Town of Richmond

Planning Board Public Hearing

February 1, 2024, 6:30 PM Richmond Veterans Hall

Final as Revised

Members Present:
Doug Smith (Chairman)
Lisa Traeger
Kim DeMasco
Doug Bersaw (Selectman's Rep)
Lloyd Condon (Alternate)

Members Absent
Kathryn McWhirk (Secretary)
Stacie Maillet
Jed Butterfield (Vice Chairman)
Karen O'Brien (Alternate)
Joe Norman (Alternate)
William Daniels (Alt. Selectman's Rep)

Public: Jerry Mills, Joan Wolfe, Richard Drew, Fran Heap, Alan Heap, Mark Lanen, Pam Goodell, Dan Connell, Abby Connell, Pam Bielunis, Alan Bielunis, Anette Tokunaga, Alex Hoar, Becky Haskins, William Daniels, Jennifer Daniels, Susan Harrington, Carolyn Trembley, Kim Gold, David Gold, Doug Hildreth, Hanna Schroeder (Keene Sentinel), Chris Cartwright (Keene Sentinel) Amanda Grinstead.

Public meeting was called to order at 7:08 PM.
Condon seated for Kathy McWhirk

Motion made by Traeger to use the PowerPoint. Seconded by DeMasco. Bersaw yes, Traeger yes, DeMasco yes, Chairman Doug Smith yes, Condon no, Motion carries.

Chairman Smith opened by stating that this is the second public hearing on proposed Zoning Ordinance changes. He continued that the spirit and intent of the zoning changes is to give you back some use of your land within the setbacks, abutter, road, and Wetland Conservation District setbacks. We are trying to make it clearer.

Chairman Smith started with.
Amendment 1, Article 4, under Section 406.1 House of Worship and Article 1 Definitions, under 1733 House of Worship. This ordinance is currently in violation of the NH RSA 674:76 as revised July 2, 2022, as it only limits Houses of Worship or religious use. Recommendation from the Planning Board is to delete/repeal it to remain state compliant and revisit during the Master Plan update next year.

Discussion ensued clarifying use and difference of "structure" vs "building" The term "structure" is a universal definition for anything that is manmade. "Building" is a very specific type of structure and dwelling is more of a specific type of building. These words are not synonymous. The board is trying to clarify where structures are allowed and not allowed and where buildings are allowed and not allowed. We want to exclude buildings within the setbacks (unless specified by ordinance, driveways, wells, septic etc.) and not little things like swing

sets and benches, patios, and those things. These are not buildings, but they are structures. "Building" is objective, "structure" is subjective.

Current **definition of 1767 Structure - Any man-made object or construction having an ascertainable stationary location on, above, or below the surface of the land or water.**
The word "structure" is used 92 times within our current ordinances, changing the definition of this word changes any associated ordinance. In many cases the word is used in conjunction with building or dwelling and is redundant. While used 92 times, we only chose a handful to change. Sometimes "structure" is the appropriate term.
Not all uses of "structure" will be changed, only a handful.
The board reviewed the word "structure" and determined that we should remove "structure" where it's uses don't belong or is redundant. The word should not be applied in places if there is a more appropriate term, or where there were both "building" and "structure" to get rid of the one that is more all-encompassing subjective "structure" and leave the more objective word "building".
Current definition of **1709 Building – Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, good, or materials of any kind.** Clarifying the word "building" to have it fit better within the zoning ordinances and did not change the original intent of the ordinance. This had the effect of clarifying the ordinance with the least impact on the spirit of the ordinance.

Chairman Smith explained at this time Richmond currently doesn't have a lot of renewable energy/solar in our Master Plan or in our regulations. So, that is a subject we need to really consider when we dive into the Master Plan.

Amendment 2, changing Article 1709 the definition of buildings there is a proposed change for **Building – Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, good, or materials of any kind or nature including containers larger than 100 square feet used for the storage of material, and in-ground swimming pools.**

Discussion points.

- Buildings under 100 sq. feet do not need a building permit.
- Additional language came from RSA 153:1 for Definition of building.

Amendment 5. Article 12: Enforcement & Administration under 1208.2. (Building Permit) Initially both "building/structure" were used but the spirit and intent was "buildings". The board took out the word "structure" kept the word "buildings". Septic systems, setbacks, well setbacks and solar arrays still need building permits even if technically structures. This is not changed.

Amendment 5 Article 4, under 404 Permitted Accessory Uses. Both "structure" and "dwelling" were used in **404** The word "structure" was taken out. **Article 17, under 1758 Ruins – Any building that has collapsed for any reason, has burned, or is damaged beyond repair and is uninhabitable.** Originally "structure" was in the definition, this was replaced with "building" to match the regulation currently in place.

Amendment 5 changes **Article 3 General Provisions, under 317 Cluster Housing, more specifically 317.7 and 317.10.** This proposed change involves cluster housing, again structure was used, and building was the more appropriate term. Discussion that in the cluster housing at this time you could not have a swing set in your common area.

Chairman Smith explained that the board was tasked to clarify "structure" in the Wetland Conservation District (WCD). "Structure" is subjective and open to interpretation. This is not the wetlands, but it is the 75-foot buffer around the wetland that serves to protect wetlands, The plan is to create a balance between expanding property owners' rights/uses of the WCD and still leave most protections in place for the Wetlands Conservation District within that buffer without the need for a special exception. The idea was to make it easier, by not having to ask the Zoning Board of Adjustment for the swing set or the sandbox, doghouse or maybe a bench. The best way to accomplish this was to change "structure" to "building".

People shouldn't have to go in for a special exception. But for a building one must still go to the town hall and apply for a building permit and they have to get a special exception to go into the Conservation District.

Discussions:

- Canvas type storage/temporary/use intent/how to track/police?
- State definition permanent means real estate.
- Size of dedicated WCD
- State has no requirement for WCD.
- Special Exceptions
- structure is used throughout the entire ordinances not just in the wetland setback.
- The concern is what these structures might be used for.
- Change does not affect the 75-foot buffer; the only change is allowing these small structures. This would allow canvas tents, sandboxes, dog houses, keeping "buildings". The "building" is a subset to "structure".
- Nothing should be allowed at least 25 feet away from the wetlands.
- EPA State and Federal laws in place to protect pollution.

Condon spoke up against the Planning Board proposals and said he will vote "No" on proposals.

Discussion on overall size of WCD.

- .5 Acres for minute size Wetland
- State has zero WCD unless Tier 1
- Town ordinance
- No Building unless Special Exception/can be told no
- Salt runoff from Road

Discussion on "Structure" definition

- Length of list
- Omission- inclusion
- Not just WCD Setback

- 92 times in ordinance, change definition/change ordinance.
- intent

Chairman Smith At what point do we stop. We now have 75 feet, what is next 150 feet, 500 feet? This is not perfect. We are all responsible for this plan and you can put a million laws in place and there will be some people who don't care. They will dump their oil in the wetlands, that's why we have state laws, fines, and prison time. If you put a canvas structure up and you store 500 gallons of diesel and that tank breaks and it goes in the wetland you will get a visit from DES. You would get a hefty fine so it's in your best interest not to do that. Should we all pay because one or two people might do that? I hear you and I do agree with you on the structure that it's the intent of what's in it. Not the tent itself, anyone can put one in. You don't need a driveway or pad and you can store firewood or hay in it. Is it fair to say no you can't have one at all?

It was pointed out "and planting" was omitted on ballot for Amendment **6, Article 17 Definitions, Normal landscaping.**

Amendment 6 Definition of Normal Landscaping will be stricken from the ballot because it didn't get typed out correctly. We cannot make any substantive changes at this time.

Motion made by Condon to strike Amendment 6. Seconded by Traeger. No discussion. All in favor. None opposed. Motion carries.

Discussion on Normal Landscaping

- Definition from Excavation handbook and also special exception per state.
- Excavation end/landscaping begin.
- Start over?
- Possible conflict with section 604.2 alteration and contouring of the land.

Discussion on Setback

- Storage Containers are currently allowed in setback.
- Definition/setback ordinance not changed.
- Trailers/vehicles park anywhere.
- Article 405 Setback did not change.

Amendment 3, Article 6 Wetland Conservation District, Sections 602.1, 603, and 604.2.

602.1 General talks about **buildings** on natural occurring wetlands which **would** contribute to pollution of surface and ground water by sewage or any other pollutants or cause damage to abutter's property. The change was the word "could" to "would". It leaves out subjectivity and makes it very clear.

603 uses permitted in the Wetland Conservation District, no use is permitted that would result in the erection of any **building** or alter the surface configuration through excavation **or** fill, **except for normal landscaping** or that is not otherwise permitted by the Zoning Ordinance except the following permitted uses. The present uses were included on the ballot.

604.2 The undertaking of a use not otherwise permitted in the Wetland Conservation District which may include the erection of a **building**, dredging, filling, draining, or otherwise altering the surface configuration of the land, if it can be shown that such proposed use will not conflict with the purpose and intention of Section 602, and if such proposed use is otherwise permitted by the Zoning Ordinance. Proper evidence to this effect shall be submitted in writing to the Board of Adjustment and shall be accompanied by the findings of a review by the Richmond Conservation Commission of the environmental effects of such proposed use upon the wetlands in question. Chairman Smith commented this has only the building; structure was removed.

601 General, the Wetland Conservation District as herein defined is shown on a map or maps designated as the "Town of Richmond Wetland Conservation District Map" and is part of the "Zoning Map" of the Town of Richmond, New Hampshire. For a detailed explanation of soil types, see "Soil Survey of Cheshire County, New Hampshire" issued June 1989, on file with the Town Clerk and Planning Board. In addition to areas shown in the Town of Richmond Conservation District Map any other wetlands identified and **delineated by a State Board of Natural Science certified soil scientist or State Board of Natural Science certified wetland scientist** are included in the Wetlands Conservation District.

Discussion:

- surveyors are not allowed to delineate wetlands.
- Copied from the State Statute
- Planning board/RCC not qualified.

It was noted there will be a few small changes on the ballot as presented for non-substantive changes (Approved by town attorney) :

- Words struck out or deleted will be returned; added for clarity.
- Changed or added, Bold.

Chairman Smith said in a lot of the cases building was already there, it was building and structure or building/structure. So, we removed "structure" and left the word "building" for the spirit of that amendment. We did absolutely nothing to the word structure as far as a definition of it. He restated that if we were to change the word "structure", we would have had to look at 92 instances that were affected. It made more sense to look at the ordinances and try to figure out which ones we were trying to change, which ones made sense and the decision was to pull "structure" out. We talked about redefining "structure" for several meetings and got nowhere.

Discussion ensued about adding a definition for Normal Landscaping. Not everything in the ordinances are defined; without definition, the dictionary definition or State definition can be used. Normal landscaping is defined in Richmond Excavation regulations.

With no further discussion.

Motion made by Traeger to close the public hearing. Seconded by DeMasco
All in favor. None opposed. Motion carries. Public Hearing closed at 8:57 PM.

After a brief discussion it was agreed to adjourn the meeting.

Motion made by Condon to adjourn. Seconded by Chairman Smith. Five yes, one did not vote. Meeting was adjourned at 9:00 PM.

Respectfully Submitted,

Kandace Mattson