

**TOWN OF TUFTONBORO
PLANNING BOARD
September 15, 2016
MINUTES**

Members Present: Chris Sawyer, Chairman, Jack Parsons, Vice-Chairman, Bill Marcussen, Selectmen's Representative, Tony Triolo, John Lapolla, Fenton Varney, Members.

Members Absent: John Cameron, Matt Young, Members.

Staff Present: Lee Ann Keathley, Administrative Secretary.

Chairman Sawyer opened the meeting at 7:00 PM.

**I. Consideration of Minutes
September 8, 2016**

It was moved by Jack Parsons and seconded by Bill Marcussen to approve the September 8, 2016 Tuftonboro Planning Board minutes as submitted. All members voted in favor. The motion passed.

**II. Action Item
Louise Herrick
Lot Merger
Tax Map 52-3-41, 52-3-42**

It was moved by John Lapolla and seconded by Tony Triolo to approve the Louise R. Herrick Lot Merger, Tax Map 52-3-41 and 52-3-42. All members voted in favor. The motion passed.

III. Discussion Items

a. 2017 Budget

The Board reviewed the year to date expenditures of the 2016 budget and discussed the 2017 budget. The Board requested Staff contact LRPC to determine if there is a change in the annual dues and the balance owed on the Master Plan update and review Books and Periodicals with the finance department (year to date expenditure being \$0 however, Staff purchased Land Use Regulations books for the Board and the purchase is not reflected as an expenditure).

b. 2017 Zoning Changes

The Board reviewed the following proposed zoning changes;

Amend Section 1.1 DEFINITIONS as follows:

Add **Residence: The place in which a person lives or resides; dwelling place; a structure serving as a dwelling or home.** (definition of Residence to become Section 1.1.43 and all following numbering to change accordingly)

Amend Section 10.4.1 as follows:

10.4.1 Limitations: Such occupancy of either tents or recreational vehicles at any ~~R~~Residence shall not exceed a total of four **consecutive** weeks per year. No more than one such unit may be occupied in connection with any ~~R~~Residence.

Jack Parsons stated the Town needs to be able to enforce its Zoning Ordinance; noting that he is currently unable to enforce Section 10.4.1 and recommends the changes noted above in red. He stated the Ordinance does not currently define residence therefore, he recommended including such as a definition in Section 1.1.

Chris Sawyer questioned the number of permits issued relative to Section 10.4.1.

Jack Parsons replied 6.

Chris Sawyer questioned of those six permits how many comply with the Ordinance.

Jack Parsons replied zero.

Fenton Varney questioned the need for Section 10.4.1.

Jack Parsons stated he receives complaints however, is unable to enforce the Ordinance.

Fenton Varney questioned whether the State has its own regulation regarding such and if so, does it pre-empt the Town's regulation. He questioned the consequence of enforcement.

Jack Parsons stated the Town would issue a \$100/day fine and the State issues a \$250/day fine.

Bill Marcussen noted that it also becomes a health issue when relating to the disposal of septic waste.

The Board agreed to research other communities and the State of NH's regulations regarding such.

The Board reviewed the following proposed zoning change and agreed to the proposed changes;

Amend Sections 5.4.2 and 5.4.3 as follows:

5.4.2 Any Conversion of an existing Building or Structure shall require a permit from the Codes Enforcement officer. Before a Building permit may be issued, one of the following conditions must be met:

~~**A.** The application shall supply a certificate of inspection from a qualified professional (e.g. Registered Civil or Sanitary Engineer or licensed Septic System Designer) certifying that the existing septic system is adequate for the proposed use, or~~

B. A. The applicant must demonstrate that site conditions and land area are suitable and adequate for the installation of a septic system approved by Water Supply and Pollution Control Division (WSPCD) **for the proposed use in accordance with Env-Wq 1004.18.**

5.4.3 No building permit for Expansion of an existing Structure or construction of an accessory building on a lot one acre in size or less shall be granted without proof that the lot can accommodate a sewage disposal system built to current standards of NH Dept. of Environmental Services Water Supply & Pollution Control Division **(WSPCD) in accordance with Env-Wq 1004.18.**

The Board reviewed the following proposed zoning change and agreed to table such until the Board reviews the State's language for the criteria of a Variance;

Amend Section 17.8.3 as follows:

17.8.3 Variances: The Board of Adjustment shall hear and decide requests to vary the terms of this Ordinance. At the hearing on the application, the applicant shall present testimony and other evidence to establish that all five conditions for a Variance have been met. The decision of the Board shall be based on the evidence presented at the hearing, not on allegations contained in the

application. Abutters and residents shall be entitled to present testimony and other evidence to establish that the applicant either has or has not met all five of the listed conditions below.

A. No Area Variance shall be granted unless all of the following conditions are met:

1. **The proposed use would not diminish surrounding property values.**
2. **Granting the Variance would not be contrary to the public interest.**
3. **Granting the Variance would do substantial justice.**
4. **The use is not contrary to the spirit of the ordinance.**
5. **Denial of the Variance would result in unnecessary hardship to the owner because:**
 - a. **The following Special Exception conditions of the property make an Area Variance necessary in order to allow the development as designed; and**
 - b. **The same benefit cannot be achieved by some other reasonably feasible method that would not impose an undue financial burden.**

~~6. A hardship must exist which is inherent in the land in question and which is not shared in common with other parcels of land in the District.~~

- ~~2. The spirit and intent of the Ordinance will not be broken by granting the Variance.~~
- ~~3. The granting of the Variance will not adversely affect other property in the District.~~
- ~~4. Not to grant the Variance would result in injustice.~~
- ~~5. Granting the Variance would not be contrary to the public interest.~~

B. No Use Variance shall be granted unless all of the following conditions are met:

1. **The proposed use would not diminish surrounding property values.**
2. **Granting the Variance would not be contrary to the public interest.**
3. **Granting the Variance would do substantial justice.**
4. **The use is not contrary to the spirit of the ordinance.**
5. **Denial of the Variance would result in unnecessary hardship to the owner because:**
 - a. **The zoning restriction as applied to the property interferes with the reasonable use of the property, considering the unique setting of the property in its environment; and**
 - b. **That no fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property.**

B. C. In determining whether the granting of a Variance would violate the spirit and intent of the Ordinance, the Board shall be guided by the general purposes of this Ordinance and by the following specific statements of intent.

1. Preserve the character and cultural heritage of the Town.
2. Prevent the pollution of air, brooks, streams, ponds and lakes.
3. Permit in each District only those uses specifically authorized by this Ordinance for each District.
4. Prevent the overcrowding of housing and the creation of blighted areas.

5. Support other codes, regulations, rules and ordinances which have been adopted to carry out the same or similar purposes of this Ordinance.

c. Compliance with 155:E (Excavation Operations)

The Board table such to 10/6/16; noting that the Board is awaiting Town Counsel opinion regarding such.

d. Master Plan Updates

Chris Sawyer stated the Fire Department submitted updated information.

Bill Marcussen requested a copy of the Master Plan Survey tally totals.

Chris Sawyer provided such to Bill Marcussen and noted such are preliminary results and in draft form.

The Board tabled review of the Fire Department chapter update and the survey results until 10/6/16.

IV. Informational Items

None.

V. Other Business

- DRA Excavation Training scheduled for 9/23/16 at the Town House from 11:30 AM – 2:30 PM

It was moved by Tony Triolo and seconded by Fenton Varney to adjourn the September 15, 2016 Tuftonboro Planning Board meeting. All members voted in favor.

There being no further business before the Board, the meeting adjourned at 8:15 PM.

Respectfully Submitted,

Lee Ann Keathley

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