

1 MILFORD PLANNING BOARD WORK SESSION MINUTES ~ APPROVED

2 November 30, 2021 Banquet Hall, 6:30 PM

3
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 (arrived 6:45)

Staff:

Jason Cleghorn, Town Planner

13
14 **Excused:**

15 Darlene Bouffard, Recording Secretary

16
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 in person and is being recorded but is not live or
19 on zoom.

20
21 **1. Call to order:** Chairman Knott called the meeting to order at 6:30 p.m. indicating that tonight is a Work
22 Session; he explained that the Board should allow J. Cleghorn to review the proposed amendments and then
23 follow up with any questions.

24
25 **2. Work Session:**

26
27 **a) Zoning Amendments.**

28 **ICI Rezoning.** J. Cleghorn indicated the first proposed ordinance amendment is to change the
29 zoning in a portion of the ICI zone in West Milford to be reclassified to Residence A or
30 Residence B, the consensus of the Board agreed to change it to Res B. One of the issues
31 brought up at the last meeting was the difference for taxes in ICI or Res B and it was found
32 that the taxes would be relatively equal. J. Cleghorn asked for any questions.

33
34 P. Basiliere asked what is proposed, is that what is above the map? J. Cleghorn said yes it is,
35 and noted that two public hearings are required for each of these amendments. P. Basiliere
36 was asking that it be worded so the voters know what is being voted on. P. Basiliere hopes
37 that the intent can be explained in more simple language for the voters. J. Langdell noted
38 that a more clear explanation will be in the voter's guide and on line as well. P. Basiliere
39 said this is a general comment for all the zoning amendments. T. Finan said the tax rate is
40 the same in Industrial versus Res B, it is the Assessment where the tax rate is affected. J.
41 Langdell asked if this is ready to post & publish with the amended language? P. Amato feels
42 it is and it needs a motion. J. Langdell moved to post and publish this zoning amendment as
43 amended. T. Finan seconded. All were in favor. Motion passed.

44
45 **Estate Lots.** J. Cleghorn said the next ordinance for review is Creation of Estate Lot as a
46 permitted use. At the work session, there was good discussion and it was agreed to add a
47 definition of an Estate Lot. In discussion with L. Daley it was decided that this should be its
48 own section, after a lot of discussion, it was felt it is much cleaner and easier to understand.
49 P. Amato agrees it will be better as a different section. The definition of Estate Lot was
50 added. The lots that could qualify for this type of lot came out to 160 lots. J. Langdell asked
51 about the wording of the ADU language. J. Cleghorn asked if the Board wants to allow only
52 single family homes, not multi-family or duplexes? P. Basiliere thinks they should be single
53 family. After discussion, it was agreed three single family homes with the ability to add on an
54 Accessory Dwelling Unit (ADU) on each, with a Special Exception, but not allow multi-

family homes or duplexes. J. Langdell asked if there was any information found in creating this? J. Cleghorn said there are other areas outside of NH that had some language. J. Langdell asked him to send any information he collected regarding Estate Lots for her own edification. J. Langdell is not prepared to vote on this yet. J. Cleghorn mostly found Estate lots based on lot size. J. Langdell wants to see the final language before voting. P. Amato thinks this is a decent ordinance that is concise. P. Basiliere is comfortable with making a motion to post and publish. J. Langdell hopes that these are only in the Res R zone, not in Res A or Res B. P. Basiliere asked if every lot over 10 acres in Res R would be called an Estate Lot? J. Langdell answered no because the intent may not be to have three single family homes on the same lot.

P. Basiliere moved to post and publish as amended. P. Amato seconded. P. Basiliere, P. Amato, T. Finan, D. Knott in favor, with J. Langdell opposed and D. Freel abstained. Motion passed.

Wetlands Conservation District. J. Cleghorn said there was good discussion at the last work session about the wetland buffers; tonight we want to focus on the section beyond 6.02.03. Staff has decided to not move forward on the buffers tonight; there are other changes to the document that are corrections to nomenclature, numbering change, that should be taken care of. Future meetings with Planning Board and Conservation are being recommended to look toward buffer modifications for 2023. P. Basiliere asked when the decision was made by staff to not modify the buffer; since he spent a lot of time reviewing it. J. Cleghorn responded it was just decided yesterday.

C. Costantino, Conservation Commission, said these ordinance changes are mostly to the numbering, nomenclature and references to the State documents that no longer exist. P. Amato asked if these are more restrictive. C. Costantino said the State does not do wetland buffers, so no it does not become more restrictive. P. Amato said we should make references and add "as amended" so when the State changes the statute this will save the town having to update our regulations. T. Finan asked if administrative changes can be made without going to the voters? J. Langdell does not believe that is allowed. J. Langdell said she would like to see the language of how this will be on the ballot so that voters understand it. J. Cleghorn indicated that he and L. Daley purposefully did not bring that to this meeting and that will be done for the next review. P. Amato is also not ready to post and publish. J. Langdell asked if that will be ready for the December 7 meeting? J. Cleghorn said it will, he is making notes for everything that must be done for the 7th. The Board thanked Chris Costantino for attending and speaking to the proposed changes.

Solar Array. J. Cleghorn said this is the last warrant article with proposed amendments for this evening. After the last meeting, the Board felt that 750 sf was too large, so this amendment is proposed to change it to 600 sf and any references to the kw were removed. This amendment now identifies that any array smaller than 600 sf only needs a building permit. There was discussion on how the panel sizes are considered. P. Basiliere suggested that cumulative sf be defined in the ordinance. Other members disagreed. J. Cleghorn did look into solar ordinances in other communities as the Board asked, most of them are identical to the model ordinance, so it was easy to compare them as they were so similar. P. Basiliere suggested that the ordinance call out the same thing consistently, either it is a solar collection system or a solar system. J. Cleghorn concurred and will make that consistent. There was discussion about stock photos versus elevations of solar panels for review, J. Cleghorn noted that the town does not want to cause undue hardship on the applicant to hire an engineer to do elevations when a stock photo with dimensions will be sufficient. P.

Basiliere asked why that is in the ordinance? J. Cleghorn responded that it states elevations OR stock photos. J. Langdell said a visual representation with dimensions, height etc. J. Cleghorn said we want either an elevation or a representation of how this will look on this property, it could even be a hand drawing. J. Cleghorn suggested that it just state “a clear depiction of the system.” Consensus of the Board was that the manufacturer brochure to show what it will look like and a GIS parcel layout of where it will be on the lot would suffice.

T. Finan indicated if there is an engineer working on the project, they would provide an elevation. J. Langdell asked about the references within the ordinance that states commercial uses in a residential zone due to the size. The definitions seem to be inconsistent and she would like it to state “primarily for commercial uses.” J. Cleghorn has been focusing on the changes to the ordinance that are being proposed, so he was not focused on the language that was already there. P. Basiliere asked what is the meaning of Community solar? There were no members aware of what the meaning was of that, after much discussion, it was not determined what the definition of “community solar” is. P. Amato suggested “on-site” be removed since the State allows net metering for residential solar. All concurred that this is not ready to post and publish, the Board would like to see the changes.

P. Amato questioned the arbitrary change by staff from 750 sf to 600 sf. J. Cleghorn said that he and L. Daley got the sense from the Board that 750 sf was too large and if it is at 600 sf it would only require a building permit, not Planning Board review through CUP. After discussion, D. Knott said the members seem to remember the 750 sf was acceptable so that should be put back. J. Cleghorn will make that change for the next review on December 7.

b) Planning Board Rules and Procedures. J. Cleghorn said the text for review tonight is what members agreed to change. J. Langdell said she and P. Basiliere worked on the language together on the site walks section. P. Amato asked what has changed? J. Langdell said the definition of site walk was changed and how the public can or cannot be included in a site walk. P. Amato said the public is welcome to attend any public meetings, which a site walk is. P. Basiliere noted that this came up because an applicant refused to allow the public on their property for a site walk. J. Langdell said that the language to be added is not something they have created, it is in the OSI handbook. P. Amato stated the Planning Board cannot deny an application because an applicant refused to allow the public on a site walk, there has to be other criteria. J. Langdell indicated the Board knows that any denial must be supported by facts. If an individual visit is conducted by a member, because they were unable to attend the public site walk, they would be visiting as a Planning Board member not a private citizen. This language does not allow a member to go do a site visit whenever they want if there is an application on the table.

P. Amato will drive around a site to be familiar with an application but will not enter the property. A site walk is posted, attendance and minutes are taken and when the application is before the Board, that information is brought up. T. Finan asked how any member, individually, can act as a Planning Board member, is that even legal? That is why it is a site walk with a quorum of members so everybody sees and hears the same thing. P. Basiliere said in one situation a member could not attend the site walk and went on his own, T. Finan said that probably should not have been done. P. Basiliere thinks that item H does cover that for certain scheduling conflicts. P. Amato said it is a shame that we have gotten to the point where people feel uncomfortable letting anybody come on their property for a site walk, but that is the case. Up until recently, we have never had a problem with this. P. Amato has been on lots of site walks and we have never had a problem. J. Langdell stated there has

never been a problem with the site walks or the Planning Board policies and procedures. J. Langdell said if a friend contacts a member and asks for information, it is a fine line. The information and knowledge for Board members should all be the same. J. Langdell suggested adding in “on the rare occasion.”

J. Cleghorn and L. Daley added the content in item H, and J. Langdell stated complaints received need to be for land use or zoning related complaints and you must change “residents” to include “businesses, property owners and residents.” If a complaint comes to a Planning Board member, it should be told to the complainant to call the Community Development office. J. Cleghorn said the intent is when a complaint for land use or zoning comes to you, that it should be brought to Community Development, unless it is an active Planning application.

P. Basiliere said this is saying any complaints should go to staff, that a Board member should not take it to the Planning Board Chair. D. Knott said there have been occasions when RSAs have been called out to landowners (by a Planning Board member) and he is uncomfortable with that and with the possible conflict and he felt that quoting an RSA should be a staff issue not a Board issue. P. Basiliere spoke that this was a situation he was involved in and he quoted the RSA that he got from training that he had just attended as a Planning Board member and the RSA had to do with if the Planning Board was responsible and as it turned out it was regulated through DPW. If a member observes something they believe is incorrect, it should be brought to staff. D. Knott agreed and stated after it is brought to staff, the Planning Board member should then drop it, and should not keep pursuing it. J. Langdell said the Planning Board members have the right to find the outcome of a complaint. D. Knott agreed and said it is really not the Planning Board responsibility to be chasing after it, we have to be careful of the position we put ourselves in on the Planning Board, we have to watch what we do with these complaints, it’s safer to let staff look into and members can check up with staff. D. Knott mentioned his dad was the town attorney for 37 years in the town he grew up in so he has heard about conflicts of interest all the time and he is always concerned about them or even the appearance of them; that’s really it and he wants Board members to be protected as much as possible. J. Langdell noted that changes to the rules and procedures require a public hearing.

c) **Gravel and Earth Removal Regulations.** This was brought forward at the last meeting; consensus of the Board was to extend permit validity from 1 to 5 years and adjust the cost. P. Basiliere indicated that the fees will be affected by this extension, so the fee should be considered. J. Cleghorn said that is a valid point. J. Langdell suggested has the cost of doing an inspection increased? D. Freel said just with the cost of gas yes. P. Basiliere indicated if this is for the cost of an inspection every five years, based on the increased costs, it should be more than \$50. J. Cleghorn asked if the fee of \$100 for the permit would be acceptable? Consensus of the Board was to increase the fee from \$50 to \$100 for the permit. J. Langdell noted that changes to this regulation require a public hearing.

d) **Subdivision and Site Plan Application Fee Schedule.** J. Cleghorn noted it is 8:55 p.m. and the plan is to start the December 7, 2021 work session with this discussion. The fees proposal is not tied up with Warrant Article timeframes so we can make these changes at our own pace. Since starting in Milford, J. Cleghorn has wanted to do an analysis on the fees being charged in Community Development. It is very difficult to compare fees between communities. The Notice fee is not remotely being recovered in the fees being charged for the applications; the application fees typically do not even cover the cost for the public notice in a newspaper as required by RSA. P. Amato said this is another fee which the applicant

will pay, on top of the impact fees, the building permit fees, then the taxes on the property. J. Langdell said that when the town has an outside service perform something that is required, such as run a newspaper ad and the postal charges for certified mail, those outside costs should be covered by the fees to start with, then we may or may not cover all of staff cost to process an application, but those outside pieces should be covered. P. Amato said so if the Cabinet doubles their fees and we put the ad in per the RSA, even though nobody reads it, we just have to pay? J. Langdell suggested we need to see where else we can put the ads. J. Cleghorn can look into where ads are able to be placed. D. Freel said we should not be raising our fees just because we are lower than other towns. J. Langdell said that is not what we are trying to do, we just like to see comparables. J. Langdell asked J. Cleghorn in the other towns you have worked in, what was their philosophy on rate setting? What costs are they trying to cover? J. Cleghorn answered 30-40%. J. Langdell asked 30-40% of what? D. Knott asked is that direct or indirect costs, supplies, and is it labor, is it benefits? J. Cleghorn responded it's time. P. Amato said the employee gets paid whether or not the application comes in.

T. Finan said he can see this from both sides, let's say we had no fees at all, and everything that staff does is all tax based, then some developer comes into town and they are the ones making the DPW Director do all this work, the developers should be the people that are paying for the work that is being done to review the plans etc. If we imagine there were not any fees and we have a big budget but all the developers are using up all the staff time. P. Amato feels the pages of fees could be made easier like with the gravel permit to change the fee to something that makes sense. J. Cleghorn understands the time it takes for different people to look at the applications and that is why the fees are being looked at because what is here now does not make sense and what is being attempted. J. Langdell and other members understand that the fees will not 100% recover the staff salaries; each department reviews in some form every site plan and subdivision application that comes through.

P. Basiliere should know how much we are taking in with taxes and make a decision on that benchmark. J. Langdell said in order to do that, a time study would need to be done. P. Basiliere thinks the town should not be subsidizing the direct costs such as the advertisement in the newspaper or the certified mailings, those costs should be recovered. J. Cleghorn asked if there is any consensus on any of this. Consensus of the Board was to conclude the discussion at this point.

5. Upcoming Meetings: The next meeting is December 7, 2021 – work session.

6. Adjournment. The meeting was adjourned at 9:30 p.m. on a motion made by J. Langdell and seconded by D. Freel. All were in favor. Motion passed unanimously.

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