

September 7, 2022
Planning Board

Present were: Regular Members: Chair Lori Langlois, Tom McCue, Henry Noel, Anthony Valliere, Dan Whittet, Karen Collins; **Ex-Officio Member:** Lucie Remillard, Lise Barrette; **Alternate Members:** Jeffrey Quackenbush, Amy George, Micah Bachner (excused 5:50pm), Lori Korzen.

Excused were: Regular Member: Jennifer Lazzaro

Others Present: Pamela Laflamme, Community Development Director; Michel Salek, Code Enforcement Officer; Jennifer Ouellet, Code Enforcement Clerk; Scott Lozier, Zoning Board Member; and Chris Boldt, City Attorney.

Planning and Zoning Board Training on Board Roles and Responsibilities with City Attorney Chris Boldt

RSA 91-A, Right to Know

Attorney Boldt began by discussing in detail the RSA 91-A, Right to Know Law. He explained that members of boards should not use email for communications to each other as well as never to hit 'Reply All' to an email concerning board issues. Members should never give opinions in emails or online. Any sort of outside discussions among members could constitute a non-meeting. Attorney Boldt also talked about Non-Public Sessions and Non-Meetings.

Mr. Whittet asked about penalties that would happen if an informational email were forwarded to someone outside of the board. Attorney Boldt responded that it can void the decision.

Mr. Noel asked about who the offending parties could be if any of these rules are broken. Attorney Boldt responded that it could be an abutter or the applicant.

Attorney Boldt discussed the using of 'I' statements instead of 'We' statements. By doing so, you are avoiding the appearance that there was a non-meeting among members.

HB 1661

Attorney Boldt discussed in length the changes that took place due to HB 1661, most of which have already taken affect as of August 23, 2022. The first of the changes are concerning training of board members. The law now states that any member of a planning or zoning board may complete training that will be offered by the Office of Planning and Development. The Office of Planning and Development will be forming different types of training to be available and the NH Municipal Association also has good trainings and information available.

Attorney Boldt explained the next changes which have to do with posting fees. All fees must be posted and accessible at the City Hall or on its website. Also discussed were fees for any third-party review which should be stated at the bottom of applications.

Attorney Boldt shared the new laws involving any existing incentives for the development of housing for older persons. If there are any existing incentives in our regulations for the development of housing for older persons, it may allow for the same incentives for the development of workforce housing as of August 23, 2022. On July 1, 2023 any of said incentives for older person developments shall be deemed applicable to development of workforce housing.

Attorney Boldt discussed in detail the changes which involve the requirement to issue a final written decision on approval or disapproval of an application. Currently, it is written that a final written decision must be issued and made available to applicant. Now it states that the written decision must include specific findings of fact that support the decision. Failure to do so may result in grounds for automatic reversal of decision. Attorney discussed a couple a couple ways to proceed with these changes, one of them being the use of a generic template of a checklist for each type of application being reviewed, which would help in discussions. Also discussed were the possibility of having two meetings like some other municipalities do, which would probably require more meetings per month. Attorney Boldt emphasized the use of 'because' statements i.e., "I agree because..."

Ms. Laflamme expressed that the existing meeting tempo has been very reasonable and has flowed along well. There was some more discussion among Planning Board members about how future fact finding can be performed during meetings. Attorney Boldt also mentioned that we could include a question for the applicant asking for them to state facts as to why they feel their application should be accepted.

Attorney Boldt explained the new timeline for the Zoning Board. The board will have 90 days to approve or disprove an application from the date of receipt. If more time is needed the board may deny the application without prejudice. This would allow the applicant to submit another application for the same or substantially similar request.

Attorney Boldt discussed in detail the changes for the Planning Board timeline which will begin January 1, 2023. One of the changes would allow the board to deny without prejudice if they feel the application lacks sufficient information to make a final decision and the applicant does not consent to an extension. Then the applicant may resubmit the same or a substantially similar application. If the Planning Board does not act on the application within that 65-day time period, city council shall certify on the applicant's application that the plat is approved.

Attorney Boldt discussed the new language around fee shifting. It allows the court to require applicants to file a bond. It also talks about costs and attorney fees.

Meeting Procedures and Hypothetical Issues

Attorney Boldt share some key things to remember about meetings. The Chair is in charge of the meeting. Members of the board should go through the Chair to discuss anything with the Staff. If after a Public Hearing has already been closed and a board member has a question to ask a member of the public, the Chair can open up the Public Meeting again so that the question can be asked and other members of the public can comment on that

specific question/issue. There should always be a motion to open and close a Public Meeting. Members should know their Site Plan and Subdivision Regulations.

There was discussion about variances. It is the Zoning Board's responsibility, not the Planning Board, to make decision about granting variances and to deal with Special Exceptions. A Conditional Use Permit is a Planning Board equivalent of a Zoning Board Special Exception.

Mr. Quackenbush asked if the Master Plan can be invoked for the Finding of Facts. Attorney Boldt said that it should probably be used more for an approval than a denial. This is because the Master Plan contains a lot more information than a Zoning Ordinance.

Attorney Boldt stated that Subdivision and Site Plan Regulations can be changed by the Planning Board. A Zoning Ordinance change has to go through the City Council.

Mr. McCue asked Attorney Boldt if he had any thoughts to share on implementing the Master Plan. Attorney Boldt said you would mostly do so by changing the Zoning Ordinances. For example, if everyone would like something to be allowed in a specific Zone, and it's currently not being allowed, then you need to look at changing the Zoning Ordinance.

Mr. Whittet asked about regulating and changing the ordinance to allow only certain types of businesses or structures in certain areas. Attorney Boldt explained the difficulty in doing so and said that it should be done for small areas and to avoid excluding things in large areas.

Mr. Quackenbush asked Ms. Laflamme about the status of having our Zoning Ordinance updated. Ms. Laflamme said there is funding available to work on the housing parts of the ordinance.

Approval of August 2022 minutes

Mr. McCue made a motion to approve the minutes of the August 2, 2022 meeting as presented. Mr. Whittet seconded the motion. All in favor, the motion carried.

Other

None

Public Comments

None

Member Comments

Mr. McCue expressed his pleasure of hearing about the \$19.5 Million-dollar grant for the Main Street Reconstruction Project. Members of the board expressed their congratulations for a job well done to Pam Laflamme. At this time Ms. Laflamme has just received the letter of acceptance and nothing has begun yet with the process of bidding. The City hopes that construction can begin in either 2024 or 2025.

Mr. Quackenbush asked if the heated streets system can also be used to heat the buildings. Ms. Laflamme said the steam would not be strong enough for that purpose but there will be stubs provided for each building if they would like to purchase the necessary equipment to use the steam to heat their buildings.

Ms. Laflamme discussed the Main Street Reconstruction Project. The heated streets portion of the project was the innovative portion. This project also includes the reconstructing of the streets, sidewalks, parking lots, sewer system, water system, drainage system, the bridge on Main Street and the bridge on Pleasant Street and any Dead River issues in the downtown area. It's a \$19.5 million-dollar grant for the whole Downtown area. The Water Works Department will be providing their work as an in-kind match to the project.

Mr. Quackenbush brought up that he would like to see less parking lots in the downtown area. Mr. McCue shared some history of what's been done for downtown parking. Some more discussion was centered around parking.

There was some discussion about the old Citizens Bank demolition and the plans for Walgreens.

Planner Comments and Project Updates

None

Adjournment

There being no further business to come before the board, Mr. McCue made a motion to adjourn, seconded by Mr. Valliere. All in favor, the motion carried.

The meeting ended at 7:20 pm.

Respectfully submitted,

Lise Barrette

* Note: These minutes are unofficial until they have been accepted by the Planning Board by motion.