

**TOWN OF BEDFORD
PLANNING BOARD MEETING MINUTES
December 21, 2009
BEDFORD MEETING ROOM**

A meeting of the Bedford Planning Board was held on Monday, December 21, 2009, at the Bedford Meeting Room, 10 Meetinghouse Road, Bedford, NH. Present were: Harold Newberry (Acting Chairman), Bill Dermody (Town Council), Russ Marcoux (Town Manager), Karen McGinley, Erik Anderson, Mike Burns (Alternate), Chris Riley (Alternate), and Rick Sawyer (Town Planner).

I. Call to Order and Roll Call

Acting Chairman Newberry opened the meeting at 7:00p.m. Mr. Dermody is representing the Town Council. Mr. Sawyer read the agenda.

II. Old Business:

None

A. Continued Hearings:

None

III. New Business

B. Application Acceptance and/or Public Hearings on Applications:

None

C. Concept Proposals and Other Business:

1. The Planning Board will read and post all proposed zoning amendments and citizens' petitions. The Board will officially announce the dates of the two public hearings.

Mr. Sawyer said there are no citizens' petitions as part of the proposed zoning amendments.

MOTION made by Mr. Marcoux to accept the agenda as written. Seconded by Mr. Burns. Vote taken – all in favor. Motion carries.

- 1. The Planning Board will read and post all proposed zoning amendments and citizens' petitions. The Board will officially announce the dates of the two public hearings.**

Mr. Sawyer said the two public hearings will be scheduled at the Planning Board's regular meetings of January 11, 2010 and January 25, 2010. Both meetings start at 7:00PM. At this point we only have the zoning amendments proposed by the Planning Board, which are amendments to you from staff, including the Building Department and Planning Department. Some recommendations also came out of the Bedford Economic Development Commission's recommendations. We have seven for the Planning Board's consideration, and there is no action that needs to be taken tonight. You wouldn't act until the second public hearing, although if during the first public hearing you clearly decided you didn't want to go forward with one of them, you wouldn't have to have a second public hearing on it.

Amendment No. 1

Are you in favor of the adoption of Amendment No. 1 as proposed by the Planning Board for the Bedford Zoning Ordinance to amend Article 45-16 Adoption and Amendment Procedures by renumbering it to read 45-16-1 and by deleting the words shown in strike through and adding the words in bold and by adding new paragraphs 2 through 5 as follows:

*As authorized by RSA 675:2, this Ordinance shall be adopted and amended by a majority vote of ~~any legal town meeting~~ **the Town Council** when such amendment ~~is published in the warrant calling for the meeting, and when such amendment~~ has received at least one (1) public hearing notice of which has been duly given at least ten (10) calendar days before said hearing, not including the day the notice is posted and the day of said hearing, in the manner provided by RSA 675:7.*

45-16-2 Submission to the Planning Board

All requests for amendments to the Zoning Ordinance shall be referred to the Planning Board for its consideration and the Board shall submit its recommendations concerning such requests to the Town Council within ninety (90) days after the referral has been made by the Council.

45-16-3 Planning Board Hearing

The Planning Board shall hold a public hearing on the proposed amendment, with notice being given in accordance with RSA 675:7.

45-16-4 Planning Board Initiative

The Planning Board may, upon its own initiative, consider amendments to the Zoning Ordinance and submit recommendations to the Town Council.

45-16-5 Text of Ordinance

The full text of the proposed amendment to the Zoning Ordinance need not be included in the notice if an adequate statement describing the proposal and designating a place where the proposal is on file for public inspection is stated in the notice.

[This amendment would allow for the Town Council to make all future zoning amendments after at least two public hearings are held, one by the Planning Board and one by the Town Council. This amendment is also one of the recommendations of the Bedford Economic Development Commission.]

This amendment would be to change the way we actually do zoning amendments. Towns like Bedford that have a Town Council form of government are permitted under the State laws to allow the Town Council to make zoning amendments. Bedford is one of the only, if not the only, community that has a Town Council form of government who still does it by popular vote at the polls. You could go with just the simple language of changing it from Town Meeting to Town Council, but what I've also done is added a little bit more to reflect the way I think Bedford would want to operate. That is to have the Town Council be required to refer zoning amendments to the Planning Board, so the Planning Board would also hold a public hearing, and then ultimately make a recommendation back to the Town Council within 90 days. Ninety days may sound like a long time, but in order to post the public hearing officially you would have to set it at one meeting, get it posted in the newspaper, hold the public hearing, hopefully at the following meeting. It takes some time and then if you want more than one meeting to consider your response. If you can do it in less than 90 days, that is great, and I think most of the time we will, but I wanted to make sure that you had enough time. Also I have built in there to make it clear that the Planning Board still can under its own powers recommend zoning amendments to the Town Council, otherwise all other zoning amendments would have to come through the Town Council itself.

Mr. Riley arrived at the meeting at 7:03PM.

Amendment No. 2

Are you in favor of the adoption of Amendment No. 2 as proposed by the Planning Board for the Bedford Zoning Ordinance to amend Article 45-13-2(b) by deleting subparagraph (2) in its entirety as shown in strikethrough bellow:

~~*A building permit for a nonresidential structure or building which is less than eight hundred square feet (800 s.f.) and is not intended for habitation, may be issued by joint approval of the Building Inspector and Zoning Administrator, and shall not require a Planning Board Nonresidential Site Plan Review.*~~

[This amendment is intended as housekeeping as the Planning Director already has the authority to approve these structures under the Land Development Control Regulations.]

Mr. Sawyer said this proposed zoning amendment would be to strike out a whole section of the Zoning Ordinance which currently allows the Planning Director to approve inhabitable space up to 800 square feet. As the Board knows, we are also going to consider an amendment to the Land Development Control Regulations that would allow minor site plan amendments of all space up to 10 percent of the existing building or 5,000 square feet. If that were to go forward, and I'm also recommending that the public hearing for that amendment be made on January 25, 2010, then this section of the Zoning Ordinance would no longer be needed.

Amendment No. 3

Are you in favor of the adoption of Amendment No. 3 as proposed by the Planning Board for the Bedford Zoning Ordinance to amend Article 45-14-5 Time Limits on Approvals by deleting the words shown in strike through and adding the words in bold as follows:

*Any variance, special exception, or administrative appeal granted by the Zoning Board of Adjustment shall be rendered null and void ~~unless active and substantial development has occurred within one~~ (1) year **from** the date of approval unless **the applicant files a complete application for a building permit, site plan, or subdivision plan for the subject parcel at which point the Zoning Board of Adjustment approval will run with the administrative timeline of the building permit or Planning Board decision.***

[This amendment is intended to allow projects which may take more than one year from the date of Zoning Board approval to not return for time extensions provided that they are actively seeking other approvals. It has been the observation of the Board that it is rare for large or complex projects to be able to achieve substantial development within one year.]

Mr. Sawyer said this proposed zoning amendment would be to modify the timeline of Zoning Board approvals. All variances and special exceptions currently expire right now within one year of a Zoning Board decision. It has been our observation and many developers who have had to go back to the Zoning Board several times for extensions, that they just can't achieve substantial completion within one year of those dates. If it is a major project that is coming to this Board or needs State permits, it clearly takes more than a year to get those permits, get all those things in place and to start construction and reach substantial completion. We are recommending that those timelines be tied more toward the building permit or to the Planning Board process.

Amendment No. 4

Are you in favor of the adoption of Amendment No. 4 as proposed by the Planning Board for the Bedford Zoning Ordinance to amend Article 45-4-2(f)(1) Level II Home Occupations subsection d. by adding the words in bold as follows:

*If the home occupation is a day care facility, **no more than 12 children shall be permitted and**, a minimum of fifty square feet (50 s.f.) of outside play area for each enrolled child shall be provided.*

[This amendment is intended to place a limit on the number of children that can be considered for an in home day care facility.]

Mr. Sawyer said this proposed zoning amendment came out of a few projects this year and last year about the number of children that should be permitted in a home occupation for an in-home daycare. We're recommending 12 children based on the building codes, which where anything over 12 children would push it into an educational class, therefore, be much more of a commercial designation at that point.

Amendment No. 5

Are you in favor of the adoption of Amendment No. 5 as proposed by the Planning Board for the Bedford Zoning Ordinance by deleting words shown in strike through and adding the words in bold as follows:

To amend Article 45-4-2(c)(2)a. Accessory Attached Apartments as follows:

*An accessory apartment shall be clearly incidental to the primary use of the property for a single dwelling, and such accessory living space shall not exceed ~~six hundred and fifty~~ **one thousand** square feet (~~650~~ **1,000** s.f.);*

To amend Appendix 45-A Table of Uses by amending footnote number 27a. as follows:

*An accessory apartment shall be clearly incidental to the primary use of the property for a single dwelling, and such accessory living space shall not exceed ~~six hundred and fifty~~ **one thousand** square feet (~~650~~ **1,000** s.f.);*

To amend Article 45-2 Definitions, Dwelling, Accessory Attached Apartment as follows:

*An accessory dwelling unit, consisting of not more than ~~six hundred fifty~~ **one thousand** square feet (~~650~~ **1,000** sq ft), constructed within or attached to a single detached residence.*

[This amendment is intended to allow accessory apartments to be up to 1,000 square feet and to be more consistent with the size of typically requested.]

Mr. Sawyer said this proposed zoning amendment again comes out of common citizen request and request before the Zoning Board dealing with the size of accessory apartments. Currently we only allow accessory apartments up to 650 square feet, and we're recommending up to 1,000 square feet. That is somewhat of a big jump, but many of the ones that have gone to the Zoning Board have been right in that 1,000 square foot range. Almost everyone who actually comes into the office and talks to staff is initially trying to get about 900 to 1,000 square feet. We think that would reduce the Zoning Board's agenda quite a bit and still be consistent with the term accessory apartment. It still wouldn't become larger than most of the homes in the community.

Amendment No. 6

Are you in favor of the adoption of Amendment No. 6 as proposed by the Planning Board for the Bedford Zoning Ordinance to amend Article 45-13-2(b) by adding new subparagraph (2) as shown in bold as bellow:

Prior to the start of construction all wetlands shall be identified and flagged on the lot by a NH Certified Wetlands Scientist. Flagging must be maintained during the construction and until a Certificate of Occupancy is issued by the Building Official or his agent. Flagging shall be installed with a maximum of no more than twenty-five (25) feet between flags.

[This amendment is intended to ensure that wetlands are not disturbed during construction.]

Mr. Sawyer said this proposed zoning amendment is something that came from the Building Department asking to have wetlands flagged at the start of construction and that those flaggings stay up during construction so that they can make sure the wetlands aren't impacted during construction.

Amendment No. 7

Are you in favor of the adoption of Amendment No. 7 as proposed by the Planning Board for the Bedford Zoning Ordinance to amend Article 45-13-2 Building Permit Procedure by deleting the words shown in strike through and adding the words in bold as follows:

Article 45-13-2 Building Permit Procedure.

*All structures shall be constructed in accordance with the most current applicable residential and non-residential building codes **as referenced in Article 2 Section 2-2-1 of the Town of Bedford Municipal Ordinances.** ~~that have been adopted by the Bedford Town Council. The Bedford Building Code Official shall prepare an amendment for submission to the Town Council no less than every three years, requesting adoption for revised building codes. The Town Council shall hold a public hearing on the proposed updates or revisions to the building codes with public notice as required by RSA 675:7. Such notice shall include information stating where the proposed building code updates or revisions shall become final upon approval by the Town Council and recording with the Town Clerk.~~*

And to change the term Building Inspector to read as Building Official or his agent in two instances within Article 45-13-2(d) and Article 45-13-3(a)

[This amendment is intended as housekeeping to have the Zoning Ordinance refer to the proper and current location of the building codes and title of the Building Official.]

Mr. Sawyer said this proposed zoning amendments also came from the Building Department. This is really just a housekeeping measure to reflect the proper locations of where the building codes are referenced and the proper term for the Building Official. It is no longer the Building Inspector, it is the Building Official.

Mr. Sawyer said those are the seven zoning amendments we are recommending to public hearings.

Acting Chairman Newberry asked for questions or comments from the Board on the outline of these zoning amendments. Mr. Sawyer said we will have two public hearings where we can discuss them at length.

Acting Chairman Newberry stated the Bedford Planning Board will hold its first public hearing on zoning amendments on Monday, January 11, 2010 at 7:00PM in the in the Bedford Meeting Room at BCTV, 10 Meetinghouse Road, Bedford, New Hampshire. The purpose of the public hearing is to hear comments from interested persons on the proposed amendments to the Bedford Zoning Ordinance as Mr. Sawyer just summarized. Mr. Sawyer said the proposed zoning amendments will be on the Town's website tomorrow, and they will also be posted in a legal ad in the newspaper, at the library, the Town office building, and BCTV. You can get copies at any of the offices.

IV. Approval of Minutes of the December 7, 2009 Planning Board Meeting

The Board postponed the approval of the minutes to the next regularly scheduled Planning Board meeting, January 11, 2010.

V. Communications to the Board

Mr. Sawyer said I included in your packet a copy of an article that was in “Town and City Magazine” this past month dealing with land use decisions and expert opinions and how it relates to the Board’s personal knowledge. The second page has some really great information. If the Town’s attorney is ever in attendance again, we can ask him about this further, but I think in general it is really good information. This gives information as to when you can use your own information versus an expert who might be in the audience. It is not something that we have come across a whole lot here, but other boards have struggled with it quite a bit. If you’re only getting one side of the information and you know you have some better information about the site yourself, when can you use that, when can you not. Things like that. Acting Chairman Newberry asked it would be individual members’ local knowledge? Mr. Sawyer replied yes.

Mr. Marcoux said the Bedford Economic Development Commission has sunsetted. Their report was presented to the Town Council on December 16, 2009 and is posted on the Town’s website. Mr. Sawyer said I will get the Board copies of that report.

VI. Reports of Committees

None

VII. Adjournment

MOTION made by Ms. McGinley, seconded by Mr. Marcoux, to adjourn at 7:11pm. Vote take – all in favor. Motion carries.

Respectfully Submitted by Valerie E. Fysh