

January 7, 2019
Town of Benton
Planning Board Minutes

Planning Board Members Present: Chairman Martin Noble, Sam Gregory, Ken Kealey and William Darcy

These draft minutes of the Town of Benton Planning Board are believed accurate and correct, but they are subject to additions, deletions and corrections by the Planning Board at the next meeting when the Board votes its final approval of the minutes. These minutes are made available at this time to conform to the requirements of New Hampshire RSA 91-A:2.

Chairman Noble called the meeting to order at 5:30 PM.

Chairman Noble moved approval of the December 17, 2018 meeting minutes, seconded by Member Darcy and approved.

The Members reviewed and discussed the draft of the 2019 Zoning/Building Ordinance Amendments. Member Darcy reviewed some small changes (e.g. duplex instead of townhouse) since the last draft. They also reviewed a comparison of the old and new amendments with an explanation of the change.

It was agreed to submit the amendments to a public hearing on January 28, 2019 at 5:30 PM, with Member Darcy agreeing to arrange for newspaper publication of the notice of hearing as required by statute.

The next meeting was set for January 28, 2019 after the 5:30 PM public hearing.

The meeting adjourned at 6:08 PM.

2019 Zoning/Building Ordinance Amendments

Current:

Section 101 Purposes - The purposes of this Ordinance shall be to promote the health and general welfare; to prevent the overcrowding of land; to avoid undue concentration of population; to promote the safety, convenience, and welfare of the inhabitants of the Town by regulating the uses of land, buildings, and structures therein with a view to encouraging the most appropriate use of land in the municipality; protect the natural and scenic beauty, and other purposes as set forth in the New Hampshire Revised Statutes

Annotated, 1955, Chapter 31, Section 62, as amended

Revised:

Section 101 Purposes - The purposes of this Ordinance shall be to promote the health and general welfare; to prevent the overcrowding of land; to avoid undue concentration of population; to promote the public health, safety, and convenience, and forestry activities of the inhabitants of the Town by regulating the uses of land, buildings, and structures therein with a view to encouraging the most appropriate and wise use of land in the municipality; protect the natural and scenic beauty, and other purposes as set forth in the New Hampshire Revised Statutes Annotated (N.H. RSA Sections 672:1 and 674:17)

Description of Change: Updated statutory references; added promotion of forestry activities consistent with Section 672.1 and importance of forestry to Benton; and minor textual changes (e.g., added “wise” use, “Annotated”).

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Current:

Section 102 Authority – In pursuance of authority conferred by Chapter 31, Sections 60 – 89, New Hampshire Revised Statutes Annotated (N.H. RSA), 1955, as amended, the following Ordinance is hereby enacted by the voters of the Town of Benton, New Hampshire.

Revised:

Section 102 Authority – In pursuance of authority conferred by Title LXIV of New Hampshire Statutes, N.H. RSA Chapters 672 - 677, the following Ordinance is hereby enacted by the voters of the Town of Benton, New Hampshire.

Description of Change: Updated statutory references.

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Current:

Section 103 Title – This Ordinance shall be known, and may be cited, as the “town of Benton, N.H. Zoning Ordinance of 1976”, hereinafter referred to as “this Ordinance”.

Revised:

Section 103 Title – This Ordinance shall be known, and may be cited, as the “Town of Benton, N.H. Zoning Ordinance,” hereinafter referred to as “this Ordinance.”

Description of Change: Capitalized Town, eliminated reference to original promulgation date to recognize amendments after that date.

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Current:

Section 105 Amendments – This Ordinance may be amended in accordance with the provisions of Chapter 31, Section 63-b, N.H. RSA

Revised:

Section 105 Amendments – This Ordinance may be amended in accordance with the provisions of N.H. RSA Section 675:3.

Description of Change: Updated statutory reference.

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Current:

Section 401 Permitted Uses –

A. Residential Uses Permitted –

1. One and two dwelling units with a maximum of one residential building per lot.

Revised:

Section 401 Permitted Uses –

A. Residential Uses Permitted –

1. One residential building per approved lot (Section 601) with up to two dwelling units in the building (e.g. single family dwelling unit with an in-law apartment or a two-unit townhouse).

Description of Change: Clarified meaning of the section.

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Current:

Section 401

C. Other Uses Permitted –

6. Commercial – Commercial or small business ventures may be permitted by the Board of Adjustment as Special Exceptions as provided by Article VIII, Section 804, of this Ordinance.

Revised:

C. Other Uses Permitted –

6. Commercial – Commercial or small business ventures may be permitted by the Planning Board as a Special Exception provided the Planning Board determines that:

A. The proposed site is an appropriate location for such use.

B. The use will not adversely affect the neighborhood.

C. The proposed architecture and landscaping will not be detrimental to the general character of the neighborhood.

D. The use complies with all regulations established by this Ordinance.

Description of Change: Transfers responsibility for Special Exceptions for commercial and business uses from the Board of Adjustment (which hasn't existed for decades) to the Planning Board and incorporates the criteria for special use exceptions. This eliminates a significant impediment to business formation.

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Current:

Section 505 Exterior Shell – The exterior shell must be completed in twelve (12) months.

Revised:

Section 505 Exterior Shell – The exterior shell of a building subject to a building permit must be completed in twelve (12) months from the issuance of the building permit.

Description of Change: Clarifies meaning of section.

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Current:

Section 507 Driveways – Construction permits are required for driveways giving access to public rights of way in accordance with N.H. RSA, Chapter 249:17. Driveways giving access to state highways shall conform to the terms and specifications of a written permit issued by the N.H. Commissioner of Public Works and Highways. The Benton Planning Board shall issue similar permits for driveways giving access to highways under its jurisdiction.

Revised:

Section 507 Driveways – Construction permits are required for driveways giving access to public rights of way in accordance with N.H. RSA Section 236:13. Driveways giving access to state highways shall conform to the terms and specifications of a written permit issued by the N.H. Commissioner of Transportation. The Benton Planning Board shall issue similar permits for driveways giving access to highways under its jurisdiction.

Description of Change: Corrects statutory reference and state official currently responsible for driveway permits for state highways.

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Current:

Section 703 Applications – Two copies of an application shall be submitted and shall include plans showing the shape, dimensions, area, and location of the lot involved; of any building or structure to be erected, constructed, moved, or expanded; and any private driveway entering upon a right of way. Proof shall be submitted that all approvals required for individual sewage disposal systems and driveway have been obtained.

Revised:

Section 703 Applications – Two copies of an application shall be submitted and shall include plans showing the shape, dimensions, area, and location of the lot involved; of any building or structure to be erected, constructed, moved, or expanded and the distance of such building or structure from lot lines and waterways; and any private driveway entering upon a right of way. Proof shall be submitted that all approvals required for individual sewage disposal systems and driveways have been obtained. The Board may also request additional information to evaluate the application.

The Board of Selectman, Planning Board and Board of Adjustment shall require application filing fees to be submitted as a precondition to acting on applications for building permits, driveway permits, special use exemptions, variances and appeals. Additional fees may be accessed to enable such Boards to hire professional assistance (engineers, hydrologists, soil scientists, etc.) to help evaluate applications.

Description of Change: See underlined text above which shows language additions. Requires a building permit application to Board of Selectmen to include lot line and water resource distances from proposed structures (setbacks are required by state statute) and allows Board to

request additional information from applicants. Gives all Town’s property regulatory bodies (Board of Selectmen, Planning Board and Board of Adjustment) the authorization to assess filing fees and additional fees when professional services required to review and evaluate applications so those costs are not paid by taxpayers.

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Current:

Section 801 Creation – A Board of Adjustment, having five members, is hereby created in accordance with, and shall have the terms and powers hereby conferred upon a Board of Adjustment, by the provisions of Chapter 31, Section 72, N.H. RSA. The first Board of five members shall be appointed by the Selectmen as soon as possible after the effective date of this Ordinance. Thereafter, one replacing member shall be elected for a term of five years at each succeeding annual Town Meeting.

Section 802 Adoption of Rules - The Board of Adjustment shall adopt rules to govern its proceedings in accordance with the provisions of Chapter 31, Section 72, N.H. RSA.

Section 803 Appeals – As defined by the Chapter 31, Section 72:I, N.H. RSA, the Board of Adjustment has the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Ordinance.

Section 804 Special Exemption – As defined by Chapter 31, Section 72:II, the Board of Adjustment has the power and is required to hear and decide application for Special Exemption uses as provided for in this Ordinance. The Board shall consider the recommendations of the Benton Planning Board for each Special Exemption use and may in appropriate cases and subject to appropriate conditions and safeguards as determined by the Board, authorize the Selectmen and/or Zoning Administrator to issue a permit for such Special Exemption use. Before application is approved, the Board shall determine that:

- A. The proposed site is an appropriate location for such use.
- B. The use will not adversely affect the neighborhood.
- C. The proposed architecture and landscaping will not be detrimental to the general character of the neighborhood.
- D. The use complies with all regulations established by this Ordinance.

Revised:

Section 801 Creation – A Board of Adjustment, having five members, is hereby created in accordance with, and shall have the terms and powers hereby conferred upon a Board of Adjustment, by the provisions of N.H. RSA Chapters 673-677. The first Board of five members shall be appointed by the Selectmen as soon as possible after the effective date of this Ordinance.

Thereafter, one replacing member shall be appointed by the Board of Selectmen for a term of three years.

Section 802 Adoption of Rules - The Board of Adjustment shall adopt rules to govern its proceedings.

Section 803 Appeals –The Board of Adjustment has the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Ordinance.

Section 804 Special Exemption –Board of Adjustment has the power and is required to hear and decide applications for Special Exemption uses as provided for in this Ordinance. The Board shall consider the recommendations of the Benton Planning Board for each Special Exemption use and may in appropriate cases and subject to appropriate conditions and safeguards as determined by the Board, authorize the Selectmen and/or Zoning Administrator to issue a permit for such Special Exemption use. Before application is approved, the Board shall determine that:

- A. The proposed site is an appropriate location for such use.
- B. The use will not adversely affect the neighborhood.
- C. The proposed architecture and landscaping will not be detrimental to the general character of the neighborhood.
- D. The use complies with all regulations established by this Ordinance.

Description of Change: Updated or eliminated outdated statutory references; made terms of office for Board of Adjustment member consistent with state statute (three years); changed appointing authority for Board of Adjustment members consistent with the 2018 action of the Town Meeting (Warrant Article 11).