kim McCummings said this change makes it very clear.

Section 4: Permitted Uses

Planning Director Kirk Stenersen said that the first paragraph of this section was very confusing. The original text read as follows:

Any of the following in the Wetlands Conservation District unrelated to or not precedent to the erection of any building or structure, except as necessary for water supply, and that are otherwise permitted by the zoning ordinance are allowed.

Following a discussion of the Board, the first paragraph of **Section 4 Permitted Uses** has been amended to read as follows:

The following uses are permitted in the Wetlands Conservation District:

Section 4, Item G was amended as well for clarity.

The original text read as follows:

G. Streets, roads, access ways and utilities, if essential to a permitted use of the land not within the Wetlands Conservation District, if so located and constructed as to minimize any detrimental impact of such uses upon the wetlands and if approved by the State Wetlands Bureau after review by the Rindge Conservation Commission. This includes driveways to single-family houses, and roads that are used exclusively to gain access to a property or facility. Such streets, roads, access ways, and driveways shall either be (1) pervious, or (2) if impervious, shall be constructed in such a way as to collect all surface water runoff and divert it to an area or areas at least 50 feet distant from any Vegetated Wetland or 50 feet from any Surface Waters, using Best Management Practices. In the event dredging, filling, draining or otherwise altering the surface configuration of Surface Waters or Vegetated Wetlands, is required, a Special Exception must be obtained In accordance with Section 6 of this Ordinance.

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Planning Director Kirk Stenersen said that the statement that the State Wetlands Bureau would review any application that affects the Wetlands Conservation District is incorrect and confusing. For that reason, he suggested the following amendment to the wording:

Remove the line “and if approved by the State Wetlands Bureau after review by the Rindge Conservation Commission.” (starting on the third line of the paragraph) and add the line, “approval must be obtained from the State Wetlands Bureau after review by the Rindge Conservation Commission and” (starting on the eleventh line of the paragraph).

The amended paragraph will read as follows:

G. Streets, roads, access ways and utilities, if essential to a permitted use of the land not within the Wetlands Conservation District, if so located and constructed as to minimize any detrimental impact of such uses upon the wetlands. This includes driveways to single-family houses, and roads that are used exclusively to gain access to a property or facility. Such streets, roads, access ways, and driveways shall either be (1) pervious, or (2) if impervious, shall be constructed in such a way as to collect all surface water runoff and divert it to an area or areas at least 50 feet distant from any Vegetated Wetland or 50 feet from any Surface Waters, using Best Management Practices. In the event dredging, filling, draining or otherwise altering the surface configuration of Surface Waters or Vegetated Wetlands, is required, approval must be obtained from the State Wetlands Bureau after review by the Rindge Conservation Commission and a Special Exception must be obtained in accordance with Section 6 of this Ordinance.

Section 5: Prohibited Uses

Planning Director Kirk Stenersen said that in the first paragraph, there is a scrivener’s error and Section 2 should say Section 1.

The amended paragraph will read as follows:

SECTION 5: PROHIBITED USES

The following uses are prohibited in the Wetlands Conservation District unless an applicant proves, to the Zoning Board of Adjustment, that the use does not conflict with the purposes identified in Section 1 and the appropriate variances are obtained:

Section 6: Uses Permitted by Special Exceptions

Planning Director Kirk Stenersen said that in the last paragraph, there are two scrivener’s errors: Section 2 should say Section 1, and Article XIV should say Article XV.

The amended paragraph will read as follows:

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To this end, therefore, dredging, filling, draining or otherwise altering the surface configuration of Surface Waters, or Vegetated Wetlands shall be permitted only for access as described in Section 4.G and only if a Special Exception is granted by the Board of Adjustment. This Special Exception shall run with the land in question. The Board of Adjustment may grant a Special Exception under this section if the proposed use does not conflict with the purposes and intention of Section 1 of this Ordinance; the Special Exception criteria listed in Article XV of the Rindge Zoning Ordinance are satisfied; and the applicant will obtain all other applicable permits.

Section 7: Restricted Uses

Planning Director Kirk Stenersen said that Section 7 has been the biggest point of discussion with the Conservation Commission. The edits that are being suggested are to clarify how the Planning Board has interpreted this section in the past; although, it's not the way the Conservation Commission has interpreted this in the past year and a half. This is an attempt to clarify this language and it may not be perfect.

Add the line “by allowing certain uses within the Wetlands Conservation District with restrictions” to the end of the first paragraph.

Amended first paragraph will read:

The purpose of this Section is to preserve the natural landscape and prevent soil erosion into and pollution of Vegetated Wetlands and Surface Waters; wind shear on adjacent properties; and thermal gain of Surface Waters which accelerates plant and algae growth by allowing certain uses within the Wetlands Conservation District with restrictions.

Planning Director Kirk Stenersen said this has always been the interpretation of the Planning Board, that these are “restricted uses” and not “prohibited uses”.

Amend the second paragraph: Omit the word “following” and add: “outlined below. The following uses are allowed within the Wetlands Conservation District with certain restrictions:”

Amended second paragraph will read:

Where existing, a Natural Woodland and vegetated buffer shall be maintained within 150 feet of the Ordinary High Water Mark of Surface Waters and within 50 feet of Vegetated Wetlands with the exceptions outlined below. The following uses are allowed within the Wetlands Conservation District with certain restrictions:

Amend the third paragraph (A) by adding “except as allowed by other exceptions within Section 7 – Restricted Uses and within Section 4 – Permitted Uses.”

Amended third paragraph will read:

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- A. Tree cutting is limited to 50 percent of the basal area of trees and 50 percent of the total number of saplings or shrubs in a 20-year period. A healthy well distributed stand of trees, saplings, shrubs, and ground covers must be maintained. Stumps and their root systems must remain intact in the ground within 50 feet of the Ordinary High Water Mark of Surface Waters and within 50 feet of Vegetated Wetlands except as allowed by other exceptions within Section 7 – Restricted Uses and within Section 4 – Permitted Uses.

Planning Director Kirk Stenersen said that the original fourth paragraph currently reads:

- B. Trees, saplings, shrubs and ground covers which are removed to clear an opening for buildings, septic systems, roadways, pathways and parking lots shall be excluded when computing the percentage limitations in the preceding subsection.

Amend this paragraph to read:

- B. Trees, saplings, shrubs, ground covers and stumps may be removed to clear an opening for buildings, roadways, parking lots, driveways, pathways, septic systems and storm water basins including drainage piping and outfall areas used for the treatment of storm water runoff and for mitigation of peak rates of runoff. Such permitted grading and disturbance shall be essential to a permitted use of the land not within the Wetlands Conservation District and shall be minimized to the maximum extent feasible. Such removals shall be excluded when computing the percentage limitations in Section 7.A.

Amend the fifth paragraph by eliminating the words “the first subsection” and replace it with “Section 7:A.” and combine Section 7.D with Section 7.C.

The amended Section 7.C reads:

- C. Dead, diseased, unsafe or fallen trees may be removed and shall be excluded when computing the percentage limitations in Section 7.A. Dead and living trees that provide habitat for wildlife are encouraged to be preserved.

Board members reviewed these suggested changes and said that Planning Director Kirk Stenersen had done a good job clarifying these sections. Kim McCummings said that it is important to clarify this language so that it meets the intent of the interpretation.

Katelyn Smith said she had reviewed some Wetlands Ordinances from other communities. She referred to other towns who give ConCom the ability to offer suggestions. Katelyn Smith said there needs to be an opportunity for a balance and input from the Conservation Commission is helpful. Bob Hamilton asked if Katelyn wanted something to be added to the Ordinance regarding this.

Planning Director Kirk Stenersen referred to Section 8C which speaks to the Conservation Commission receiving notice from the ZBA and asked if the Board wanted something similar in

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this amendment of the Wetlands Ordinance for the Planning Office. Planning Director Kirk Stenersen said currently, it is not required to include ConCom but in practice, we do involve them.

Planning Director said if a roadway is proposed that doesn't impact the physical wetland surface waters or vegetative wetlands, but is within 50 feet of wetlands, it is a permitted use but it still impacts the Conservation Wetland District. Currently, a copy of the plans go to ConCom. Sam Bouchie said currently, we send them all to ConCom.

After a discussion, it was decided to add letter "D" to Section 8 Application Review Provisions.

Section 8 Application Review Provisions.

Amend this section to add "D" to read as follows:

D. The Rindge Conservation Commission shall receive written notice from the Planning Board of any application that directly impacts the Wetlands Conservation District and may render an advisory opinion to the Planning Board on such applications.

Board members discussed NH RSA 485.A.2 for definitions of surface waters. This definition is different from the Town of Rindge Wetlands District Ordinance definition. Planning Director Kirk Stenersen said they are very similar.

Planning Director said he would suggest that the Board review the Conservation Commission's letter prior to the next work meeting so that the Board can discuss it.

Planning Director Kirk Stenersen reviewed the sections and changes that were made this evening.

Vice Chairman Sam Bouchie asked members to review the definitions and what dictates this Ordinance prior to the next meeting.

Meeting Adjourned at 8:38 PM

Respectfully Submitted,
Planning Office Staff