

TOWN OF WEBSTER

PLANNING BOARD

MEETING MINUTES THURSDAY SEPTEMBER 16, 2021

1 The Planning Board held a meeting on Thursday, September 16, 2021. The meeting was held at the Town
2 Hall in the Grange Hall; 945 Battle Street, Webster, NH 03303.

3
4 **Planning Board Members present:** Chairperson Craig Fournier, Paul King, Adam Mock, Kathy Bacon,
5 David Hemenway (Select Board Ex Officio Alternate Member).

6
7 **Also, present:** Russell Tatro (Land Use Coordinator), please see attached sign in sheet for the public in
8 attendance.

9
10 Chairperson Fournier opened the September 16, 2021 meeting at 6:30pm and took attendance. Members
11 Susan Youngs, and Ex-Officio Marlo Herrick were not in attendance.

12
13 Chairperson Fournier gave a brief history of the Wetlands Ordinance and then went over the procedures
14 of the hearing. At this point Alternate Member Bacon joined the meeting and Chairperson Fournier asked
15 if she would fill in as a voting member. She stated that she would. He then gave the floor to Susan Roman
16 to present the proposed ordinance.

17
18 Susan Roman explained that the Wetlands Ordinance was drafted by a Subcommittee comprised of
19 members from the Conservation Commission and Planning Board. She went over how the process of
20 creating the ordinance, the data findings, and a basic overview of what was included in the proposed
21 ordinance.

22
23 Once the presentation was complete, Chairperson Fournier opened the hearing to Public Comment.

24
25 Jack Chwasiak asked if the Town had received feedback from New Hampshire Department of
26 Environmental Services (DES). Ms. Roman stated that they had. He had seen other wetland ordinances
27 and felt that this one was more-middle-of-the-road. Ms. Roman agreed, stating that this ordinance was
28 middle-of-the-road, and the New Hampshire Association of Conservation Commissions also agreed with
29 that sentiment. She then described how the ordinance was tailored to Webster.

30
31 Tara Gunnigle asked who would oversee clearcutting on lakes and who would ensure the natural
32 shoreline buffers. She wanted to know if the Town could do anything about these situations. Ms. Roman
33 stated that some would be grandfathered. However, new lots would, if this ordinance were to pass, be
34 covered. Ms. Gunnigle then discussed water runoff caused by logging with Ms. Roman.

35
36 Chris Schadler commented that DES was in control of what Ms. Gunnigle was talking about. She stated
37 that DES wanted local municipalities to come up with their own wetland ordinances. Ms. Schadler and
38 Ms. Gunnigle briefly discussed permitting requirements from DES. Ms. Schadler pointed out that DES
39 cannot be everywhere and often relied on local enforcement.

40
41 Jim Clark-Dawe commented that DES had extensive rules and regulations on what you could do on a
42 waterfront and many of the regulations are ignored. Therefore, the ordinance wasn't going to solve
43 anything. The ordinance also didn't really define its terms. For example, what is the ordinance's definition
44 of a dock. DES had a very clear definition of a dock. Ms. Roman stated that they had left the
45 terminology vague to allow the ordinance to be more flexible in the hopes it would be less restrictive. Mr.
46 Clark-Dawe stated that this flexibility could go both ways and perhaps allow the Planning Board to be
47 more restrictive than the state. What would happen, for example, if a future Planning Board banned docks
48 on the lake. Ms. Roman stated that a future Planning Board could not do that without first amending the
49 ordinance. Any amendment would require a vote by the Town at Town Meeting.

1
2 Kim Fortune asked both the Conservation Commission and Planning Board if the water rights agreement
3 with Concord had been repealed. She had brought this up in 2014 to the Select Board and Conservation
4 Commission. She felt that the proposed ordinance would have no standing unless this was repealed. Ms.
5 Roman felt the ordinance ought to be investigated if it would affect the ordinance.
6

7 Nancy Rosborough asked how the buffers were defined and how would the buffer be determined. Ms.
8 Roman stated that the buffer would be measured by the edge of the wetland. If there was a dispute on
9 where the edge was, she hoped that the Planning Board and the property owner could come to an
10 agreement. If they could not, it would be handed over to a wetland scientist to determine where the edge
11 was. Ms. Rosborough asked what would happen if a beaver dam expanded the wetland or created a new
12 wetland. Ms. Roman stated that this would have to be handled on a case-by-case basis. She felt they
13 would likely have to consult an expert or hopefully go by what looked obvious. Ms. Rosborough asked if
14 there would be any tax relief for the wetland and its buffer. Ms. Roman didn't know of any tax exemption
15 for that, but she would investigate what other Towns did.
16

17 Selectman Hemenway asked for clarification on who would maintain the wetland maps and how would
18 they be updated. Mr. Roman stated that the level-one map was a legal map with coordinates that were
19 used to determine the locations of the wetlands. The level-two map required self-identification of
20 wetlands, and DES could assist with determining the exact size of the wetland. For the level-two map it
21 was the description of a wetland that determined its enforcement. She was not sure on the process for
22 amending the legal map and would have to investigate further.
23

24 Ms. Gunnigle asked if sections of Rt 103 are in the Wetlands District. She was wondering because there is
25 a well-known junkyard on that road. She thought, based on the map, that it would be included in the
26 level-one district. She also wondered if anything could be done about the junkyard. Ms. Roman stated that
27 the Warner River would be in the level-one district and asked if the junkyard went down to the river. Ms.
28 Gunnigle stated that it was on a hill and the runoff would likely go into the river. Ms. Roman stated that
29 she had to review the ordinance to see what would be applicable and that the Town would likely need a
30 junkyard ordinance.
31

32 Mr. Clark-Dawe pointed out that several areas in the district were already heavily developed and the
33 ordinance would likely overlap with existing laws. His understanding was that this ordinance would
34 require a Conditional Use Permit (CUP) for replacing a septic. He felt that the Planning Board did not
35 have the qualifications to review septic applications. Ms. Roman stated that he raised a good point
36 regarding the CUP, and she thought the replacement of septic tanks would be grandfathered. Mr. Clark-Dawe
37 pointed out that is not what the language in the draft ordinance said. Ms. Roman examined the language
38 that he was referencing and agreed that it should not be in there. She stated that the language would be
39 looked at and fixed. Mr. Clark-Dawe asked how this ordinance would protect the Town further than what
40 DES already regulated. Ms. Roman stated that this would protect the town from new development and
41 new uses that could damage the wetlands.
42

43 Mr. Clark-Dawe brought up a hypothetical situation involving building in the buffer. The DES buffer and
44 the ordinance's buffer were briefly discussed. Ms. Roman commented that this was the classic discussion.
45 The discussion is that every environmental action and law takes away some uses from property owners to
46 protect nature. She felt somewhere down the line the Town would need to decide at what price do we
47 protect nature. Mr. Clark-Dawe didn't disagree with the sentiment of the ordinance. He felt the Town was
48 not enforcing the rules that we already had and if we didn't enforce those why did the Town need more.
49 Ms. Roman stated the goal was to do it better than it had been in the past.
50

1 Michael Jette commented that his home was on Clothespin Bridge Road and the current buffers would
2 almost completely cover his .83-acre lot. Ms. Roman stated that everything currently on the lot would be
3 grandfathered. Mr. Jette had hoped to add an addition to the house in the future and this ordinance would
4 make it impossible. Ms. Roman stated the Board could consider another exemption for small lots. Mr.
5 Jette brought up his other concern regarding the storage of chemicals. His garage is in the buffer. Ms.
6 Roman stated that this would be a current use and would be grandfathered. Chairperson Fournier thought
7 that these were good suggestions, and the Planning Board would discuss this at a future meeting.
8

9 Dick George stated that his understanding was there would be no adjudicated relief for any development
10 in the level-one buffer. Ms. Roman stated that property owners could apply for a variance and that there
11 would be no CUP's in the level-one buffer area.
12

13 John Collins stated that he had just purchased a lot on Clothespin Bridge Road. With the 75ft buffer, this
14 would make the lot almost unbuildable. If he followed the 50ft state buffer, he could put a house on that
15 lot. Ms. Roman stated that this was a similar situation to Mr. Jette's and the Board would consider a
16 solution.
17

18 Paul Nylen commented that he owned the lot right next to Clothespin Bridge and he had a .28-acre lot. In
19 the future, he wanted to rebuild his home and because of this ordinance, it would likely be impossible. He
20 asked if the rebuild would be grandfathered. Chairperson Fournier thought that this was something the
21 Planning Board would have to investigate. He stated that he had been keeping a list of all the comments
22 so the Board could discuss them at the next meeting.
23

24 Jon Pearson commented that prior Boards had stated certain uses would be grandfathered before and then
25 these used turned out to be not grandfathered. He wanted to make sure that the language in the ordinance
26 would be clear.
27

28 Greg Scott commented that he wanted to know what he could and couldn't do in the wetlands district. He
29 had 18 acres and most of it is wetlands. These wetlands are currently useless to him. He expressed that
30 did not like having anyone telling him what he could do with his land. Ms. Roman went over the
31 permitted uses in the ordinance and stated that agriculture would be a permitted use. They then discussed
32 the permitted uses and the DES processes.
33

34 Betsy Janeway stated she had been a member of the Conservation Commission since its beginning. The
35 Conservation Commission was not here to take away the rights to use your land. They wanted to protect
36 one of the most valuable resources the Town had: good clean water. The natural resources Webster has is
37 worth a fortune. She gave an example of her swimming in the clean waters in lake Winnepocket verses in
38 the Blackwater River which had been brown because of all the runoff and erosion. She felt this ordinance
39 would help solve those kinds of issues. The ordinance would be good for the Town's health and the health
40 of the wetlands.
41

42 Tom Bandwell asked what percentage of the wetlands has been diminished over the last twenty years and
43 what would this ordinance do to stop it. Ms. Roman stated that the Town did not have any data of where
44 the wetlands had been 20 years ago. What she did have was the report done by GZA, the environmental
45 firm who had delineated the wetlands. The report had pointed out that there had been degradation and she
46 did not know when exactly the degradation had occurred. She pointed out that any degradation was a
47 problem because these wetlands cleaned the Town's water. Mr. Bandwell commented that if any
48 degradation would cause a problem, then the solution was nobody should live in Town. Ms. Roman
49 responded that the point was to come up with a compromise that protected the wetlands and didn't overly
50 impede on property rights. Mr. Bandwell stated that he wanted the evidence. Ms. Roman stated that they
51 did not have any past records because it had not been previously measured. She stated that the experts

1 who had delineated the wetlands had determined the level of degradation. Mr. Bandwell stated that if they
2 had measurements then they must be measuring the wetlands over a certain period. Ms. Roman responded
3 that they were comparing the wetlands to similar wetlands that operated perfectly. If the Town wanted to
4 stop the degradation, some rules would have to go in effect.

5
6 Sally Embley, who lives on lake Winnepocket, agreed with a previous statement regarding people
7 violating DES rules around the lake. She thought that having an ordinance was a good idea because we
8 could do something on the local level. She gave several examples of several violations that had or could
9 happen in the future that this ordinance could prevent.

10
11 Mr. Clark-Dawe commented that he had lived on lake Winnepocket his entire life and the biggest
12 degradation to the lake was Pond Hill Road. This was a failure of the Town to protect property. There was
13 a lake owner association and when there were problems the residents on the lake took care of it by
14 reporting it to DES. He asked what this was going to provide for the Town and how would it be enforced.
15 Selectman Hemenway commented that the Town had a code compliance form for reporting issues in the
16 Town. This official report would allow the Town to report with you and this would add additional weight
17 to the application.

18
19 Mary Joe MacGowan stated that DES was a wonderful institution, but they didn't have a large budget. It
20 took a large violation for them to come out and enforce.

21
22 Mr. Clark-Dawe stated that if we have a zoning officer then why don't we enforce existing laws rather
23 than making new ones. Ms. Roman stated that the Shoreland Act had less strict requirements and didn't
24 meet the scientific standards for wetland protection. Mr. Clark-Dawe stated that we haven't used the
25 existing regulations and laws and why can't we use the zoning officer to enforce existing laws. Selectman
26 Hemenway stated that this ordinance would be more restrictive than DES. Also, the Zoning Officer
27 worked for the Town and only could enforce Town ordinances. If this became part of the Town Zoning
28 Ordinance, then the Town could legally enforce it.

29
30 A resident asked how this would be approved. Chairperson Fournier stated that the Town would vote on
31 the ordinance at Town Meeting. The resident responded that the Planning Board already approved it.
32 Chairperson Fournier stated that the Planning Board had approved the draft ordinance to move forward to
33 the public hearing process. Member Bacon asked Chairperson Fournier to explain the timeline.
34 Chairperson Fournier stated that it would be reviewed after this hearing and if there were major changes
35 and then they would need a second public hearing next month. Once it was approved, the Planning Board
36 would make their recommendations. Member Bacon stated that the vote was next spring and how soon
37 did it have to be done. The Board discussed the ordinance and agreed to hold a work session on
38 September 29, 2021 at 7:00pm to discuss the comments and make changes if needed.

39
40 **MOTION:** Paul King

41 *Motion to table the rest of the agenda the meeting.*

42 **SECOND:** Adam Mock

43 **PAUL KING – YES**

44 **CRAIG FOURNIER – YES**

45 **ADAM MOCK – YES**

46 **The motion passed 3 to 0**

47
48 **MOTION:** Chairperson Fournier

49 *Motion to adjourn the meeting at 8:30pm.*

50 **SECOND:** Paul King

51 **PAUL KING – YES**

1 **CRAIG FOURNIER – YES**

2 **ADAM MOCK – YES**

3 **The motion passed 3 to 0**

4
5
6 Respectfully,

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8
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10 _____

11
12 *Minutes taken by Russell Tatro*

Approved as Written 10/21/21