Town of Richmond
Planning Board Public Hearing
January 9, 2024, 6:30 PM Richmond Veterans Hall
Final as Revised

Members Present:
Doug Smith (Chairman)
Jed Butterfield (Vice Chairman)
Lisa Traeger
Kim DeMasco
Karen O'Brien (Alternate)
Doug Bersaw (Selectman's Rep)

Members Absent
Lloyd Condon (Alternate)
Kathryn McWhirk (Secretary)
Stacie Maillet
Joe Norman (Alternate)
William Daniels (Alt. Selectman's Rep)

Public: Fran Heap, Alan Heap, Jeff Taylor, Susan Taylor, Richard Drew, Pam Bielunis, Alan Bielunis, Susan Lanen, Mark Lanen, Lenny Solomon, Susan Perry, Andy Pearsall Antoinette Cincotta, Becky Haskins, Kevin Rukstela, Jerry Mills, Doug Hildreth, Anette Tokunaga, Richard Lewis, Tom Tague, Blair Heise, Cassie Heise, Amanda Grinstead, Brad Grinstead, Alex Hoar.

Meeting called to order at 7:01 PM.
O'Brien seated for Maillet.

Chairman Smith opened the meeting with a brief discussion on the proposed changes for the ballot and the history of these changes. The initial request from the Selectmen and the Zoning compliance officer was to clarify the word "structure"; most predominantly, as it related to the Wetland Conservation District. As "structure" is defined as anything manmade, and the word "structure" is used 92 times within the ordinances, an alternate solution was proposed; "building" is a better fit. Changing a definition changes any associated ordinances.

First item discussed; Delete Article 4: Residential District, under 406 Other uses, specifically 406.1 Houses of Worship, and Article 17 Definitions, under 1733 House of Worship. Both items were deemed unlawful by the State of NH RSA 674:76 as revised July 1, 2022.

Chairman Smith explained state law changed July 2022 and prohibits using the word "religious" as it is discriminatory.

Discussion ensued:

- Building height, setbacks, parking lighting still hold per other ordinances already in place.
- Town ordinances may strengthen a state RSA but not override the RSA.

Change the definition of Building 1709.

Current definition of "structure" - Any man-made object or construction having an ascertainable stationary location on, above, or below the surface of the land or water.

Everything manmade is a structure. "Building" is a subset of "structure". Examples given of what would be a structure but not a building include a mailbox by the road or stonewalls, kid's play structure, dog houses. It was

further explained "structure" is used 92 times throughout the zoning ordinances. To change the definition of "structure" would have meant a major overhaul of our zoning ordinances.
It was explained that the word "structure", "dwellings", and "building" appear simultaneously or in combination in many places throughout the ordinances, in some cases, the spirit of the ordinance is just "building" and not a kid's play structure, or driveway or a leaf pile or doghouse. The board felt that removing the word "structure" as appropriate and/or when used in conjunction with "building" would have the least impact on the ordinances while having the greatest impact in clarifying the intent/spirit of the ordinance.

Discussion on various "structures" vs. "building" ensued.

The new, proposed definition of "building" changes the definition slightly.
1709. Building – Any structure having a roof supported by columns or walls and intended **or used** for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind or nature, **including containers larger than 100 square feet used for the storage of commodities or other materials, and in-ground swimming pools.**

Discussion points included:

- Canvas garages.
- Storage containers
- Size of storage containers
- Building permit requirements.
- Temporary vs. permanent
- State definition of "building."
- A "building" is a "structure."
- Setback types (Property and Wetland Conservation District)

Side discussion of Special Exceptions vs. Variance uses and procedures ensued.

Next discussion covered the impacted current ordinances.

Article 3, under 317 cluster Housing, more specifically 317.7 and 317.10.
It was explained that the Article 3 changes under Section 317 Cluster Housing were voted on and included in the posted ballot question, but the body of the change was omitted from the posted public hearing. This addition was discussed as proposed and will reappear on the sample ballot for the next public hearing.

Read into record:
317.7 The commonly owned open space shall not be used for any **building** with the exception of a common approved septic system. Recreational areas, trails or paths are permitted. A private non-profit organization consisting of all landowners shall be established by the developer to manage, maintain, support, and finance necessary actions to the common facilities and common area of the cluster and enforce any covenants.

317.10 All other provisions of Article 4 and Article 3 shall apply except that the setback from the front property line shall be a minimum of 40 feet. In the case of a cluster utilizing a common septic system, a minimum of 10-foot setback from the side and rear property lines and 40 feet from the front property line are required for any ***building***. The common septic system must be a minimum of 75 feet from any dwelling unit.

Remove the word "structure" and leave "building" to allow minor structures such as benches and play structures on the common land.

1203.2. All reference to structure was removed, make "shall" lower case.

1204 Occupancy Permit: All reference to structure was removed.

404, 404.3.4 and 1758 Ruins: All reference to structure was removed.

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Definition of Ruins "structure" replaced with "building" to match current ordinance.

The Chair opened the discussion on the Wetland Conservation District (WCD):

Replace the word "structure" with 'building" and add "normal landscaping".
"Building" is more clearly defined and objective and not as broad-based and subjective as "structure".

Our goal was to create a balance within the WCD for use by the property owner and still maintain most of the protection of the wetlands. The Wetland Conservation District (WCD) is the **75'** 'buffer" around the wetlands, not the wetlands themselves.
Add "Normal Landscaping" to allow the on-site alteration and contouring of the land exclusively devoted to improving the functional utility and planting of the grounds. As defined in the excavation regulations page 6 item T.
Current interpretation of the Town Ordinance doesn't allow any changes/uses to WCD unless listed by special exception, or by variance including such things as adding mulch to a playground (playground is a structure, mulch is fill), adding gravel to the current location you may already be parking a car (fill), removing a stump (excavation), For these types of activities, a review by the Wetlands Conservation Commission and approval of the Zoning Board of Adjustment would be required but not necessarily given.

Discussion ensued:

- Define Normal Landscaping
- Excavation
- Balance of property rights/WCD
- Canvas tent function.
- Impermeable surfaces/flooring
- Structure definition as used in all ordinances.
- Structure subjective to interpretation.
- Building permit
- Aquifer protections
- Solar Arrays

Jeff Taylor (Chair of the WCC) presented a letter from RCC, suggesting a 25' buffer against the actual wetland and within the current 75' WCD setback where no structure that is capable of storing hazardous material, can be built. (copy attached).

Article 6 under 601 General.
Correct who can identify and delineate the Wetland Conservation District as only **a State Board of Natural Science certified soil scientist or State Board of Natural Science certified wetland scientist.**

The change is to (per State RSA 310-A:75 Purpose) "guard the citizens of New Hampshire and the professions from unqualified practitioners of soil science and wetland science and to foster intelligent application of the

knowledge of soil properties and wetland characteristics in planning and implementing land use decisions consistent with New Hampshire department of environmental services rules or standards adopted by the board"; a surveyor, soil scientist, engineer, the Conservation Commission, or the Planning Board has no authority to delineate wetlands.

Discussion included:

- Clarification of Septic System designer input.
- Availability for town to request additional input for delineation verified.

Attendees notified the suggested changes will be reviewed by Town Attorney.

Motion made by Bersaw to close the public hearing. Seconded by Vice Chairman Butterfield.
Next Public Meeting January 16, 2024, at the Taylor Van Brocklin Municipal Building at 6:30 PM.
No further questions/discussion.
Motion to close was called.
All in favor. Chairman Smith yes, Vice Chairman Butterfield yes, Traeger yes, DeMasco yes, O'Brien yes, Bersaw yes.

Public hearing closed at 9:05 PM

Discussion on dates for the last Public Hearing.
Decision to post on January 24th as the last Public Hearing.

Motion made by Vice Chairman Butterfield to adjourn. Seconded by Bersaw. All in favor. Chairman Smith yes, Vice Chairman Butterfield yes, Traeger yes, DeMasco yes,
Bersaw yes.

Meeting adjourned at 9:20 PM.

Respectfully Submitted:

Kandace Mattson

Conservation Commission

Richmond New Hampshire

January 04, 2024

Richmond Conservation Commission
105 Old Homestead Highway
Richmond, NH 03470

Richmond Planning Board
105 Old Homestead Highway
Richmond, NH 03470

Re: Changes to Richmond Zoning Regulations

The Richmond Conservation Commission reviewed and discussed the proposed amendments to the Richmond Zoning Ordinance during their January 4, 2024, meeting.

With respect to proposed Article 3, to change Article 17 definition under 1709 Building, the commission urges the Planning Board to consider including above ground swimming pools, fabric or pole garages, and solar arrays in the definition of building.

The reason for our concern is protection of the wetlands and the protective buffer provided by the Wetlands Conservation District. Power tools, equipment, recreational vehicles, tractors, etc. and the storage of such, which is common use of fabric type storage units or pole garages pose a potential serious threat to the wetland community in the event of a spill of hazardous materials. Solar arrays and swimming pools require certain amounts of excavation and soil disturbance. A protective wetland buffer would help capture a hazardous material spill and provide valuable time to respond with proper cleanup procedures.

The proposed changes compromise the purpose of the Wetlands Conservation District therefore the Commission respectfully and strongly urges the Planning Board to consider a 25 foot no structure buffer in an attempt to protect our Richmond wetlands community, No structures, No disturbance.

Respectfully Submitted,

Richmond Conservation Commission
Jeffrey Taylor
Richard Drew
John Randall
Gary Hebert
Andrew Powers