

**Town of Richmond**  
**Planning Board Public Meeting**  
**December 5, 2023, 7:00 PM Taylor Van Brocklin Building**  
**FINAL REVISED**

Members Present:

Doug Smith (Chairman)  
Jed Butterfield (Vice Chairman)  
Lisa Traeger  
Kim DeMasco  
Lloyd Condon (Alternate)  
Doug Bersaw (Selectman's Rep)  
Joe Norman (Alternate)

Members Absent

Kathryn McWhirk (Secretary)  
Stacie Maillet  
Karen O'Brien (Alternate)  
William Daniels (Alt. Selectman's Rep)

Public: Antoinette Cincotta, Richard Drew, Jeff Taylor.

Meeting called to order at 7:02 PM

Norman seated for Maillet. Condon seated for McWhirk.

**1. Public:**

No One from the public.

**2. Mail:**

No mail.

**3. New Business:**

**4. Old Business:**

Chairman Smith wanted to begin with b. Definition of Structure.

**b. Definition of Structure:** Requested by Zoning Compliance Officer

Present were Chairman Jeff Taylor and Richard Drew from the Conservation Commission per the request of the Planning Board. They gave comments on the proposals the Board sent to them. There was a lengthy discussion The Board will take their input under consideration.

Add to the agenda, for discussion to address the need for Conservation Commission to be engaged in matter of Wetland Setback. .

Changes are in **bold** items to be removed are underlined.

Motion made by Bersaw to accept a change on page two under three, in the definition of 1709 Building.  
Seconded by Traeger.

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.*

Five yes. One no. Motion carries.

Page one under TWO was removed from consideration.

Page 2, under FOUR, Motion made by Bersaw to accept 4. To delete the word structure from Article 602.1 and Article 603 and Article 604.2 and replace it with the word building. Seconded by DeMasco.

602.1 To prevent the development of ***buildings*** structures and land uses on naturally 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.

603 Uses Permitted in the Wetland Conservation District, no use is permitted that would result in the erection of any ***building*** structure or alter the surface configuration through excavation **or** fill, or that is not otherwise permitted by the Zoning Ordinance except the following permitted uses:

604.2 The undertaking of a use not otherwise permitted in the Wetland Conservation District which may include the erection of a ***building*** structure, 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. [Rev- March 12, 1996]

Note: need to change 603 under Uses Permitted, third line down, change the word "of" to "or". Should read: Configuration through excavation **or** fill, or that is not otherwise.

Six in favor. One no. Motion carries.

Page 3, under Five. Other places where the use of words building, or structure should be changed. 1203 Building Permits Required.

Motion made by Bersaw to change under 1203, 1203.1, 1203.2 and 1204 Occupancy Permit and 1204.1, A, C, and D. Seconded by Norman.

(All bold **buildings** will stay, any underlined structure or sentences will be removed.)

1203 Building Permits Required.

A building permit shall be required prior to the erection, addition, alteration, relocation, or conversion to apartments of any **building or structure** or portion thereof. Building permits are not required for detached structures **buildings** with a floor area equal or less than one hundred (100) square feet. It shall be unlawful for any person to commence work for the erection, addition, alteration or relocation of any **building or structure** until a permit has been approved and issued by the Selectmen. No building permit shall be required for normal maintenance activities, minor repairs, and minor alterations that do not structurally alter or change a **building or structure**. No building permit shall be issued for a lot with a private septic system until an approved septic system permit has been obtained from the NH Water Supply and Pollution Control division.

1203.1 Application for a building permit: All applications for building permits shall be accompanied by plans and submitted by the owner or his agent, and shall show:

B. The size and location on the lot of the **building(s)** or structure(s) to be erected or altered.

1203.2 All buildings *and* building components and structures shall comply with the State Building Code, and the State Fire Code. The construction, design, structure maintenance, and use of all **buildings** or structures to be erected and the alteration, renovation, rehabilitation, repair, maintenance, removal or demolition of all structures and buildings previously erected shall be governed by the provision of the State Building Code according to State Law RSA 155-A: 2. The standards including definitions established by the most recent entity the Life Cycle Code, NFPA Doc. **shall** take precedence over all standards in the State Building Code relative to means of egress. All new buildings shall conform to the requirements of the State Fire Code.

Note: second line from the bottom of 1203.2 change the word "Shall" to "**shall**".

Board had a discussion on solar arrays and Bersaw will do more research. Chairman Smith will work on a definition on solar array.

#### 1204 Occupancy Permit

An approved occupancy permit shall be required before any new dwelling *or* building/structure or existing dwelling *or* building/structure that has been structurally altered can be occupied. The occupancy permit shall be applied for, by the owner or his agent when the construction for which a building permit was issued has been completed. The occupancy permit shall be issued within ten (10) days after the erection or alteration of the dwelling *or* building/structure, or portion thereof, has been completed and after an inspection by a member of the Richmond Fire Department designated by the Board of Selectman showing that it is in conformance with accepted fire safety standards. [Rev- March 12, 1996]

A. The occupancy of a new **building.** or structure.

C. The change in the use of an existing building. or structure.

D. Any change in the use of a nonconforming use *or* **building.** structure.

Vote was called. Five in favor. One no. Motion carries.

Motion made by Vice Butterfield to accept the changes to 404 Permitted Accessory Uses , under 404.3.4. Seconded by Traeger.

404.3.4 The accessory dwelling unit must be located in the primary *dwelling* structure or in an addition to the primary *dwelling* structure.

No discussion. All in favor. None opposed. Motion carries.

Under Article 17 Definitions.

1758 Ruins – Any *building* structure that has collapsed for any reason, has burned, or is damaged beyond repair and is uninhabitable.

1760 Setback – The distance from a property line to a building, structure, or other feature.

Motion made by Bersaw to adopt 1758 Ruins and 1760 Setback as amended. Seconded by Traeger.  
Discussion on solar arrays being considered structures. Do solar arrays apply under ruins as buildings?  
Five yes. One no. Motion carries.

### 317 Cluster Development

Motion made by Bersaw to change 317.7 and 317.10 as amended. Seconded by Norman.

317.7 The commonly owned open space shall not be used for any **building structure** 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 structure**. The common septic system must be a minimum of 75 feet from any dwelling unit.

No discussion. Vote called. All in favor. None opposed. Motion carries.

Page one under one.

Delete Article 406 - illegal according to RSA 674:76 - definition 1733 also. Section 674:76  
674:76 Religious Use of Land and Structures. – No zoning ordinance or site plan review regulation shall prohibit, regulate, or restrict the use of land or structures primarily used for religious purposes; provided, however, that such land or structures may be subject to objective and definite regulations concerning the height of structures, yard sizes, lot area, setbacks, open space, and building coverage requirements as long as said requirements are applicable regardless of the religious or non-religious nature of the use of the property and do not substantially burden religious exercise.

Selectmen talked to Attorney Hoppock and determined that the above is illegal due to changes in State Regulations. This will take time to explain and was tabled.

a. **Minutes of November 7, 2023**: final version.

**Minutes of November 21, 2023**: draft

c. **Definition of Structure**: Requested by Zoning Compliance Officer

d. **Master Plan**: Copies for review by the board.

e. **Land Use Assistant guidelines**.

### **5. Other:**

Discussion in reference to having working meetings on December 12, 2023, and December 19, 2023, located at the Taylor Van Brocklin Municipal Building at 6:30 PM.

Motion made by Vice Butterfield to adjourn. Seconded by Norman. No discussion.  
All in favor. None opposed. Motion carries.

Meeting adjourned at 9:47 PM.

Respectfully Submitted,

Kandace Mattson

# 2024 Proposed Zoning changes

## NOTES

Potential deletions ~~struck out~~.

*Potential additions in bold italic.*

Comments underlined.

## ONE

Delete Article 406 - illegal according to RSA 674:76 - definition 1733 also. Section 674:76

674:76 Religious Use of Land and Structures. – No zoning ordinance or site plan review regulation shall prohibit, regulate, or restrict the use of land or structures primarily used for religious purposes; provided, however, that such land or structures may be subject to objective and definite regulations concerning the height of structures, yard sizes, lot area, setbacks, open space, and building coverage requirements as long as said requirements are applicable regardless of the religious or non-religious nature of the use of the property and do not substantially burden religious exercise.

Source. 2022, 291:1, eff. July 1, 2022. LSEP

## TWO

202.1 C - Wetlands Conservation District (Article 6): All land areas within ***twenty-five (25)*** ~~seventy-five (75)~~ feet, as measured by horizontal distance, of the high water mark of any pond, stream, brook, or wetland and areas identified and delineated as poorly drained or very poorly drained soils by the Cheshire County Conservation Districts Soil Survey of Cheshire County, New Hampshire, completed in 1989. (See map.)

## THREE

Change the definition of Building at 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.***

This would not include above ground pools, solar arrays, fabric/pole garages, etc. or most other things that the definition of structure would include - unless they are attached to a building.

If this does not pass then all proposed changes in FOUR and FIVE would still apply to the definition above minus the changes proposed in bold italics.

## FOUR

Delete the word ~~structure~~ from Article 602.1 and Article 603 and Article 604.2 and replace it with the word ***building***.

602.1 To prevent the development of ***buildings*** ~~structures~~ and land uses on naturally 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.

603 Uses Permitted In the Wetland Conservation District no use is permitted that would result in the erection of any ***building*** ~~structure~~ or alter the surface configuration through excavation or fill, except for normal landscaping and minor topographical adjustments, or that is not otherwise permitted by the Zoning Ordinance except the following permitted uses:

604.2 The undertaking of a use not otherwise permitted in the Wetland Conservation District which may include the erection of a ***building*** ~~structure~~, 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. [Rev- March 12, 1996]

## FIVE

Other places where the use of the words building or structure should be changed.

1203 Building Permits Required A building permit shall be required prior to the erection, addition, alteration, relocation or conversion to apartments of any building ~~or structure~~ or portion thereof. Building permits are not required for detached ~~structures~~ **buildings** with a floor area equal or less than one hundred (100) square feet. It shall be unlawful for any person to commence work for the erection, addition, alteration or relocation of any building ~~or structure~~ until a permit has been approved and issued by the Selectmen. No building permit shall be required for normal maintenance activities, minor repairs and minor alterations that do not structurally alter or change a building ~~or structure~~. No building permit shall be issued for a lot with a private septic system until an approved septic system permit has been obtained from the NH Water Supply and Pollution Control division. [Rev- March 12, 1996]

1203.1 Application for a building permit: All applications for building permits shall be accompanied by plans and submitted by the owner or his agent, and shall show: [Rev- March 14, 2000]<sup>[SEP]</sup>A. The actual shape and dimensions of the lot to be built on;

B. The size and location on the lot of the building(s) ~~or structure(s)~~ to be erected or altered;

C. The location of all setback lines- front, side and rear;<sup>[SEP]</sup>D. The location of all septic system facilities and well(s) dimensions to setbacks; [Rev- March 14, 2000]<sup>[SEP]</sup>E. The location of wetlands and surface water; and [Adopted March 11, 1997] F. Multi-family dwellings, conversion to multi-family dwellings, cluster developments of more than two dwelling units and structures associated with special exceptions require site plan review and approval by the Richmond Planning Board before issue of a building permit. [Adopted March 11, 1997]<sup>[SEP]</sup>G. Dimensional floor plan. [Adopted March 14, 2000]

1203.2 All buildings **and** building components ~~and structures~~ shall comply with the State Building Code, and the State Fire Code. The construction design, ~~structure~~ maintenance and use of all buildings ~~or structures~~ to be erected and the alteration, renovation, rehabilitation, repair, maintenance, removal or demolition of all ~~structures and buildings~~ previously erected shall be governed by the provision of the State Building Code according to State Law RSA 155-A: 2. The standards including definitions established by the most recent entity the Life Cycle Code, NFPA Doc. shall take precedence over all standards in the State Building Code relative to means of egress. All new buildings shall conform to the requirements of the State Fire Code. [Rev- March 14, 2006]

1204 Occupancy Permit

An approved occupancy permit shall be required before any new dwelling *or* building/~~structure~~ or existing dwelling *or* building/~~structure~~ that has been structurally altered can be occupied. The occupancy permit shall be applied for, by the owner or his agent when the construction for which a building permit was issued has been completed. The occupancy permit shall be issued within ten (10) days after the erection or alteration of the dwelling *or* building/~~structure~~, or portion thereof, has been completed and after an inspection by a member of the Richmond Fire Department designated by the Board of Selectman showing that it is in conformance with accepted fire safety standards. [Rev- March 12, 1996]

1204.1 Occupancy permits are required for the following:

- A. The occupancy of a new building ~~or structure~~.
- B. The occupancy of any existing building that has been structurally altered or relocated.
- C. The change in the use of an existing building ~~or structure~~.
- D. Any change in the use of a nonconforming use or *building* ~~structure~~.

#### 404 Permitted Accessory Uses

404.3.4 The accessory dwelling unit must be located in the primary *dwelling* ~~structure~~ or in an addition to the primary *dwelling* ~~structure~~. [Rev-March 14, 2006] [Rev-March 12, 2013]

1758 Ruins – Any *building* ~~structure~~ that has collapsed for any reason, has burned, or is damaged beyond repair and is uninhabitable.

No final vote was made on 1758 Ruins.

1760 Setback – The distance from a property line to a building, ~~structure~~, or other feature. [Adopted March 12, 2013]

No final vote was made on 1758 Ruins or 17690 Setback.

Definition of Solar arrays

317.7 The commonly owned open space shall not be used for any ~~structure~~ **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. [Adopted March 14, 2000] [Rev-March 14, 2006]

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** ~~structure~~. The common septic system must be a minimum of 75 feet from any dwelling unit. [Adopted March 14, 2006]

Dec. 12 Two proposed changes:

# ONE

Shall the Town Delete Article 406

406.1 Houses of Worship. Notwithstanding any other provision of this Ordinance, houses of worship, (see definition 1627) shall be permitted by right in an area along the major highways in Richmond, NH, Routes 119 and 32, all buildings and infrastructure, including parking and impermeable surfaces shall be located on land within 500 feet of the said highways' rights-of-way [Adopted March 11, 2011]

and definition 1733

(1733 House of Worship – A building set apart for public worship, a venue for any religious group than can provide written documentation (501 (c) (3)) that the US Internal Revenue Service has determined that it qualifies for the tax exempt status as a religious organization. Dwellings for residential purposes as a principal use do not qualify as a house of worship even if religious instruction is provided there because such instruction is considered incidental to the principal use of the structure.)

from the Zoning Ordinance?

# TWO

Shall the Town change Article 603 of the Zoning Ordinance from:

603 Uses Permitted

In the Wetland Conservation District no use is permitted that would result in the erection of any structure or alter surface configuration through excavation of fill, or that is not otherwise permitted by the Zoning Ordinance except following permitted uses:

to:

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:

NHMA procedural question.

It sounds like you are dealing with a bit of a complicated situation. I think, that based on the information you provided, there isn't much else that can be done at this point. The planning board member may have overstepped by going beyond the scope of what he was originally authorized to do, however it sounds like the board has ratified his actions by voting in favor of the proposed amendments. The bigger concern here may not be the end result, that being the 5 pages of amendments, but rather the potential RSA 91-A violations that occurred to get to this point. It sounds like there may have been substantive communications between less than a quorum of the members of the Planning Board exchanged outside the confines of a public meeting. This is, in and of itself, a violation of the Right to Know law. When a public body votes to allow one member to create a draft document outside of a public meeting, under no circumstances should that person then begin soliciting more information or discussing the substance of the document outside of a public meeting with other members of the board. The reason for this is because that is how you end up in this exact situation, where not only has there been a violation of RSA 91-A but other members of the board have been left out of the discussion about official board business.

My suggestion would be to have this member disclose any and all extraneous communications he had about the document at the next public meeting. They should testify to exactly what was discussed and how they came to their decisions in a public forum so that minutes can be taken and so the public and the rest of the planning board can hear for themselves how these amendments came to be. After an open discussion on this topic, the board can then decide whether or not they still want to vote to adopt the new proposal.

**Jonathan E. Cowal, Esq.**  
Municipal Services Counsel  
NH Municipal Association  
25 Triangle Park Drive  
Concord NH 03301  
Tel: (603) 224-7447  
Email: [legalinquiries@nhmunicipal.org](mailto:legalinquiries@nhmunicipal.org)  
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