

TOWN OF ALLENSTOWN
Planning Board
Allenstown Town Hall –16 School Street
Allenstown, New Hampshire 03275
Meeting Minutes
August 18, 2021

Call to Order

The Allenstown Planning Board Meeting of August 18, 2021 was called to order at 6:32 PM by Chair O'Meara. Chair O'Meara called for the Pledge of Allegiance.

Roll Call

Present on the Board: Diane Adinolfo, Sandy McKenney, Mike Frascinella, Chad Pelissier, and Michael O'Meara.

Ex-Officio: Sandy McKenney

Residents of Allenstown: None

Allenstown Staff: Derik Goodine, Town Administrator (in-person)
Brian Arsenault, Code Enforcement Officer (remote and alone)

Others present: Matt Monahan, CNHRPC (remote and alone)

Public Officials: None

Mr. Goodine said participants can join the meeting from the conference line, Facebook Live, or in person at the Town Hall. Chair O'Meara said that Facebook Live is not used for interacting with the public as it is not monitored.

OLD BUSINESS / RECEIPT OF APPLICATIONS & PUBLIC HEARINGS

- **Chapter by Chapter Review- Proposed Administrative Changes to Allenstown Zoning Ordinance**

Mr. Frascinella asked what the status was of Chapter 22. Chair O'Meara said he sent him the information about 45 minutes prior to the start of the meeting.

Mr. Frascinella said that in Chapter 23, there is a statement about site planning review regulations, and he asked if it was someplace in this document. Chair O'Meara said those are actually posted on the Planning Board page from the Town website and they could refer them to the website in the ordinance.

Mr. Frascinella said for Chapter, 25, Section 25.03 regarding Performance Standards, there is a reference from the original document to section 602M- and he does not know where that is. Mr. Arsenault said that Mr. Monahan mentioned that last week and it was from a previous version, and they were going to move forward with deleting it. Chair O'Meara said it should now say, "If any conflict arises in the provisions of this chapter and 13.11, this chapter shall apply."

Chair O'Meara said they are current on Section 26.06 of Chapter 26. Mr. Frascinella said he could not find anything for Section 705 from the original document. Chair O'Meara said that is referring to the Site Plan Regulations which is a different document.

Chair O'Meara said Section 26.07 should say "or expressly controlled by this section" and not reference a number at all. Mr. Monahan agreed.

Mr. Frascinella said the last page of Chapter 26 had several references to the old Chapter 23 and should be Section 26.06, 26.07, or 26.08, and any A, B, C should be changed to 1, 2, 3.

There was discussion amongst the Board as to what the "Effective date is." Chair O'Meara said it is whatever the Warrant Article states.

Chair O'Meara offered to meet offline with Mr. Frascinella to move the old document references to the new document references regarding Chapter 27.

Moving on to Chapter 28, Mr. Frascinella highlighted Item 5, in Section 28.01. Chair O'Meara said in the original published document, it is under Item 1 overview, and they are E1, E2 and E3. The E1, E2 and E3 are now 5A, 5B and 5C. Chair O'Meara said they could put in "complies with standards 28.01, 5A, 5B and 5C."

There was discussion regarding Section 28.03 with new alphabetical and numerical references to stay consistent with the new version of the ordinance. Chair O'Meara said Item D will now read, "Compliance with standards 3A to 3C in this section will be determined by the Planning Board on a case-by-case basis..."

Mr. Frascinella said with regard to Chapter 29, Article 26 was missing in the previous version. Mr. Arsenault said 26 was missing, but 27 was reserved for future use and you can just put a notation for Article 26 as reserved. Mr. Frascinella objects to that suggestion because they could add another at the end and at this point in the document, they are not going to add significant content. Chair O'Meara said given they are reorganizing the document; do they need to keep them for a valid reason. Mr. Monahan said sometimes a new ordinance causes shuffling, and sometimes it does not. The Board is inclined not to keep the reserved chapters and if something comes up, they will add it. Mr. Frascinella said the Chapter numbers will automatically change because it is a field code.

Mr. Frascinella said with regard to Chapter 32, he reworked it to reflect the new layout.

Chair O'Meara said Chapter 33 is an open question with legal. Mr. Frascinella said Chapter 34 is another questionable chapter, which says that this ordinance takes precedence over any other ordinance that may exist in the Town and if it's in conflict, this ordinance prevails. Mr. Frascinella said he felt as though this Chapter is in the wrong place, being at the very end. Mr. Pelissier said they could move it to Chapter 1 and fix the language. Chair O'Meara agreed. Mr. Arsenault said it could be open for some legal challenges and the Town Attorney should weigh in.

Chair O'Meara proposed that after they get this completed and proposed to the Town Meeting, from that point on, they should have an updated revision history page at the end of the document, so it is clear what was changed. He said the next revision will be March 2022.

Chair O'Meara said the additional sentence now says, "the most recent date is the date all changes were adopted at Town Meeting and subsequently became effective."

Mr. Arsenault said with regard to the Table that he and Chair O'Meara worked on that showed residents what zone they would be in and what the setbacks were, etc., they should attach as an Appendix A, Table 1 for reference and insert into the document. Ms. Adinolfo said the revision history should come in at the end.

Chair O'Meara said he would like to be in the position to submit this document to the Town Attorney in September. He said the first public hearing on the proposed changes must be in December.

- **Status of Fireworks Ordinance**

Chair O'Meara said he received some feedback from Chief St. Germain as follows:

Having read the response from Chief Stark already, my thoughts are pretty much in-line with his. As the Fire Chief, and through RSA and directives from the NH Fire Marshal, there are laws and rules in place that allows my 'office' the ability and 'teeth' when fire and life safety issues present themselves and therefore I must follow that guidance.

I can appreciate the concerns with what I perceive to be a noise nuisance issue first and a safety issue 2nd (or a very close "tie"). Like Chief Stark stated, we will follow the statutes in place and make determinations as the issue present themselves.

I would also join him in stating that our duties need to follow those rules and any "gray area" that may arise from a dispute, from an ordinance, will be a potential issue. Also, from my observations, fireworks concerns are NEVER during the daytime when the department is staffed, they occur NIGHTS, WEEKENDS and HOLIDAYS when we have no guaranteed coverage or scheduled firefighters working. This could place an additional burden on the office of the Fire Chief or designee(s).

Chair O'Meara said Chief Stark did provide him some information regarding state law and unfortunately, he could not be present for the meeting but is able to call into the September 1st meeting.

Chair O'Meara said the State Law says it requires a person to be 21 years old and on their own land or with landowner's permission. He said RSA 160-C:11 Possession and Display of Permissible Fireworks- Penalty reads as follows:

I. Notwithstanding RSA 160-B:4, a person who is 21 years of age or older may possess permissible fireworks except in a municipality which has voted to prohibit possession

pursuant to RSA 160-C:6. A person who is 21 years of age or older may display permissible fireworks on private property with the written consent of the owner or in the owner's presence, except in a municipality which has voted to prohibit display of permissible fireworks pursuant to RSA 160-C:6.

Chair O'Meara said there is not such a prohibition in Allenstown. He continued:

II. Any person who violates the provisions of this section shall be guilty of a violation if a natural person, or guilty of a class B misdemeanor if any other person.

Chair O'Meara read the other RSA as forwarded by Chief Stark, who took out the parts that do not apply. RSA 644:2 Disorderly Conduct reads as follows:

A person is guilty of disorderly conduct if:

III. He purposely causes a breach of the peace, public inconvenience, annoyance or alarm, or recklessly creates a risk thereof, by:

(a) Making loud or unreasonable noises in a public place, or making loud or unreasonable noises in a private place which can be heard in a public place or other private places, which noises would disturb a person of average sensibilities; or

VI. Disorderly conduct is a misdemeanor if the offense continues after a request by any person to desist; otherwise, it is a violation.

Chair O'Meara also read the local ordinance:

CO 413:2 Loud and Unreasonable Noises Involving Persons Any person who is the resident owner or a tenant or a resident or otherwise in control of any house, apartment, condominium unit, structure or any other property located within the Town of Allenstown shall be responsible and liable for any loud, unreasonable noises created by one or more persons gathered on said property which disturbs the public comfort, repose, health, peace, safety, convenience, welfare or prosperity of a reasonable person within the Town of Allenstown. Further, any person who is the resident owner, tenant, resident, or otherwise in control of any house, apartment, condominium unit, structure or other property located within the Town of Allenstown is responsible and liable for any loud, unreasonable noises if he/she permits or allows any gathering of one or more person to continue to make loud, unnecessary, unreasonable or unusual noises upon such property after having been advised of the disturbing affects such noise is having on any other person of the town and said noise then continues to disturb the public comfort, repose, health, peace, safety, convenience, welfare or prosperity of a reasonable person.

Ms. McKenney asked if there were time limits to which Chair O'Meara answered no.

Chair O'Meara asked the Board if they should continue to pursue this. Ms. McKenney said she sympathizes with people who do not like the fireworks, but it is difficult to make everyone happy. Chair O'Meara said the proposed ordinance does not prohibit fireworks.

Chair O'Meara said as Chief Stark mentioned at the last meeting, by the time an on-call police officer arrives, the fireworks would have ended, and it would be difficult to determine who set them off.

Chair O'Meara said he could take the existing ordinance and try to work it into the proposed ordinance while still proposing to maintain some hours in which fireworks are reasonable or they could wait until they talk to Chief Stark at the September meeting. He said they can also do nothing or move it forward for the consideration of the Select Board. Mr. Pelissier said if it ends up anywhere, it will be on a Warrant Article and the best way to deal with it is to be as least restrictive as possible. He said the proposed language in the draft ordinance that is already law should be taken out.

Mr. Frascinella asked if they could just give a summary of what the RSA says in the ordinance indicating this is what Allenstown follows. He said if they set a fine, then it puts the burden on the police department. Chair O'Meara said the burden is already there.

In addition to the information provided by Chief Stark, Chair O'Meara said they are looking at days, hours, and proximity to the property.

NEW BUSINESS/ RECEIPT OF APPLICATIONS & PUBLIC HEARINGS

None.

UNAPPROVED MINUTES

- **August 04, 2021**

Ms. Adinolfo made a Motion to approve the August 4, 2021, minutes as written. The Motion was seconded by Ms. McKenney.

Roll call vote was taken.

Sandy McKenney- Aye, Diane Adinolfo- Aye, Michael Frascinella- Aye, Chad Pelissier- Abstain, and Michael O'Meara- Aye.

The motion was approved unanimously and the minutes from August 04, 2021, were approved as written.

CORRESPONDENCE & OTHER BUSINESS

Chair O'Meara said he provided the Board with information on a couple of housing initiatives in NH, including Council for Strategic Stability. He said this talks about affordable housing and workforce housing.

He said that in the 2020 legislative session, the state has created a Housing Appeal Board. He said now, any decision from a Land Use Board in NH can now be appealed under certain

circumstances. Mr. Arsenault said it used to go to Superior Court, so the point is that they are trying to get the cases out of Superior and Supreme Court.

Chair O'Meara said there is a webinar on September 14th regarding the year 3 reporting requirements.

Chair O'Meara advised that Casella Waste Management at 104 River Road will be coming in to the meeting on September 1 to discuss their request to upgrade their drainage system on the site. Ms. McKenney asked if they would consider putting up a fence to obstruct the view of the plant for the residents who live near there.

Mr. Goodine said there will be a webinar looking at the new Housing Appeals Board on October 13, 2021, from 12 pm to 1 pm.

STAFF UPDATE

None.

SCHEDULING OF NEXT MEETING

Chair O'Meara said the next meeting will be September 1, 2021, at 6:30 pm.

ADJOURN

Ms. Adinolfo made a motion to adjourn meeting which was seconded by Ms. McKenney at 8:25 pm.

Roll call vote was taken.

Sandy McKenney- Aye, Diane Adinolfo- Aye, Michael Frascinella- Aye, Chad Pelissier- Aye, and Michael O'Meara- Aye.

The motion was approved unanimously, and the meeting was adjourned.

SIGNATURE PAGE
Allenstown Planning Board
August 18, 2021

Approval:	
<i>Michael A. O'Meara</i>	<i>01-SEP-2021</i>
MICHAEL O'MEARA, Chair	DATE
Yes – Via Roll Call Vote	01-Sep-2021
CHAD PELISSIER, Vice Chair	DATE
Yes – Via Roll Call Vote	01-Sep-2021
DIANE ADINOLFO, Member	DATE
Yes – Via Roll Call Vote	01-Sep-2021
MICHAEL FRASCINELLA, Member	DATE
N/A	N/A
N/A, Alternate Member	DATE
Yes – Via Roll Call Vote	01-Sep-2021
SANDRA MCKENNEY, Ex-Officio	DATE

SIGNATURE PAGE
Planning Board
August 18, 2021

Amendment Approvals:		
Amendment Description:	Approval:	Date:
	MICHAEL O'MEARA, Chair	DATE
	CHAD PELISSIER, Vice Chair	DATE
	DIANE ADINOLFO, Member	DATE
	MICHAEL FRASCINELLA, Member	DATE
	N/A Alternate Member	DATE
	SANDRA McKENNEY, Ex-Officio	DATE