

TOWN OF BETHLEHEM
Planning Public Hearing
January 4, 2023
Minutes

Present: Chair Mike Bruno, Vice Chair Anthony Rodrigues, Veronica Morris, Kim Koprowski, Martie Cook, Chris Jensen, Kevin Roy, and Alecia Loveless

Meeting opened at 6:00 pm with the Pledge of Allegiance.

Mike Bruno reads the Public Hearing Notice:

The Bethlehem Planning Board will hold a public hearing at the Town Hall on Wednesday, January 4, 2023, at 6:00 p.m. to receive public comment on the following amendments proposed for the Zoning Ordinance of the Town of Bethlehem, New Hampshire.

Proposed Amendment No. 1 would make revisions throughout the Zoning Ordinance to clarify, update, and correct terminology; improve consistency; make editorial corrections; update agency references; remove redundant, unused, and unneeded language; improve organization of the document; conform with state laws and court decisions such as regarding accessory dwelling units, signs, and the Zoning Board of Adjustment; and incorporate the stand-alone wind energy ordinance adopted in 2011. Also renumber document accordingly after making changes and incorporating any additional amendments approved by voters.

Proposed Amendment No. 2 would update language in Article XIV Floodplain Development and Article XXI Definitions as required for continued participation in the National Flood Insurance Program.

Proposed Amendment No. 3 would update language in Article II General Provisions and Article XI Multi-Family Dwelling Unit Development in order to make the parking requirements in the Zoning Ordinance consistent with the requirements in the recently updated Site Plan Review Regulations. Detailed requirements would be removed from the Zoning Ordinance and the requirements contained in the Site Plan Review Regulations would be included by reference.

Proposed Amendment No. 4 would add Home Businesses as a Permitted Use (Article V), accessory to any dwelling (Article XXI Definitions), with an application to the Planning Board for Site Plan Review required when the public or certain types of impacts are involved (Article II General Provisions).

Proposed Amendment No. 5 would amend Article IV Nonconforming Uses, Structures, and Lots to allow nonconforming lots to be developed if setbacks can be met and water and wastewater rules met, and would give the Zoning Board of Adjustment the ability to grant Special Exceptions to allow expansion of nonconforming uses under certain conditions.

Proposed Amendment No. 6 would amend Article V Zoning Districts and Uses to bring the Zoning Ordinance into compliance with the provision of RSA 674:32 Manufactured Housing which prohibits requiring a Special Exception for manufactured homes on individual lots unless a Special Exception is also required for single family homes.

Proposed Amendment No. 7 would replace existing language in Article VI Signs with language from the recently updated Site Plan Review Regulations for consistency.

The public can participate in this hearing either in person or by Zoom videoconference by following the link found on the Town of Bethlehem website bethlehemnh.org. The complete text of the amendments is available for review on the Town website and in the Planning and Zoning Office at the Bethlehem Town Hall during regular business hours. Written comments must be received by the hearing to be considered. Mail to: Bethlehem Planning Board, P.O. Box 189, Bethlehem, NH 03574.

Mike asks Tara Bamford to share the proposed amendments on her screen and proceeds to review the amendments article by article. A copy of Tara Bamford's working document is attached here as record. These minutes will document any board discussion and/or public input per Article.

Proposed Amendment No. 1 – Housekeeping/Clean-up

This amendment would make revisions throughout the Zoning Ordinance to clarify, update, and correct terminology; improve consistency; make editorial corrections; remove redundant, unused and unneeded language; improve organization of the document; conform with state laws and court decisions such as regarding accessory dwelling units, signs, and the Zoning Board of Adjustment; update agency references; and incorporate the stand-alone wind energy ordinance adopted in 2011.

Also renumber document accordingly after making changes and incorporating any additional amendments approved by voters.

- Article I. Title, Authority, and Purpose. No public Comment/No Changes.
- Article II. General Provisions. Minor terminology changes to meet the RSA.
- Article III. Solid Waste Facilities. Renamed Article, otherwise no changes.
- Article IV. Non-conforming Uses, Structures, and Lots. Changed “regulations” to “ordinances”
- Article V – Zoning Districts, Uses, and Dimensional Standards. Terminology changes to clear up language. This will help the board better determine what needs to come before the board for Special Exception.
- Article VI- Signs – Cleaned up language. Tara would like to make a change to the language in section C by removing the comma after the word “manner” to make the language clearer; Signs ***and structures shall not be illuminated in any manner which causes undue distraction, confusion, or hazard to vehicular traffic.***
- Article VII – Sludge – no changes.
- Article VIII – Lighting – Covered in a later amendment.
- Article IX – Condominium Development
- Article X – Conversion to the Condominium Form of Ownership

- Article XI – Multifamily Dwelling Unit Development – Needs changes to terminology to comply with law. The terminology is currently misleading.
- Article XII – Cluster Developments – Add on for lot area to include recreational space.
- Article XIII – Manufactured Housing – Updated to match State and HUD requirements.
- Article XIV – Floodplain Development – This is addressed in a separate amendment.
- Article XV – Personal Wireless Service Facilities (PWSF) - No substantive changes.
- Article XVI – Aquifer Protection Ordinance - No substantive changes.
- Article XVII – Small Wind Energy Systems (Formerly Impact Fees). Impact Fees was removed because it was never used. We also lack the infrastructure to manage impact fees accurately.
- Article XVIII – Enforcement of the Zoning Ordinance – Cleared up terminology by simplifying to make it clearer.
- Article XIX – Zoning Board of Adjustment – Zoning RSA’s information was added.
- Article XX – Penalty - No substantive changes.
- Article XXI – Definitions – Accessory Dwelling Unit is an addition. Mostly the Gravel Pit inspection terminology has been removed.
- Article XXII – Amendments – No substantive changes.
- Article XXIII – Saving Clause - No substantive changes.
- Article XXIV – Effective Date – Changing the effective date once Amendment No. 1 passes.

Proposed Amendment No. 2

This amendment would update language in Article XIV Floodplain Development and Article XXI Definitions as required for continued participation in the National Flood Insurance Program.

- This amendment must pass for residents to purchase Flood Insurance.

Proposed Amendment No. 3

This amendment would update language in Article II General Provisions and Article XI Multi-Family Dwelling Unit Development to make the parking requirements in the Zoning Ordinance consistent with the requirements in the recently updated Site Plan Review Regulations. Detailed requirements would be removed from the Zoning Ordinance and the requirements contained in the Site Plan Review Regulations would be included by reference.

- This change would give the Planning Board more flexibility to consider things like off-site parking, public parking, and shared parking, which right now only exists in the Main Street district.

Proposed Amendment No. 4

This amendment would add Home Businesses as a Permitted Use, as an accessory use to any dwelling, with an application to the Planning Board for Site Plan Review required when the public or certain types of impacts are involved.

Mike explains that the Board did not want to limit what could or could not be a home business, but wanted to take into consideration what kinds of activities might impact your neighbors. Such as; if customers regularly visit your property you would have to come before the board. If you are running a

mail order business, you would not need to come before the board. This ordinance is meant to be home business friendly, but with neighbors in mind.

Eddie Qi of 59 Pleasant St. disagrees with Amendment. He feels it violates individual Constitutional rights. As private people they should not need a permit. Mike interjects this amendment was never intended to limit a homeowner from running a business at home.

Tara replies that under NH Law, if something isn't specifically listed then it's not allowed. This allows more flexibility. A discussion ensues regarding permitted uses in each district. Home business is not listed as a permitted use. This amendment will change that. Martie adds that this is not meant to restrict home businesses, but to make it friendlier.

Marilyn Walsh is concerned about fines that might be imposed on people who are running home businesses but don't come in to see the Planning Board. Martie informs Marilyn that this is not meant to regulate businesses, but to be sure no one was hampered by having that business there.

Proposed Amendment No. 5

Showing suggested revisions to the wording of the amendment for consideration after the public hearing based on consultation with Walter Mitchell.

This amendment would give the Zoning Board of Adjustment the ability to grant Special Exceptions to allow expansion of nonconforming uses under certain conditions, and would allow nonconforming lots to be developed under certain conditions.

Changes to this proposed amendment need to be made once the Public Hearing is closed.

Proposed Amendment No. 6

This amendment would bring the Zoning Ordinance into compliance with the provision of RSA 674:32 Manufactured Housing which prohibits requiring a Special Exception for manufactured homes on individual lots unless a Special Exception is also required for single family homes.

This amendment corrects the error that required manufactured homes to come before the Board for a Special Exception and brings the Town to the right side of the law and allows manufactured homes on any single-family lot in districts 1,2,3, and 4.

Proposed Amendment No. 7

This amendment would replace existing language in Article VI Signs with language from the recently updated Site Plan Review Regulations for consistency.

Mike notes that this amendment cleans up the language specifically with illuminated signs. Tara notes she made changes as the Board went along.

Veronica Morris motions to close the public hearing. Martie Cook seconded the motion and the remaining board members voted in favor.

Tara would like to change the description for Home Businesses to help people better understand the intent.

Tara had the opportunity to speak with Walter Mitchell, the Town's attorney, and he suggested a revision to the wording of Amendment No. 5 after the hearing.

Proposed change:

Nonconforming uses may be expanded only by Special Exception from the Zoning Board of Adjustment. The Board shall determine, in addition to the Special Exception criteria contained in Article XIX, that: a) the proposed expanded use will not be a substantial change from the nature and purpose of the original nonconforming use b) the change or expansion will comply with all other requirements of the Zoning Ordinance; and c) the change or expansion will not have a substantially different or adverse impact on surrounding properties.

All nonconforming lots on record at the Grafton County Registry of Deeds prior to the enactment or amendment of this Ordinance affecting the lot shall be considered buildable lots provided:

- 1. All required setbacks are met.*
- 2. A NHDES septic system permit has been obtained if not on municipal sewer.*
- 3. A source of water is available on the lot with a protective radius required by NHDES unless on a public water supply.*

Attorney Mitchell is also concerned that someone could challenge Amendment No. 1 to be more than housekeeping and thinks there should be an Amendment No. 8 to have the additional language added to District 1 Main Street, District 1, and District 4. Tara would include an explanation that the language is already listed in Districts 2 and 3. Veronica questions if we must have another hearing to change the language. Tara notes that you don't need to have a hearing to reorganize things, however the Public Hearing already has a continue date for 1/25/23.

Attorney Mitchell also thinks removing the impact fees is more than housekeeping. Tara recommends we keep it in for now. Alecia feels its housekeeping because we have never used, nor can we use it. Mike would like it removed but doesn't want to risk Amendment No. 1 failing because it is not clear to the voters. Veronica makes suggestions for voter education so people have access to information. Martie thinks the Deliberative Session would be a great opportunity to educate the public.

Mike questions the Board; keep Impact Fees as housekeeping or best to err on the side of caution and wait for next year?

Andrea states it clearly says "unused and unneeded language."

Kevin thinks we should remove Impact Fees and explains he would hate to lose all this hard work based on something we don't enforce anyway.

Martie likes the idea of Impact Fees being its own amendment next year. Mike also thinks the impact fees should wait until next year so voters can have a clearer understanding of the situation. All other Planning Board members agree.

Tara recaps her action items: Work with Dawn to notice the second hearing for 1/25/23; fix typos in Amendments 1 and 6; rework description in Amendment 4 to help people better understand the intent; pull out “other” in District 1, District 1 Main St, and District 4 and move to new amendment (Amendment 8); update the language in Amendment 5 to reflect the suggestions made by the Town’s legal counsel; and back the impact fees out of Amendment 1.

Veronica Morris motions to notice the second hearing for Jan 25, 2023; add Amendment 8 which will be the other uses that are compatible language for Districts 1, 1 Main, and 4; revise Amendment 5 in accordance with the attorney’s suggestions; remove impact fees in Amendment 1; fix typos throughout the warrant article.

Alecia Loveless seconded the motion and remaining Planning Board members voted in favor. The motion passed unanimously.

The Board moves on to approve minutes from previous meetings.

October 26, 2022, Veronica requests the board tables these minutes until the next meeting.

November 9, 2022, Martie moves to accept minutes as presented. Alecia Loveless seconds, all vote in favor of accepting the minutes.

December 13, 2023, Veronica motions to accept the minutes as presented. Kim seconds, all vote in favor of accepting the minutes.

December 14, 2023, Alicia motions to accept the minutes as presented. Veronica seconds, Mike, Kim and Kevin vote in favor of accepting the minutes. Martie and Anthony abstain.

Mike introduces Dawn Ferringo as the new Planning and Zoning Clerk to the Board.

Next meeting Jan 25th:

- Public Hearing
- 2 Lot Line Adjustments
- Minutes for Oct 26, 2023
- Customer Service Survey

Veronica Morris reminds the Board that the Deliberative Session will take place on Monday, February 6, 2023.

Anthony Rodrigues motioned to adjourn the meeting at 8:05; Veronica seconded and a unanimous vote in favor followed.

Respectfully submitted by Dawn Ferringo, Planning and Zoning Board Clerk.

