

**TOWN OF HAMPDEN
PLANNING BOARD
MINUTES**

The meeting of the Hampden Planning Board was called to order at 7:00 p.m. on Wednesday, April 9, 2014 at the Hampden Municipal Building Council Chambers by Chairman Peter Weatherbee.

Attendance: Planning Board Chairman Peter Weatherbee, Members Michael Avery, Peter Frazier, Kelley Wiltbank, Andrew Nelson.

Also in attendance: Town Planner Robert Osborne.

1. APPROVAL OF MINUTES (February 5, 2014)

Member Wiltbank made a motion to approve the minutes as written this motion was seconded by Member Frazier. The Board voted unanimously to approve the minutes as written.

2. NEW BUSINESS

NOTE: Items E and F were taken up first.

E. Zoning Ordinance Text Amendment – Town of Hampden requests a Zoning Ordinance text amendment to Article 3.13 Business B District to amend the permitted and conditional uses contemplated in the district. – Public Hearing

Chairman Weatherbee asked to hear from Bob Osborne, the Town planner on this item.

Bob Osborne stated that this item comes from the Town Council's Planning and Development Committee. Western Avenue is the only street in town that utilizes the Business B District. The district has a design review element (like the Village Commercial). There are amendments proposed to the district to add uses consistent with the existing uses in the area proposed for the Zoning Map Amendment under item F. There is language to accommodate buildings over 35 feet in height. There is language to accommodate existing residences on smaller lots with lesser setbacks than otherwise required in the Business B District. Staff would recommend an "ought to pass" to Council.

Chairman Weatherbee indicated that these items all came from the Town Council and that they were sent to the Planning Board to hold public hearings and to make recommendations on their approval.

Town Planner, Bob Osborne stated he did get a phone from Mr. Pellerin, stating they were not in favor of the proposal

Chairman Weatherbee opened the public hearing and asked for those in favor of the proposed amendment to speak first and then those against the amendment and finally those with general questions or comments.

Herb Frost, of Frost's Garage and self-storage stated he is in favor of this amendment and indicated that he would support a more extensive change than proposed as well.

Marjorie Bowen, 36 Western Ave., is not in favor of the proposal. She has a single family home and it may be going up for sale in the next few years, and fears it would not sell due to being next door to Business B District.

Mr. Osborne answered a question and stated that single family dwellings would not be excluded from the Business B District.

Member Frazier asked if future eminent domain would affect these properties after zone change.

Mr. Osborne stated that eminent domain was not anticipated to be at issue here. The most typical case would be when a street widening. The new zone would allow current uses and add additional flexibility of uses.

Ms. Pellerin asked what the advantages of rezoning the district would be to the businesses in the area.

Mr. Osborne stated there are a number of uses historically in the area that have been there for many years that are not allowed in the current district permitted and conditional uses. This change to the district language would address that issue.

Chairman Weatherbee closed the public hearing there were no further comments from the general public.

Member Avery asked questions regarding the rationale for the map amendment and how that decision was made. Mr. Osborne indicated on the south side of Western Avenue the intent was to make the zoning consistent for the bank, funeral home and telephone company and that this seemed a good spot to end the change. He noted that the original Village Commercial district was an outgrowth of the Four Mile Square study and a desire to reuse the existing buildings for commercial uses and save the character of the village

Member Avery made a motion to refer the item to the Ordinance Committee. This motion was seconded by Member Wiltbank. The vote was unanimous.

F. Zoning Ordinance Map Amendment – Town of Hampden requests a Zoning Ordinance Map amendment to change an area of Western Avenue from Residential A and Village Commercial District to Business B District. – Public Hearing

Chairman Weatherbee asked Mr. Osborne to describe the proposed amendment.

Bob Osborne stated that all of the directly affected land owners as well as the abutters received written notification of this item. He described the map amendment on the north side of the street inclusive from the church to McCue property and on the south side of the street from the bank to the telephone company. He indicated that this item comes from the Town Council's Planning and Development Committee. Western Avenue is currently split into Residential A, Village Commercial and Business B District in the subject area. This amendment would unify the zoning to the Business B District. The Council is exploring the extension of the Business B District further down and across Western Avenue. The result of the change would be Business B District from and including the church to and including McCue's on the north side of the street and from and including the bank to and including TDS on the south side of the street. Staff recommends an "ought to pass" to Council.

Mr. Osborne noted that Mr. McCue and Mr. Gilpatrick supported the text and map amendments. Chairman Weatherbee opened the public hearing and asked for comments.

No one spoke from the public on this item although their comments on the prior item appear to apply here as well.

Member Avery made a motion to table the item and to refer it to the Ordinance Committee. The motion was seconded by Member Wiltbank. The vote was unanimous.

A. Shoreland Zoning Ordinance Text Amendment – Town of Hampden requests text amendment to Article 13, A (1) Establishment of Shoreland Districts, Resource Protection, Water bodies and Wetlands to match the current State regulation – Public Hearing

Chairman Weatherbee asked Bob Osborne the Town Planner to give a brief summary on this item.

Bob Osborne stated that this text amendment would bring the Town in line with the State regulation. The amendment would be less restrictive, allowing more land that was previously in shoreland - wetland to be in a limited resource protection, therefore making it more developable.

Chairman Weatherbee opened the public hearing and asked for comment.

Ann Mourkus 171 Patterson Road, spoke about the rezoning from shoreland zoning and resource protection to the limited residential, this concerns her. She has seen the wildlife decline, as the rural areas get developed. She questioned why would the Town not exceed the minimum standards that the State requires (when allowed to under law).

Jamie Leonard lives on Carmel Road South (route 69) he has two wetlands one abuts his land, and one on his land. A number of years ago the MDOT put in a culvert, to help drainage and water issues, then the beavers dammed it up. He was wondering how far back the shoreland zone goes and whether it will include more of his land, making it harder for him to develop the property.

Bob Osborne addressed some of Mr. Leonard's questions.

Dave Crocker, lives across the bog from Jamie at 164 Carmel Road South. The State has totally messed up that culvert. If the amendment goes thru land that had restrictions on it is now buildable. The assessment on his land will go up?

Ann Mourkus asked about variances on a parcel of land, and why do all shoreland parcels need to change.

Chairman Weatherbee closed the public hearing and asked if there were any comments from Board Members.

Chairman Weatherbee asked for a motion.

Member Avery made a motion to table the item and to refer it to the Ordinance Committee. The motion was seconded by Member Wiltbank. The vote was unanimous.

B. Shoreland Zoning Ordinance Map Amendment – Town of Hampden requests five map amendments to jurisdictional wetlands that change the zoning from Resource Protection to Limited Residential and three map amendments that relocate the location of the edge of the jurisdictional wetland- Items 1 through 8 – Public Hearing

1. Kennebec Road wetland between Back Winterport Rd. & Monroe Rd. Resource Protection District to Limited Residential District.
2. Kennebec Road wetland between Wessnette Drive & Emerald Drive. Resource Protection District to Limited Residential District.
3. Back Winterport Road wetland near Railroad Crossing. Resource Protection District to Limited Residential District.
4. Carmel Road South wetland near Kennebec Road. Resource Protection District to Limited Residential District.
5. Patterson Road wetland near Ichabod Lane. Resource Protection District to Limited Residential District.
6. Meadow Road wetland at Patterson Road. Redefine wetland edge and reduce extent of Shoreland Zoning.
7. Patterson Road wetland near Ichabod Lane. Redefine wetland edge and reduce extent of Shoreland Zoning.
8. Kennebec Road wetland between Back Winterport Rd. and Monroe Rd. Redefine wetland edge and reduce extent of Shoreland Zoning.

Chairman Weatherbee noted that these amendments did not originate with the Planning Board and that some of the policy questions would be better answered by the Council which will also hold a public hearing on these items and vote the items (for approval/denial).

Chairman Weatherbee asked Bob Osborne to discuss these map amendments.

Mr. Osborne discussed the items noting that items 1 through 5 are changes to the shoreland zone from Resource Protection to Limited Residential and that items 6 through 8 are changes to the location of the upland edge of the wetland as delineated at the land owner's expense by a soil scientist/wetland delineator. He showed where the wetlands are located on a map for the benefit of those in the audience. He stated that some of the comments and questions should be made to the Council. He noted that the Limited Residential District is the default shoreland zone and that much of the shoreland restrictions remain such as tree cutting restrictions. He also noted that the water fowl habitat is still subject to Natural Resources Protection Act permitting surrounding these same wetlands. These areas may not be particularly suitable for development because of wetlands, septic system soil suitability or flood plains regardless of the shoreland district.

Bob Osborne stated that item 1 wetland on this agenda located at Kennebec Road is the same wetland in item 8 and the wetland in item 5 located on Patterson Road is the same wetland in item 7.

Chairman Weatherbee opened the public hearing and asked for comments.

Brian Lowell 280 Canaan Road, he asked if the State has looked at the wetland and re-drafted it due to better information of the wetland edge. Limited Residential District building setback is 75 feet from the wetland.

As no one else wished to speak Chairman Weatherbee closed the public hearing.

Member Avery made a motion to table this item and to refer it to the Ordinance Committee. The motion was seconded by Member Wiltbank. The vote was unanimous.

C. Shoreland Zoning Ordinance Text Amendment – Town of Hampden requests text amendment to Article 14 Land Use Table, Article 15, O, O1 Timber Harvesting and Article 17 Definitions to delete references to Timber Harvesting in order to pass the Permitting for Timber Harvesting to the Maine Forest Service – Public Hearing

Chairman Weatherbee asked the Town Planner to describe the draft amendment. Bob Osborne stated when the Shoreland Zoning ordinance was drafted the intent of the Council was to pass the timber harvesting permitting to the Maine Forest Service when they indicate that they were ready to deal with the matter from a critical mass of municipalities. That is now the case and the way that the DEP is now recommending to pass timber harvest permitting to the Forest Service is to delete the timber harvest regulation from the ordinance in its entirety. Mr. Osborne stated the attached draft letter (sample enclosed in the Planning Board's packets) was all that the Town need do to pass this to the Forest Service.

Chairman Weatherbee opened the public hearing and asked for comment but none were heard and he subsequently closed the public hearing.

Member Wiltbank made a motion to recommend an "ought to pass" to Council this motion was seconded by Member Nelson. The vote was unanimous.

D. Subdivision Ordinance Text Amendment – Town of Hampden requests text amendment to Article 542 Area Required to create an exemption for the open space requirement for certain Minor Subdivisions in the Rural District – Public Hearing

Chairman Weatherbee asked Bob Osborne to explain the draft amendment.

Mr. Osborne indicated that the amendment is intended to address the need to dedicate open space in two and three lot rural district subdivisions. It has been observed that these open spaces are not typically the sort that the Town wishes to accept and that they are not of particular utility to the neighborhood. The proposal here is to create an exception that would allow the board to approve minor subdivisions in the rural district without an open space dedication if the total land area of the subdivision exceeds the required lot area by 10%.

Chairman Weatherbee opened the public hearing and asked for comment but none was offered and he subsequently closed the public hearing.

Member Avery made a motion to table this item and refer it to the Ordinance Committee this motion was seconded by Member Frazier. The vote was unanimous.

* The next two items were heard at the beginning of the meeting.

E. Zoning Ordinance Text Amendment – Town of Hampden requests a Zoning Ordinance text amendment to Article 3.13 Business B District to amend the permitted and conditional uses contemplated in the district. – Public Hearing

F. Zoning Ordinance Map Amendment – Town of Hampden requests a Zoning Ordinance Map amendment to change an area of Western Avenue from Residential A and Village Commercial District to Business B District. – Public Hearing

Chairman Weatherbee asked that the Staff memo become part of the public record.

3. STAFF REPORT

Bob Osborne explained about the postponed meetings due to weather last month, and the stream clean up May 3rd. Also, this is Peter Frazier's last meeting, he has submitted his resignation. Mr. Osborne thanked Peter for his years of service on the Board.

4. BOARD MEMBER CONCERNS

There were no Board Member comments.

5. ADJOURNMENT

Meeting was adjourned at 8:45 p.m.

Respectfully Submitted,

Michael Avery,
Planning Board Secretary