

1 MILFORD PLANNING BOARD WORK SESSION MINUTES ~ APPROVED

2 November 2, 2021 Board of Selectmen's Meeting Room, 6:30 PM

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4 **Members Present:**

5 Doug Knott, Chairman
6 Tim Finan, Vice Chairman
7 Paul Amato, Member
8 Pete Basiliere, Member
9 Janet Langdell, Member
10 Susan Robinson, Member
11 Elaine Cohen, Alternate Member
12 Dave Freel, Selectmen's Rep

Staff:

Jason Cleghorn, Town Planner
Alex Addonizio, Videographer
Lincoln Daley, Com Dev Director

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14 **Excused:**

15 Darlene Bouffard, Recording Secretary

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17 This meeting was conducted pursuant to the State of New Hampshire Emergency Order #12 pursuant to
18 Executive Order 2020-04. As such, the meeting was conducted both online and in person.

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20 **1. Call to order:** Chairman Knott called the meeting to order at 6:30 p.m. indicating that tonight is a work
21 session. This meeting is being conducted as a hybrid, both in person and via zoom. Chairman Knott introduced
22 Planning Board and staff members.

23
24 **2. Work Session:**

25 **A. Zoning Ordinance and other Regulatory Amendments**

26 Zoning Ordinance amendments:

27 Solar Collection Systems – proposed language was explained by J. Cleghorn. Two applications
28 for Conditional Use Permits (CUP) were done in 2021, in one instance the power (Kw) and the
29 size did not meet the ordinance and the other application did not meet one of the criteria. This
30 caused research for consumption and size; based on that, changes are brought forward. L. Daley
31 indicated this amendment is to mitigate the visual impact in a residential zone. J. Cleghorn noted
32 if there is a large parcel and they would like a large solar array, they can get that, they just need
33 to go through the CUP process. This amendment really applies to a typical residential solar
34 array, he just wants to get consensus from the Planning Board. E. Cohen asked about the
35 meaning of one solar array. J. Langdell responded that is what is being sorted out, there can be
36 more than one array, but the total square footage would have a maximum.

37
38 T. Finan said in the future, residents could potentially make money off their solar system. J.
39 Langdell asked what would constitute a commercial solar plant, when does it go from residential
40 to commercial? P. Amato thinks the size would change it from residential to commercial. J.
41 Cleghorn said the purpose of a change is when the solar array will be located next to a neighbor,
42 if there is a large parcel they can still do that, they just need a CUP. P. Basiliere suggested
43 talking with other municipalities to see what they have done. There is still another meeting to
44 finalize these amendments. L. Daley indicated two years ago, staff did reach out to other
45 communities. J. Langdell thinks it would be good to check with NRPC. After discussion about
46 the square footage and the physical size restriction versus the KW size, T. Finan indicated that in
47 the future in a residential area the owner could be producing commercial quantities of power
48 within 750 sf. J. Langdell responded that if it reaches 100 Kw, it is in the commercial
49 classification. If residential solar is met, just a building permit is needed. P. Amato with that
50 submission the setbacks would be reviewed. L. Daley responded that is correct.

51
52 3.0 Zoning Map Article 3 – This has to do with the section of road leading into Wilton, currently
53 those parcels are labeled ICI. The Planning Board was interested in possibly changing those
54 parcels to be zoned residential. The recommendation is to change them to Res B zoning. J.

Langdell asked why not Res A? J. Cleghorn indicated it seemed Res B fit better. P. Amato does not feel this is a good area for Res B. L. Daley indicated there are a lot of multi-family buildings out there now. Staff has seen Variance applications to build family homes on those lots. J. Langdell said years ago there was an issue of financing lots in the Industrial zone. J. Langdell feels Res A would better fit and agreed that we do not want to encourage multi-family. D. Freel expressed that if he owned an Industrial piece of property and the zoning changed to residential, he would be concerned.

F. Kling bought a lot on this stretch of road and could not put a single family out there. Res B would allow a multi-family to be built. The larger lot has a two-family on it. D. Freel agreed that is what we should do. P. Amato said this does lend itself to an apartment building being out there. D. Freel asked if all those lots were combined, what else could be put out there? F. Kling agrees it should not be Industrial either. P. Amato agrees with Res B zoning. Consensus was to have it zoned Res B. L. Daley said this is just a work session, the next step would be to publish and post. J. Cleghorn stated that this is for the lots just beyond Dollar General which will remain in the Industrial Zone.

Wetland Conservation District – J. Langdell asked if Chris Costantino could speak to this amendment. John Yule, Conservation Commission Chairman, and Chris Costantino, Conservation Commission Alternate member, joined the Board for this discussion. J. Cleghorn indicated Conservation Commission members have brought proposed amendments for the Zoning Ordinance to the Planning Board. These changes consist of some housekeeping items, some changes from DES and some changes to the size of the wetland buffer. S. Robinson said something must have triggered this recommendation. C. Costantino explained Milford cannot produce enough water and we need to increase our water coming from Pennichuck; we need to protect what we've got and this is the best way we can do it in a site-specific way to protect our water source. P. Amato asked if this is to protect our water supply? C. Costantino said yes, most of us are probably on wells and it is very difficult to show a relationship between the water on the surface and the water in wells which is considered shallow groundwater. The situation at Savage Well was a ground contamination that was shallow, but it's getting deeper and deeper and by the way the Plume is spreading, it could eventually affect the wells. The overlay district (GMZ) that was approved earlier in 2021 was to protect the water. The relationship between what is on the ground and what we are drinking is not completely known and it could be only a matter of time before wells are contaminated.

D. Freel said he feels this will be a tough sell, speaking about his own lot, he has a fire pond in his yard, and this would mean there is a 50' setback from each side of that pond. That is taking away part of his lot with no tax break. John Yule, said he works in land development and explained he comes across these every day and it is a huge problem dealing with manmade wetlands, or a non-functional puddle in your yard for which 50' or even 25' is excessive. For high-functioning wetlands in town however, 25' is not nearly enough, any runoff from a roof or driveway that is less than 25' from a functioning wetland, causes silt and contaminants to enter into that wetland.

P. Amato asked who spreads the most salt in the town? The town does. P. Basiliere indicated that is not a relevant argument. P. Amato said if there is a brook running through your property and you've got to be 100' from that brook because of things that can get into the river, but the government can spread salt on a road within the same 50' of the Souhegan River. D. Knott said the EPA also considers sand a contaminant. J. Yule said every town in NH is subject to that same requirement. P. Amato said the amount that is going to come from this taking of land is going to be miniscule compared to what is happening that we're doing nothing about. We are

not doing anything about building better roads. S. Robinson said it is coming, because our children want it to come. J. Yule said on a Federal, State and Local level we have taken care of the larger problems, now we are trying to take care of the smaller ones. P. Amato is not sure this is easy to go after because this is taking private land.

L. Daley indicated there is a mechanism by using the Special Exception, this is not actually taking land, by using the Special Exception people can use that land. J. Yule said you can use that land, this is in regards to changing it, by adding a structure or paving, which could affect the flow of water. J. Langdell asked where in all the communities does the 50' and 100' buffer exist for wetlands? C. Costantino responded that she would estimate about ¼ of the towns have the larger buffers; they tend to be the communities with larger lots, 100' does not make as much of a difference when it is a larger parcel, but there are more communities that are trying to change the buffers because they are seeing the value of doing this because it is the right thing to do. J. Langdell asked how the Souhegan Valley is doing since that is the river system being talked about. C. Costantino explained in Amherst it is more targeted to the functionality of the wetland but that puts a burden on the landowner to get a wetland functional assessment done and that costs money. Hollis and Bedford also have 100' buffers and that is targeted to functionality.

J. Langdell said that years ago DES was talking about wetland functionality; is that structure in place now? P. Amato said in our ordinance it does not talk about functionality, it only talks about any delineated wetlands. J. Langdell asked if the State has completed what they were working on a number of years ago? C. Costantino responded no. They've authorized scientists to tie it to the functionality and have not figured out a good way to make that happen that is practicable for the average homeowner. P. Amato said from the State standpoint, it is easier to just increase the buffer. C. Costantino said the science is there, it is a matter of it being onerous on the homeowners; the State does not do buffers; it was a very good study that was done and they had no recommendation other than buffers on essential wetlands. Mr. Yule added that it also depends on the ground surface that is there, sand, dirt, wooded. The biggest burden is cost.

S. Robinson asked if this is primarily to protect the purity of the water or is it to protect the wildlife? J. Yule answered it is for both. The townspeople did not know there was paint or asbestos being dumped at one time or the damage it would cause through ignorance, but now we do know. D. Knott indicated that he feels one of the areas that could be improved would be salting the roads. Why don't we look at that to improve water quality. P. Basiliere noted that would be holding Conservation Hostage to things beyond their control but if we don't start somewhere, we will never get anywhere. J. Yule cited an example at an expo that demonstrated how water travels on different materials (clay, soil, vegetative) and carries sediment which are very bad to the wetland, which proved the farther one gets away from the water with a contaminant, it's a fact that it makes it a better water quality. Is there a quantifiable number of how far, J. Yule does not have that answer and does not believe there is an answer. D. Freel explained that by doubling the wetland buffer, this will impact many residents that are in proximity to any wetland. J. Yule responded stating that applies to any land use anywhere. D. Knott asked that this be wrapped up, since there has been a half hour spent on this one amendment. P. Amato said that Great Brook starts as a very small brook and then gets bigger and bigger, when is it considered a small stream or a great "brook"?

C. Costantino indicated what happens in the small stream, moves into the larger brook, so the most important thing to protect is the headwaters. Milford did not use to do this but we used to build on good dry land, and now we are getting into marginal lots, there is not much good land left. She would love to see the subdivision regulations not allow any wetland on a building lot, so the residents will not lose their usable land because there would not be a wetland on the lot.

P. Amato said that would make it more expensive to develop in the town. J. Yule noted that Milford is a great town in which to develop. L. Daley suggested that the changes discussed be made with the correct references and bring that to the next review meeting. This concluded the review of proposed Conservation Ordinance amendments.

Proposed change to Section V 5.04 in the Residence R District to Establish the concept of an Estate Lot; J. Cleghorn reviewed the criteria that is proposed for this ordinance, after running a report it was found there are approximately 128 lots over 10 acres in Residence R that would fall in this category to potentially be able to have 3 residential structures on the same lot. J. Langdell asked if there could be a map drawn up showing the locations. L. Daley indicated that can be done for the next review. J. Langdell asked that a definition of Estate Lot be drafted to include in the ordinance. J. Cleghorn will bring that to the next review. After discussion about ADU, it was agreed each dwelling unit would have the ability of having an ADU. On an Estate lot ownership would be with one owner which could be in a trust or an entity. J. Langdell asked if that is practical? P. Amato said the owner would have to get the loan; there are lots of parcels owned by a Trust or LLC, that is who the tax bill is sent to.

P. Basiliere understands if an entity owns the parcel, it could be difficult for a family owner to erect a structure and obtain a loan. D. Freel said that is not the problem of the town. P. Amato said the town does not want it owned in more than one entity. E. Cohen said we should not get involved in trusts, owners, etc. P. Amato said the estate lot should be designed such that it can be subdivided in the future. D. Freel asked if this would prevent any structure from being rented from a non-family member? J. Cleghorn spoke with a representative from NHMA who advised that renting should be prohibited. D. Freel said so it would be for family members only, if he chose to build a second home on an estate lot and charged rent to help pay back the cost of building could he do that? P. Amato said it would not change the nature of the neighborhood and it would not matter if it was a family member or not. D. Knott indicated there is no reason to over-regulate an Estate lot, let's just move on. J. Cleghorn said the draft ordinance does not prohibit renting of the other structures. L. Daley noted that one caveat would be that the owner or a member of the trust has to live in one of the structures.

Gravel and Earth removal regulations – one option is to extend the permit from one year to three years without going back to the Planning Board. P. Amato asked what happens after three years? L. Daley indicated the applicant has to submit a renewal to Community Development to review, just like it is for one year now. P. Amato said it still says \$50, so that is a cost savings? S. Robinson asked why it is being changed from once a year to once every 3 years? P. Amato said it costs a lot to get into this business and to have it expire in a year makes it difficult. P. Basiliere explained the reasoning in the memo from J. Cleghorn. J. Langdell asked how many times can the excavation company renew before it is looked at? P. Amato explained oftentimes it could have a phased plan that could go out ten years, it's usually not a 3 year plan.

J. Cleghorn indicated Option B would extend the permit from one to five years. L. Daley clarified that the Planning Board is the issuer of the gravel operation permit per state statute and if there is a clear violation of that operation, there is a process for the Board to review that. P. Amato added it is just like a Site Plan, if the applicant is not carrying out the Site Plan correctly, the Planning Board can issue a revocation. P. Basiliere said that over the course of the excavation, if the applicant is doing everything correctly, they never have to come back before the Planning Board, L. Daley said that is correct. P. Basiliere said that is his point, perhaps the applicant should come back every five years at least. J. Cleghorn said that is why they provided two options. J. Langdell said we can propose another option. P. Amato said to compare this to a major subdivision that occurs over many years, such as Badger Hill or The Reserve, they only

have to come back to the Planning Board if there is a change to the approved design or if they are in violation, so if the applicant running the gravel operation wants to expand it or do something different than what was approved, they have to come back. If they are following the guidelines that were laid out, then they are going about their business.

L. Daley said for The Reserve, they actually came back to the Planning Board to modify their stormwater system and Badger Hill came back several times as well to make modifications. S. Robinson said The Reserve and Badger Hill work is not in one spot, it is moving around. P. Amato agreed but pointed out that the truck traffic is still going in and out and the disruption is still happening for a subdivision. S. Robinson thinks those trucks are different than this type of operation. P. Amato said the abutters have a chance when the application is first submitted to voice their concerns and if someone moved in after the gravel extraction was already approved, should it be expected that they stop operations? D. Knott said these operations have to adhere to all kinds of regulations through the State and Town and if they step out of line they can get shut down. S. Robinson is concerned about abutters and noise. D. Knott said there is no noise ordinance.

J. Langdell asked if the operation status needs to be explained to the Town when asking for a permit renewal? L. Daley said yes, the town performs inspections to make sure the owner adheres to the regulations. J. Langdell said that is the first check and balance, they have to be in accordance with the approved plan and if they are not, they can be sent back to the Planning Board. P. Amato explained the owner would get a letter stating they are out of compliance and they get a chance to respond and fix it, and then they do not need to come to the Planning Board; after a third letter is sent they are told they must come before the scary Planning Board.

E. Cohen asked about the \$50, is that per year? L. Daley said it is \$50 per year, so for the three year option it would cost \$150. P. Amato asked how many active gravel pits are in Milford? Dale White has three, the Town has one, Burbee has one and Gardent. The Trombly pit was finished. D. Freel asked how many of those could go on more than five years? L. Daley said Gardent has not begun yet and could be a few years, Burbee has about two years left; we do not know how long the Town will take; Dale White's at the end of Perry Road has a few years left. The Mile Slip pit is a ten year process. P. Amato is trying to get a better picture of the Mile Slip pit and how far it is, it is 3 years in, and how far is yet to go; he thinks it is going pretty fast. The economy can affect it as well.

J. Langdell asked if there is consensus on the 3-year permit renewal or 5-year permit with them coming back to Planning Board. D. Knott noted that they shouldn't have to come back to the Planning Board if they are in compliance. P. Amato said if it is a 5-year permit, there would be a public hearing. J. Langdell said things change over time, there could be a change in the regulations. L. Daley said there could be a new ordinance that gets approved for example for noise. D. Knott said if they've already been approved they should be grandfathered. L. Daley said if there was a noise ordinance put into effect, it would be a town ordinance not a zoning ordinance so they couldn't be grandfathered. P. Basiliere would be happy with either the 3 or 5 year permit without them coming back to the Planning Board if they are in compliance.

B. Subdivision and Site Plan Applications Fee Schedule. It was decided to put off the fee schedules to another meeting in order to talk about CIP.

C. CIP Update. D. Knott asked for a summary of the CIP from P. Basiliere, Chairman CIP Committee. P. Basiliere indicated points having to do with the CIP development and how the School has been unresponsive. L. Daley recently met with the Superintendent and the school is

working on a Master Plan and Feasibility Study for plans to renovate at substantial costs over the next 3-5 or 10 year operation. P. Amato noted that the school can put anything on the warrant that they want. P. Basiliere indicated the school will not know any cost impacts until at the earliest the end of 2021, but that will be past the CIP process. P. Amato asked if the Selectman can decide to use ARPA funds as they see fit? D. Freel said yes, if it is related to COVID. J. Langdell said as long as it meets the criteria outlined in the ARPA, they can use it. L. Daley said Department Heads put forward projects that fit into the criteria. J. Langdell had hoped some of the ARPA funds could be used for the two sidewalk projects that the town is approved for but we could not.

P. Amato asked if the town is not in favor of the communications upgrade, can the Selectman still use that money? D. Freel said yes and we also used Fund Balance. P. Amato said it does not matter that the town did not approve it? L. Daley reiterated that the communication upgrade is for Crown Castle at Dram Cup and improve frequencies and new radios for Fire, Police and DPW so they can all communicate during a major situations, the town will still be staying with MACC Base. P. Amato asked if Wilton will be allowed to use Dram Cup as well, because that is a good spot for both towns. P. Basiliere continued by saying the CIP Committee is recommending the first 8 projects to be put on the warrant.

3. Other Business: J. Cleghorn briefed the Board of upcoming meetings.

4. Upcoming Meetings: 11/16/21 and 12/7/21

5. Adjournment. The meeting was adjourned at 9:00 p.m. on a motion made by S. Robinson and seconded by T. Finan. All were in favor. Motion passed unanimously.

Signature of the Chairperson/Vice-Chairperson: Date: _____