



TOWN OF BOW Planning Board

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Approved as amended on February 17, 2022

MINUTES January 20, 2022

The Town of Bow Planning Board met on Thursday, January 20, 2022, at 7:00 PM in Room C of the Municipal Office Building. Chair Don Berube began the meeting at 7:00 PM with the roll call of the Board.

7:00 ROLL CALL

Other members present were Sandy Crystall, Vice Chair, Adam Sandahl, Secretary, Willis Sloat (arrived at 7:12 PM), Garth Orsmond (via Zoom), Jonathan Pietrangelo (alt), Michael Lawton (alt), Kip McDaniel (alt), and Selectboard representative Mike Wayne. Also present were Matt Taylor, Community Development Director and Alvina Snegach, recording secretary (via Zoom). David Glasier was excused. Bill Oldenburg was absent.

Chair Berube noted that Bill Oldenburg was not present and Alternate Pietrangelo to vote in his place. Mr. Berube noted that he would like to begin with the OLD BUSINESS item of the Agenda.

OLD BUSINESS

Revisit October 4, 2018 Site Plan modification that allowed temporarily outdoor storage in order to relocate the driveway. Owner: Gould Properties, LLC. Property located at 390 River Road, Block 2, Lot 158.

Mr. Berube read the item into the record. Wayne Gould, the property owner introduced himself and noted that he had already tried to apply for a building permit and was told he needs this plan to be approved first. Plan was displayed and Mr. Gould answered questions about the location of the storage container, using three portable toilets instead of installing a septic system, timeframe, operations, *etc.*

After a brief discussion Ms. Crystall made a motion to approve the site plan modification per the plans presented for the time of one year. Mr. Sandahl duly seconded and motion passed unanimously.

PUBLIC HEARINGS

Application #401-22: Eversource Energy - Wetlands Protection Conditional Use Permit for a total of 12,066 sq ft of wetland impact and 17,135 sq ft of wetland buffer impact for replacement of two utility poles along the Q171 Transmission Line and (after the fact) truck access along the D121 Transmission Line. Easements on Block 2, Lots 124, 125-AD, 200-C, located at 135 Bow Bog Rd, vacant lot off Bow Bog Rd, & 1420 Route 3-A. For Final Approval.

Mr. Berube read the item into the record. Lindsey White from GZA Environmental Consultants and Jeremy Fennell from Eversource presented the plans via Zoom. Ms. White showed the after the fact impacts for line D121, which has been restored already, and proposed work to be done on line Q171 for replacement of two pole structures, only one of which will have impacts. Work is to be done during frozen conditions and with use of timber matting, which will be removed and areas will be restored by mulching. Ms. White added that the Conservation Commission has voted to recommend approval for both projects as well.

Mr. Sloat came in at 7:12 PM and was also voting.

Mr. Berube opened the public hearing at 7:14 PM. Nobody addressed the Board and he closed it at 7:14 PM.

Ms. Crystall made a motion that the Board finds that the application meets the standards for granting a

conditional use permit in the Wetland Conservation District under Section 10.01 (F) of the Town Zoning Ordinance and to approve the Conditional Use Permit application #401-22W. Mr. Sandahl duly seconded and motion passed unanimously.

Public Hearings to consider placing the following amendments to the Zoning Ordinance on the Town Warrant:

A. To delete Section 5.11.H.6b requirements for a Conditional Use Permit for Minor/Pre-Development Excavation of Earth materials and amend Section 14.05.B to allow the Planning Board to set the expiration date for approvals for excavation.

Mr. Berube read the item into the record. The proposed changes were displayed and Mr. Taylor described the nature of the proposed changes. These changes were related to Article 7.14 of the Bow Zoning Ordinance that the Board approved last year to be replaced in its entirety by the reference to RSA 155:E. The changes up for approval today are what was recommended by the Town Counsel last year to accompany the Article 7.14 replacement but erroneously did not make it on the ballot so this is an attempt to set the record straight.

Discussion ensued about the rationale for the Town Counsel proposed changes and whether a maximum time should be added to the proposed language allowing the Planning Board to set expiration dates for the excavation permits.

Mr. Sloat made a motion to amend the language of the proposed changes to Article 14.05.B to add words "not to exceed two years" between the words 'expire,' and 'pursuant'.

Mr. Berube noted that this was a public hearing and asked opened the public hearing at 7:32 PM.

The following individuals addressed the Board:

- Filipe Miranda, 2 Abbey Road, spoke about the need to put a maximum time limit on the excavation permits as it will give the Town more flexibility and control.
- Bob Lux, 7 Allen Road, talked about gravel pits being controversial and that Allen Road is a residential area where any excavation will be burdensome on the residents. He also supported putting a limit of six months on excavation permits so that the Town would have a way to deal with those who do not abide by the rules.

Mr. Sloat explained that if the two-year maximum is approved, the Board would be able to give initial approval for any time period not to exceed two years and it would be on a case by case basis depending on each excavation nature and permit.

Mr. Taylor also explained that these proposed changes are not related to the Allen Road gravel pit whatsoever as this was proposed as a governmental use and would have been reviewed by the Board of Selectmen. He noted that if that was ever to be reviewed, the Board of Selectmen will conduct public hearings where all those who have concerns can express them.

Mr. Berube added that these changes will only apply to private developers.

- Angela Brennan, 169-A Bow Bog Road, spoke about excavations having an impact on abutters and asked if the timeline could be made even shorter. She noted that the burden of proof should be on the excavator and not on the residents.

Mr. Berube reiterated that it would be decided on a case by case basis by the Planning Board during its review process for up to maximum of two years initially. Mr. Sloat added that every time the Planning Board is reviewing a plan, public hearings are always part of that process and anyone concerned can speak up during these. Ms. Crystall also added that a six month timeframe may not work for an excavation due to seasonal changes, therefore two years is a reasonable time limit.

- Paul Parnass, 41 Allen Road, also stated his concerns with the reopening of the Allen Road gravel pit.

Having nobody else there to address the Board, Mr. Berube closed it at 7:43 PM.

Mr. Sloat made a motion to amend the language of the proposed changes to Article 14.05.B to add words "not to exceed two years" between the words 'expire,' and 'pursuant'. Ms. Crystall duly seconded and

motion passed with a unanimous vote in favor.

Mr. Sloat made a motion to put the proposed Amendment A to delete Section 5.11.H.6b requirements for a Conditional Use Permit for Minor/Pre-Development Excavation of Earth materials and amend Section 14.05.B to allow the Planning Board to set the expiration date for approvals for excavation as amended on the Town Warrant. Ms. Crystall duly seconded and motion passed with a 7:0 vote in favor.

B. To delete Sections 5.11.A2 (Duplex or Two Family) and 5.11.A3 (Multi-Family) uses and renumber consecutive sections accordingly. Also, to delete Section 7.05.B for Duplex and multifamily dwellings in the “RU” and “R” districts in its entirety.

Mr. Berube read the item into the record. Mr. Taylor explained that these sections could potentially be used a loophole to create high density development in rural and residential areas.

Discussion ensued about the need to delete the sections entirely versus putting limitations in place to prohibit high density but still allow individuals to have a duplex on their property if they have sufficient frontage and acreage. It was noted that Accessory Dwelling Units would still be allowed in rural and residential areas with the provision that they are attached and are limited to 800 square feet. Another avenue would be to request a use variance from the Zoning Board on a case by case basis.

Mr. Taylor also reminded the Board that any substantive changes proposed at this point would have to be discussed at another public hearing and the deadline for placing changes on the Town Warrant is approaching fast.

Members further discussed the rationale for removing the sections completely and possibly coming back to review the duplex regulations next year. Mr. Sloat said that he believes that there should be an in between solution as opposed to deleting the whole section of the Ordinance.

Mr. Berube opened the public hearing at 7:54 PM and having nobody there to address the Board on any substantive matters, closed it at 7:54 PM.

Mr. Sloat made a motion to approve placing Amendment B to delete Sections 5.11.A2 (Duplex or Two Family) and 5.11.A3 (Multi-Family) uses and renumber consecutive sections accordingly. Also, to delete Section 7.05.B for Duplex and multifamily dwellings in the “RU” and “R” districts in its entirety on the Town Warrant. Mr. Pietrangelo duly seconded and motion passed with a 6:1 vote in favor. Mr. Sloat voted in the negative.

C. Several housekeeping amendments: to delete all references to the Bow Business (BD) District in Sections 4.01(A), 5.11, 6.07, and 8.08, as the BD District no longer exists; to delete Section 7.02(B)(7), as it is a duplicate of Section 7.02(B)(5), and to correct the name of the reference to the Town of Bow Building Code in Section 14.02(A).

Mr. Berube read the item into the record and Mr. Taylor went over each of the proposed housekeeping amendments one by one.

Mr. Berube opened the public hearing at 7:59 PM. Nobody addressed the Board and he closed the public hearing at 7:59 PM.

Mr. Sloat made a motion to approve placing Amendment C with several housekeeping amendments: to delete all references to the Bow Business (BD) District in Sections 4.01(A), 5.11, 6.07, and 8.08, as the BD District no longer exists; to delete Section 7.02(B)(7), as it is a duplicate of Section 7.02(B)(5), and to correct the name of the reference to the Town of Bow Building Code in Section 14.02(A) on the Town Warrant. Mr. Pietrangelo duly seconded and motion passed with a 7:0 vote in favor.

D. To amend Section 10.03(G)(7) reduce the number of plan copies, from three to one, to be submitted for an Aquifer Protection Conditional Use Permit application.

Mr. Berube read the item into the record and Mr. Taylor described the proposed change to reduce the number of copies required for an Aquifer Protection CUP application.

Mr. Berube opened the public hearing at 8:01 PM. Nobody addressed the Board and he closed the public hearing at 8:01 PM.

Mr. Sloat made a motion to approve placing Amendment D to amend Section 10.03(G)(7) reduce the number of plan copies, from three to one, to be submitted for an Aquifer Protection Conditional Use

Approved 01/20/2022 Planning Board Minutes

Permit application on the Town Warrant. Ms. Crystall duly seconded and motion passed with a 7:0 vote in favor.

E. To add Section 8.11 to allow changeable copy signs, in accordance with US Supreme Court decision.

Mr. Berube read the item into the record. Mr. Taylor said that there is a letter from the Town Counsel regarding this particular proposed change that the Board may need to review in an executive session. *Mr. Sloat made a motion that the Board would go into the non-public session in accordance with RSA 91-A:3, II (l) for consideration of legal advice provided by Town Counsel. Ms. Crystall duly seconded and motion passed with a unanimous roll call vote.*

All members but Garth Orsmond, who was participating remotely, left the room at 8:04 PM.

(Non-public session minutes are attached to this document).

Members returned to the room at 8:21 PM and public session was resumed. Mr. Orsmond stated that he would not be voting as he was not able to attend the non-public session. Mr. Berube appointed Mr. Lawton to vote in his place.

Then Mr. Berube opened the public hearing at 8:24 PM and there was nobody to address the Board. He closed the public hearing at 8:24 PM.

Mr. Berube stated that the recommendation of the Town Counsel was to not approve the proposed addition to the Ordinance. *Mr. Sloat made a motion to NOT place on the Town Warrant the new Section 8.11 to allow changeable copy signs, in accordance with US Supreme Court decision. Ms. Crystall duly seconded and motion passed with a 7:0 vote.*

UNAPPROVED MINUTES: December 16, 2021

December 16, 2021, draft Planning Board minutes were reviewed, and small changes were made. *Ms. Crystall made a motion to approve the minutes as amended. Mr. Sandahl duly seconded and motion passed unanimously.*

ADJOURNMENT: *Ms. Crystall made a motion to adjourn, which was duly seconded by Mr. Sandahl and passed unanimously. Meeting adjourned at 8:38 PM.*

Respectfully submitted,

Adam Sandahl,

Secretary

Town of Bow
Planning Board
NON-PUBLIC SESSION MINUTES

Date: _____ 1/20/2022 _____

Members Present:

Don Berube, Jr. <input checked="" type="checkbox"/>	Bill Oldenburg <input type="checkbox"/>	Jonathan Pietrangelo <input checked="" type="checkbox"/>
Sandra Crystall <input checked="" type="checkbox"/>	Adam Sandahl <input checked="" type="checkbox"/>	Mike Lawton <input checked="" type="checkbox"/>
Garth Orsmond <input checked="" type="checkbox"/>	David Glasier <input type="checkbox"/>	Kip McDaniel <input checked="" type="checkbox"/>
Willis Sloat <input checked="" type="checkbox"/>	Mike Wayne (BOS) <input checked="" type="checkbox"/>	Bruce Marshall <input type="checkbox"/>

Motion to enter Nonpublic Session made by Willis Sloat **seconded by** Sandra Crystall

Specific Statutory Reason cited as foundation for the nonpublic session:

 RSA 91-A:3, II (a) *The dismissal, promotion, or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him or her, unless the employee affected (1) has a right to a public meeting, and (2) requests that the meeting be open, in which case the request shall be granted.*

 RSA 91-A:3, II(b) *The hiring of any person as a public employee.*

 RSA 91-A:3, II(c) *Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of this board, unless such person requests an open meeting. This exemption shall extend to include any application for assistance or tax abatement or waiver of a fee, fine or other levy, if based on inability to pay or poverty of the applicant.*

 RSA 91-A:3, II(d) *Consideration of the acquisition, sale or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community.*

 RSA 91-A:3, II(e) *Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed by or against this board or any subdivision thereof, or by or against any member thereof because of his or her membership therein, until the claim or litigation has been fully adjudicated or otherwise settled*

 RSA 91-A:3, II(i) *Consideration of matters relating to the preparation for and the carrying out of emergency functions, including training to carry out such functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life.*

RSA 91-A:3, II (l) *Consideration of legal advice provided by legal counsel, either in writing or orally, to one or more members of the public body, even where legal counsel is not present.*

Roll Call vote to enter nonpublic session:

Don Berube, Jr. <input checked="" type="checkbox"/>	Bill Oldenburg <input type="checkbox"/>	Jonathan Pietrangelo <input type="checkbox"/>
Sandra Crystall <input checked="" type="checkbox"/>	Adam Sandahl <input checked="" type="checkbox"/>	Mike Lawton <input type="checkbox"/>
Garth Orsmond <input checked="" type="checkbox"/>	David Glasier <input checked="" type="checkbox"/>	Kip McDaniel <input type="checkbox"/>
Willis Sloat <input checked="" type="checkbox"/>	Mike Wayne (BOS) <input checked="" type="checkbox"/>	Bruce Marshall <input type="checkbox"/>

 Remove public meeting tape (if applicable).

Entered nonpublic session at 8.05 **p.m.**

Other persons present during nonpublic session: Matthew Taylor, Town Planner

Description of matters discussed and final decisions made. Note: Any votes taken must be recorded “in such a manner that the vote of each member is ascertained and recorded”:

Members discussed the Town Counsel review of the proposed zoning change.

Note: Under RSA 91-A:3, III. Minutes of proceedings in nonpublic sessions shall be kept and the record of all actions shall be promptly made available for public inspection, except as provided in this section. Minutes and decisions reached in nonpublic session shall be publicly disclosed within 72 hours of the meeting, unless, by recorded vote of 2/3 of the members present, taken in public session, it is determined that divulgence of the information likely would affect adversely the reputation of any person other than a member of this board, or render the proposed action of the board ineffective, or pertain to terrorism. In the event of such circumstances, information may be withheld until, in the opinion of a majority of members, the aforesaid circumstances no longer apply.

Motion to leave nonpublic session and return to public session by Willis Sloat, seconded by Sandy Crystall
Motion passed unanimously.

Public session reconvened at 8:21 p.m.

Motion made to seal these minutes?

If so, motion made by _____, seconded by _____, because it is determined that divulgence of this information likely would...

Affect adversely the reputation of any person other than a member of this board

Render a proposed action ineffective

Pertains to preparation or carrying out of actions regarding terrorism

Motion to seal minutes: Motion: PASSED / DID NOT PASS (circle one)

These minutes recorded by: Matthew Taylor