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MINUTES OF THE NEW CASTLE PLANNING BOARD

Wednesday, March 23, 2022 – 7:00 p.m. (Macomber Room at Recreation Center)

Public Hearing for a Condominium Conversion for the applicants John McCormack and Kristen McCormack for the properties at 41 and 43 Piscataqua Street, Map 18, Lot 43 under the Subdivision Regulations.

Release of escrow for Laurence Leavitt and Virginia Battles, 19 Lavengers Lane, Map 4, Lot 16.

Second Public Hearing on a proposed amendment to the Building Code Ordinance Section 1 (b) to clarify the rating authority on wood shingles.

Second Public Hearing on a proposed amendment to the Building Code Ordinance Section 13 (d) and (e) to clarify procedures if a project is not complete after 18 months following the issuance of a building permit and the consequences of starting a project without obtaining a building permit where one is required.

Public Hearing on a proposed amendment to the Zoning Ordinance Section 9.1.1.30 to establish the time period during which “substantial improvement” costs on a structure are to be calculated.

Public Hearing on a proposed new section, Zoning Ordinance 9.2.10 establishing a Local Shoreland Permit.

Members Present: Darcy Horgan, Chair; Tom Hammer; Lorne Jones; Rich Landry; Iain Moodie; Margaret Sofio; Bill Stewart.

Members Absent: Kate Murray.

Others Present: John and Kristen McCormack.

Chair Horgan called the meeting to order at 7:02 p.m. Noting a quorum, Chair Horgan indicated that the voting members are herself, Ms. Sofio, Mr. Hammer, Mr. Landry, and Mr. Moodie. Mr. Jones and Mr. Stewart are alternates.

1. Public Hearing for a Condominium Conversion for the applicants John McCormack and Kristen McCormack for the properties at 41 and 43 Piscataqua Street, Map 18, Lot 43 under the Subdivision Regulations.

Chair Horgan announced that Mr. Hammer and Mr. Moodie are recusing themselves for this hearing. Voting members for this case will be Ms. Sofio, Mr. Jones, Mr. Landry, Mr. Stewart,

and Chair Horgan.

John McCormack gave an overview of the proposal. There are currently two single family homes on one lot of land. The lot was previously two separate lots that were joined together several years ago. The McCormacks would like to make condominiums out of the homes so that they can be financially independent from each other.

Ms. Sofio asked if the McCormacks had a list of waivers that they are requesting. Mr. McCormack responded that he was unaware they needed any waivers. Chair Horgan noted that although this seems like a simple case, it falls under the Subdivision Regulations section of the Zoning Ordinance, which has numerous requirements that can be complicated. When an applicant wishes to take two existing parcels and change them into a condo, which is essentially just changing ownership, the applicant still needs to abide by all Subdivision Regulations per the Town Zoning Ordinance. Chair Horgan stated that with these cases, applicants are typically represented by counsel because of the complexity often involved. The Planning Board must have certain things in order to be able to approve a condominium application. Chair Horgan advised the McCormacks to review the Zoning Ordinance Section 5.4, which discusses condominium regulations.

Chair Horgan noted that the condominium documents that the McCormacks had must be submitted to the Planning Board so that the Town Counsel can review them. Mr. McCormack responded that Attorney Robert Ducharme has been assisting them with the condo application, and he had advised them that the Planning Board must review the condominium documents before sending them to the State. Chair Horgan clarified that the documents need to be approved by the State before the Planning Board can sign the Mylar.

There is a checklist under the Subdivision Regulations of required items that need to be submitted in order to obtain Planning Board approval. The Applicant needs to submit a letter to the Planning Board requesting a waiver from any of the requirements that are not applicable or to which they request not to be bound. The Planning Board then needs to vote to waive these line items. As a general rule, the plans must show the dimensions for all features. Chair Horgan pointed out that the Applicants' property is out of step with current ordinances, but some of the property is grandfathered. For example, the size of the back building does not meet the minimum square footage requirement, however, because of earlier approvals by Land Use Boards, this structure is now an allowed usage.

For this approval, the McCormacks must show on the plan that the lot allows for four 9 foot by 18 foot parking spaces, which cannot consist of stacked parking. If the lot cannot accommodate the four parking spaces, then the Applicants will need a variance from this requirement from the Zoning Board of Adjustment. In addition there needs to be a chart of pervious and impervious surface areas on the lot. Chair Horgan also pointed out that a sewer line shown on the plan that seems to go nowhere needs to be more accurately depicted. Mr. Landry recommended that the McCormacks' engineer revise the plans before going to the Building Inspector.

Given the lot coverage issues with the pervious and impervious surface areas, the Applicants will need approval for the proposed shed, patio, and fence from the Building Inspector, and likely from the ZBA, before coming back to the Planning Board. The McCormacks will possibly need

permits for these requested features in order for them to be shown on the plans before the Board. Chair Horgan pointed out that the snow storage area shown on the plan is an issue because it is on ledge, which will create stormwater runoff onto neighbors' yards. She recommended removing the snow storage area from the plan if that is not an accurate depiction of where snow is actually stored.

Chair Horgan noted that the hearing can only be continued one or two times before having to re-notice abutters. She suggested that the applicants submit a letter requesting a continuance to the May 25th Planning Board meeting in the Macomber Room in order to allow time to prepare the necessary documents.

Chair Horgan opened the public hearing at 7:35 p.m. Mr. Hammer asked if Mr. McCormack needed to show the proposed features on the plans. Mr. McCormack responded that he would take those off the plans to avoid confusion. Hearing no further comments from the public, Chair Horgan closed the public hearing at 7:40 p.m. and turned discussion back to the Board.

Ms. Sofio motioned to continue the Condominium Conversion for the applicants John McCormack and Kristen McCormack for the properties at 41 and 43 Piscataqua Street, Map 18, Lot 43 under the Subdivision Regulations until the May 25, 2022 Planning Board meeting at 7:00 p.m. in the Macomber Room. Mr. Jones seconded. Motion carried unanimously.

2. Release of escrow for Laurence Leavitt and Virginia Battles, 19 Lavengers Lane, Map 4, Lot 16.

Chair Horgan read a letter of recommendation submitted by Conni White, Chair of the Conservation Commission. Chair White determined that all conditions of the December 22, 2017 Planning Board notice of decision have been met satisfactorily, and recommended the release of the Applicants' bond.

Ms. Sofio motioned to release the escrow for Laurence Leavitt and Virginia Battles, 19 Lavengers Lane, Map 4, Lot 16. Mr. Landry seconded. Motion carried unanimously.

3. Review and approve minutes to the February 23, 2022 meeting of the Planning Board.

Mr. Landry moved to approve the minutes as written for the Planning Board meeting on February 23, 2022. Mr. Moodie seconded. Motion carried unanimously.

4. Second Public Hearing on a proposed amendment to the Building Code Ordinance Section 1 (b) to clarify the rating authority on wood shingles.

Chair Horgan stated that this ordinance was discussed at the last Planning Board meeting, and was then revisited by Russ Bookholz, Town Building Inspector and Code Enforcement Officer, with Mr. Moodie. Mr. Moodie explained that the National Fire Protection Association (NFPA) does not use the Class B rating, but instead uses the flame spread index. A shingle designated as a Class B by the manufacturer is a fully treated shingle whereas the NFPA is less stringent.

Chair Horgan opened the public hearing at 7:54 p.m. Hearing no comments from the public,
Chair Horgan closed the public hearing at 7:54 p.m.

The proposed new language is in bold and underlined below.

Ms. Sofio motioned to advance the following Building Code Ordinance amendment to a warrant article at the Town meeting in May 2022:

BUILDING CODE

Section 1 Code Adoption

- (b) Wood **roofing** shingles are not permitted unless they meet Class B fire rating or higher **from the manufacturer.** ~~as rated by National Fire Protection Association Standards.~~
Contractor or owner must obtain approval from the building inspector prior to installation. (May 2022)

Mr. Hammer seconded. Motion carried unanimously.

5. Second Public Hearing on a proposed amendment to the Building Code Ordinance Section 13 (d) and (e) to clarify procedures if a project is not complete after 18 months following the issuance of a building permit and the consequences of starting a project without obtaining a building permit where one is required.

Ms. Sofio observed that this amendment was to make sure that if a project is not completed after 18 months, a new building permit will be needed and will follow the same building code that was in effect when the original building permit was issued. An applicant cannot be forced to change to an updated code if the project is not completed within the initial period of validity of the building permit. Mr. Hammer questioned why the building permit is only valid for a certain period of time. Mr. Moodie responded that this guarantees that there is a set of eyes on the project to make sure there is progress and to check on safety.

Chair Horgan stated that Section (e) was added to make clear the penalties if someone were to do work without having a permit. Mr. Moodie noted that this was part of the State code already, but having it in our Ordinance serves as a good reminder.

Chair Horgan opened the public hearing at 8:07 p.m. Hearing no comments from the public,
Chair Horgan closed the public hearing at 8:07 p.m. and turned discussion back to the Board.

The proposed new language is in bold and underlined below.

Mr. Hammer motioned to advance the following Building Code Ordinance amendment to a warrant article at the Town meeting in May 2022:

BUILDING CODE

Section 13 Permits

- (d) *Building permits are valid for a period of twelve months after issuance. An extension of six months may be granted at the discretion of the ~~Planning Board~~ **Building Inspector** after a request is made in writing prior to the permit's expiration date. **If the project is not completed after 18 months, a new building permit application must be submitted and issued under the code of the original permit. The fee shall be at the rate of three dollars and fifty cents (\$3.50) per one thousand dollars (\$1,000) of the estimated remaining construction value. A minimum fee of fifty dollars (\$50.00) will be charged.** (May 2003, May 2022)*
- (e) **Any person, including any contractor or property owner, found to have demolished, constructed, altered, removed or changed the use of a building or structure without the benefit of a building, electrical, plumbing, or mechanical permit shall be subject to an additional fee added to each permit in the amount of 100 percent of the permit fee (i.e. a double fee) and may also be subject to a penalty of \$275 a day for each day that the violation continues, as well as be subject to an injunction, payment of the Town's costs and attorney's fees expended in pursuing legal action, and all other remedies available to the Town under RSA 676:15 and RSA 676:17.** (May 2022)

Mr. Moodie seconded. Motion carried unanimously.

6. Public Hearing on a proposed amendment to the Zoning Ordinance Section 9.1.1.30 to establish the time period during which "substantial improvement" costs on a structure are to be calculated.

Chair Horgan stated that this amendment was written by Jennifer Gilbert in the NH Office of Planning and Development. Other towns in the area use this exact wording, as it comes directly from FEMA. The amendment limits accumulative improvements to a property in a five year time period so that people cannot get around the FEMA rules.

Mr. Stewart asked about the appraised value referenced in the amendment, and how the beginning value of the home is addressed. Chair Horgan responded that either the assessed value or appraised value can be used. Mr. Moodie noted that the assessed value must be used at the start of renovation. He also pointed out that if someone buys a property that was just renovated, that individual needs to be aware of this because the five years does not restart when property ownership changes.

Chair Horgan opened the public hearing at 8:22 p.m. Hearing no comments from the public, Chair Horgan closed the public hearing at 8:22 p.m. and turned discussion back to the Board.

The proposed new language is in bold and underlined below.

Ms. Sofio motioned to advance the following Zoning Ordinance amendment to a warrant article at the Town meeting in May 2022:

9.0 OVERLAY ZONING DISTRICTS

9.1 FLOOD PLAIN DEVELOPMENT DISTRICT

9.1.1 Definition of Terms

9.1.1.30 Substantial Improvement

9.1.1.30 Substantial improvement: means any combination of repairs, reconstruction, alteration, addition, or other improvements ~~to~~ of a structure for which a building permit is required, taking place during a five-year period in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. For each structure, the five-year period begins on the date of the first permit issued for improvement or repair of that structure subsequent to May, 10, 2022. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term ~~includes~~ applies to structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, ~~however, include~~ apply to either: any project for improvement of a structure required to comply with existing health, sanitary, or safety code ~~specifications which are solely~~ violations identified by the building official and that are the minimum necessary to assure safe living conditions or any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Mr. Moodie seconded. Motion carried unanimously.

7. Public Hearing on a proposed new section, Zoning Ordinance 9.2.10 establishing a Local Shoreland Permit.

Chair Horgan stated that Mr. Bookholz proposed adding this new Zoning Ordinance so that he has the authority to inspect whatever the State requirements are to be sure that everything the State conditioned in their approval is met. Chair Horgan added that the State has a limited number of inspectors, and she felt that this was a great addition to the Town Ordinances. The permit cost would be \$50. Mr. Stewart asked if the Town permit is automatically approved if the State permit is issued. Chair Horgan responded that the applicant needs to submit a copy of the State approval with the Town permit and pay the \$50 permit fee. The Town isn't using this permit for an approval process. It is designed to just be an authorization to have our Code Enforcement Officer inspect that the State requirements are met.

Chair Horgan opened the public hearing at 8:27 p.m. Hearing no comments from the public, Chair Horgan closed the public hearing at 8:27 p.m. and turned discussion back to the Board.

The proposed new language is in bold and underlined below.

Mr. Landry motioned to advance the following new section, Zoning Ordinance 9.2.10 Local Shoreland Permit to a warrant article at the Town meeting in May 2022:

9.2.10 Local Shoreland Permit

If a State Shoreland Permit is required under RSA 483-B, a local Shoreland Permit shall also be required, and may be obtained through the Building Inspector/Code Enforcement Officer's office.

Ms. Sofio seconded. Motion carried unanimously.

8. Update on the Master Plan Committee.

Chair Horgan stated that the Master Plan Committee has not met in the past month because the town-wide survey was pending. The survey has since closed and results are being tabulated. Mr. Jones noted that 106 people had taken the survey as of March 13.

Mr. Stewart asked if residents could still participate in working on specific sections of the Master Plan. Chair Horgan responded that people can still join. Mr. Jones added that work will commence on specific sections once the survey results are analyzed. Chair Horgan felt that the Town website should have an announcement that if anyone has input on any sections of the Master Plan, he or she should contact the Committee. Mr. Hammer recommended putting a notice at the Post Office. Chair Horgan stated that there will also be public hearings along the way, which will allow members of the public to share their opinions.

9. Old Business.

None.

10. New Business.

Chair Horgan stated that the next Planning Board meeting will be held on Wednesday, April 27, 2022 at 7:00 p.m. in the Macomber Room.

11. Adjourn.

There being no further business, Mr. Hammer moved to adjourn the meeting. Mr. Jones seconded. The motion carried, unanimously, and the meeting adjourned at 8:41 p.m.

Respectfully Submitted,

Meghan Rumph
Recording Secretary