



## Town of Hebron

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### Hebron Planning Board

APPROVED Minutes of Zoning Hearing 1/30/06

**Members Present:** Chuck Beno, Dick Cowern (Selectmen's rep), Roger Larochelle (chair), Ellie Lonske (vice chair), Phil Twombly (alternate), and Sheila Oranch (secretary)

**Others Present:** Sandie Settele, David Settele, Carl Karlberg, Bill Nobles, Tom Gump, David H. Reed, Enid Reed, Nancy Howard, Frank Handibode, Mark Hession, Nadine Hession, Nancy Sycamore, Lee Alexander, Polly Alexander, Alan Barnard, John W. Matthews, Bruce Barnard, Larry Kill, David Appleton, Pete Carey, Mark Coulson, Martha Twombly, Brenda Mento, David Mento, Hubert D. Sycamore, Patricia Vandenberg, Allan Kent.

**Time Convened:** 7:00 PM **Time Adjourned:** 10:00 PM

**Next Meetings:** 2/1/06 monthly hearing (three continuations are on the agenda to date)

#### Agenda:

Introduce and explain recommended zoning changes and how they relate to the 2005 Master Plan.

Roger Larochelle introduced the Board to the public and described the process by which zoning change suggestions had been developed and refined. He noted that there were enough copies for all present, and that suggestions were in order by the sequence of regulations, not priority. He introduced Ellie Lonske for further explanation.

Ellie Lonske explained that the Master Plan is on the Town website [[www.hebronnh.org](http://www.hebronnh.org)] and printed copies are available at the Library, Town Offices and can be purchased for \$25 which is approximately the cost of printing. She said if you read the Land Use chapter, there has to be a way to implement the values and that is through zoning. Zoning changes must go to the Town for a vote. She highlighted the recommendations related to land use and correlated them to both the 1985 and 2005 Master Plans.

Roger Larochelle explained the subgroups of the Planning Board that had worked on different sections to determine the logic and phrasing of suggested changes. At the hearing 1/16/06, they had gone over the wording in detail. At this hearing, they would go over each section. He then described each suggestion up through Section VII.9.

Ellie Lonske spoke to put the suggested changes in perspective relative to other towns in the area and what impacts might be for residents, owners and developers.

Roger Larochelle said they suggested moving away from a soil-types based calculation and having a Buildable Area concept which is simpler and more comprehensible.

Ellie said Not Buildable doesn't mean impossible to build on, more like it is not advisable.

Roger Larochelle introduced Alan Barnard to explain the Historic District Commission's suggestion for redrawing the Historic District boundaries.

Alan Barnard showed the map and explained about various properties that would be affected. He said the bold print in Article V.B. has been stricken as the content will be in a Warrant Article.

Phil Twombly said in Article V, the Historic District section, he feels that E, the renting of rooms, is redundant, since in the general articles it says renting of rooms is permitted in all districts.

After some discussion, it was decided that the suggestion would remain as written.

John Matthews said in Article VIII, the Zoning Board of Adjustment (ZBA), the reference to the Town Moderator is not correct per the RSA.

After some discussion, it was decided that the Board would circle back to that after John Matthews researched it for the specific reference.

Roger Larochelle asked Chuck Beno to show on the map and describe where Designated Brooks flow. With some audience participation, the brooks were located and several more added.

Bruce Barnard suggested Trout Brook be included and the Board agreed that is a good addition. Bruce said if this suggestion passes, these brooks should be added to the Tax Map.

Mark Connor suggested Stoney Brook, which is near Cooper Road.

Alan Barnard named Glines Brook on Hobart Hill, Whittemore Brook, which runs by Black's Farm, and Hardy Brook that drains toward Alexandria and flows into the Cockermonth River.

Number 25, Cluster Development, was discussed next.

Lee Alexander suggested having some amount of land specified as "remainder."

Phil Twombly explained that the Board has done quite a lot of work on the Subdivision Regulations and what they should be for cluster developments, but none of that is in Zoning. Once the wording that allows cluster development is in the Zoning Regulations, then the Planning Board can regulate their development within the Subdivision Regulations and the application process. Some tracts that are bony, steep, and/or wet may not support cluster developments.

Ellie Lonske emphasized what Phil said, that any zoning change goes to the Town for a vote and has to be fairly general. The details are in the Subdivision Regulations. If the zoning changes pass, then the Board will update the Subdivision Regulations to be consistent with the zoning. Currently, owners have to prove the land could support individual dwellings. Developers might cluster develop to save money on roads, for example.

Alan Barnard pointed out that the wording that specifies how to compute the number of lots got lost in the changes. That wording should be explicit, as it would be wide open if left the way it is. He said that would be backwards.

Ellie Lonske read the pertinent subdivision section. She said they will check with Town Counsel.

Bruce Barnard confirmed that Buildable Area for Cluster Development should be in Zoning. Also, he said, why not allow it in the Historic District? What density should be permitted?

Roger Larochelle asked Alan Barnard if the Historic District Commission had discussed whether to allow cluster developments in the Historic District.

Alan said it had not been discussed, because currently it appears as allowed in the entire town.

Bruce Barnard said cluster developments should be the same density as any dwellings in a district.

Roger said that can be taken up for the next Town Meeting, as there is not enough time for public notice on a new topic before the March 2006 Town Meeting.

Bill Nobles asked if the usage of the set aside area being available to the public was required.

Roger Larochelle said the Town cannot prescriptively require that land be put into public use. If it is Common Area, it cannot be put into Conservation Easement. Public access is encouraged, like what Larry Kill did at Hebron Country Estates. In future, the Planning Board could consider allowing density bonuses to developers who allow public access.

Protective Buffer was discussed next.

Lee Alexander stated that he has wetlands behind him and if there is enough height distance from a wetland, should the buffer be reduced?

Alan Barnard talked about definitions and understanding jurisdictional wetlands.

Mark Connor said he believes in equity under the law. So if we have a 50-foot wetlands buffer to protect the water, if there is a dwelling closer, it should be condemned.

Roger Larochelle explained that zoning is going forward for future development.

Ellie Lonske explained that there may be many dwellings within buffers and they can't be moved.

Roger Larochelle said he appreciates the idea and suggestions for consideration.

Martha Twombly said the Wetlands Delineation Act has scientific definitions for water protection, drainage and flood control and disturbance of creatures who reside in those areas. The goal of this protection is significant and this [creating a protective buffer] is a small step.

Phil Twombly asked if the Town Health Officer could address the matter if there were an issue of public health.

John Matthews said, yes, he could bring it to the Town by way of the Selectmen.

Alan Barnard said according to the State, aside from specific protected shorelines, you can build right up to the edge.

Frank Handibode asked about grandfathering existing properties.

Ellie Lonske said zoning is just for development. She asked if there are any other ponds in town that need to be designated. After some discussion, the consensus was that there are not.

John Matthews said previously approved subdivisions without building lots would be grandfathered but dwellings will have to conform to new area regulations.

Alan Barnard discussed ponds and fringes and what is protected by the State.

Mark Hession asked how you define wetland. He built a garage that had a drainage ditch out back and the State inspector found a particular fern growing in it. The State decided that this qualified as a wetland and he had to do an impact statement to put a drainage pipe under his garage.

Ellie Lonske said she shares that concern.

Roger Larochelle asked the Conservation Commission, as represented by Bruce Barnard, to address that question.

Bruce said the definition is not the one the Conservation Commission suggested. It should be designated wetlands or hydric soils definition. He found a new definition under RSA 674, page 482. He also said water going into a stream gets clarified much faster than in a bog or marsh. The big issue for him is enforcement, building applications and such. He is in favor of the 50 foot buffer on wetlands, the question is how to define them and enforce it.

Polly Alexander reference the map that the Town had made that designated wetlands.

Roger Larochelle said the Planning Board is receptive to going one way or another on wetlands. They are trying to protect as much as possible.

Alan Barnard recommended striking the wetlands definition and referring the question to the Conservation Commission for study. There are many issues around wetlands, non-dwelling buildings, mitigation, etc.

Martha Twombly asked if this issue isn't within the authority of the Conservation Commission and the Planning Board should just implement that.

Roger Larochelle polled the Board and all agreed to strike out wetlands.

Ellie Lonske agreed and said she wants to be sure the subject is examined over the next year.

Roger Larochelle summarized that proposed changes are to delete "pond" and "or wetland" and "natural" and "or the area within 50 feet from the edge of wetlands" from the suggestions. Newfound Lake and Spectacle Pond were specified.

Various individuals stated their desire for a commitment from the Planning Board to address the issue. The Planning Board referred it to the Conservation Commission to be committed.

#27, Very Steep Slopes:

Alan Barnard said he has an issue with Very Steep Slopes as there are up and down areas on almost every parcel of land. Any little embankment could be a barrier to building. They should say anything over 25% should have an Erosion Control Plan which would satisfy the concern.

Bruce Barnard said he has no issue with #27 which is just a definition. It is #28 that has the issue. The last sentence should be in the General Provisions Articles IV rather than in a definition.

There was considerable discussion on #27 and #28 and Buildable Area definitions.

Allan Kent asked if there is a boulder set in a hillside and the downside of it is greater than 25% does that mean I can't remove the boulder?

Roger Larochelle said we are not lawyers and not trying to restrict people too much. We just want people to use common sense and good judgment.

Mark Hession asked if it would work to calculate the average slope not greater than 25%.

Ellie Lonske explained that you have to have two acres to build, not wetlands and not very steep slopes and not rights-of-way and you should build on the Buildable Area.

There was discussion of how to figure what is Buildable Area.

Larry Kill said if you have two acres to build on and by building up on the slope you get a view, that's where you want to build.

Ellie Lonske discussed all the choices you could have.

Bruce Barnard said on the front page of the 2005 Master Plan where it says "support zoning" it says "limit" not prohibit. He went back and forth with Ellie Lonske about steep slopes versus very steep slopes and Bruce cited a recent Lakes Region Association study of area towns and how they regulate development on slopes. He said the "slope density provisions" are based on soils and soil overlay calculations, and you just eliminated the soils overlay. He suggested leaving this out and working on it with wetlands over the next year, as it needs more study.

Alan Barnard said he agrees that you could have two acres and still not have any buildable land. The 1985 Master Plan said 3-5 acres because soils and slopes calculations are enforceable. It is an issue of controlling run-off and sometimes the impact on the land is diminished by building on slopes. You need to have a square footage calculation to average out the little knolls and ridges. It could be as much as 20,000 square feet discounted which is less than a half an acre.

Roger LaFontaine commented that the intent is to be fair and reasonable. You could come up with a situation for any paragraph. This has to be a fluid document. It is sounding like a Tower of Babel. Towns around are surviving. We could over-define things.

Lee Alexander said we're talking about two acres of Buildable Area. If you allow someone to mutilate a half acre, they could build almost anywhere.

Polly Alexander said in #26, if you can't define wetlands, you can't put the word in, can you?

Ellie Lonske asked Alan Barnard how wetlands get on surveys.

Alan Barnard said the State has a definition the soil scientists and septic designers have to use.

Ellie Lonske explained that the current zoning already has wetlands restrictions and greater than 25% slopes cannot be built on. She read the regulations from other towns and explained that two acres being proposed is not extreme.

Alan Barnard said Bridgewater regulations have a 30,000 square feet exclusion. You've got to have an exclusion.

Roger Laroche polled the Board.

Chuck Beno said it is necessary, but what is the number?

Roger LaFontaine said he hasn't a clue what the number should be.

Alan Barnard said use the Sandwich number, as that seems to be the gold standard.

Chuck Beno said 10,000 may not be enough, 15,000 may be.

Ellie Lonske asked for more explanation.

Chuck Beno described the process of selecting the placement of a house in terms of road access, safety, sunlight, views, drainage, etc. and that you want to ease back into the natural grade. He said he asked experienced people to comment on a prospective exclusion area.

Roger Laroche summarized where exclusion comes in for figuring Buildable Area.

Ellie Lonske read the Sandwich regulations and "disregarded" is not that same as "excluded."

Alan Barnard explained that 15,000 square feet would not count as Buildable Area but you could modify that much for your construction.

Lee Alexander felt 15,000 square feet is a huge area for a home.

Alan Barnard explained how it is not all that much when you include driveway, drainage to drip lines, landscaping, etc.

Bill Nobles said he agrees that having latitude for where you put your house makes perfect sense.

Bruce Barnard said pairing soils and slopes makes more sense.

Roger Larochelle said they are looking at all possible implications.

Added to #28:

The phrase “as defined on page 482 of RSA 674” was added after “wetlands.”

N.1 “All dwellings shall be within the Buildable Area.”

N.2 “Isolated Areas of Very Steep Slopes up to 15,000 square feet in a Buildable Area may be altered for building purposes using Best Management Practices for Erosion Control.”

#27 was deemed okay.

Martha Twombly asked if it could also reference grading and erosion control.

That wording was added.

O. Frontage:

Bruce Barnard pointed out that the word “Variances” should be “Deviations” and that “s” should be dropped from Zoning Board of “Adjustments.”

There was some discussion of the word “provided” in the third sentence of paragraph 1. Roger Larochelle said he would consult with Town Counsel about that phrasing.

Allan Kent asked about land-locked tracts that you don’t want to build on.

Roger Larochelle said the zoning applies if you want to build.

Phil Twombly brought up “provided” again.

Allan Kent asked if he had a bunch of pie-shaped lots, could he run a road through the middle of the lots and qualify for adequate road frontage.

Roger Larochelle said the road would break the lots and each would be two lots.

Bruce Barnard brought up the question of if frontage was measured on the arc or the cord.

Roger Larochelle responded that it is on the arc. The Board listened to comments 1/16/06.

The word “natural” was deleted from #2 in O. Frontage.

Lee Alexander questioned how you treat cluster development in the Lake District.

Roger Larochelle responded there needs to be a dimensional requirement.

Lee Alexander asked for clarification. In a cluster, where the Planning Board defines road frontage, how would it define Lake Frontage?

Alan Barnard explained that you have to have 10,000 square feet to access the lot. ZN 17 and 18 will need to be looked at. It will have to go to 150 feet of frontage to be consistent.

VI.B.3.a. Lake District says not less than 150 feet of shoreline frontage.

It was noted that the minimum area of lot for any single light industry shall be two (2) acres with the addition "of Buildable Area" to make it the same as everything else in the Lake District.

Bruce Barnard said to keep in mind that on Town Meeting day people can vote yea or nay on a Warrant Article, such as Article V.B. He noted that February 16<sup>th</sup> there will be a public hearing on the question of the Historic District held by the Selectmen.

Pat Vandenberg asked about signs the State puts up, in reference to signs in the Historic District.

Alan Barnard and Roger Larochelle both said the Town has no control over the State.

Bruce Barnard thanked the people on the Planning Board who work tirelessly to do their job, and led enthusiastic applause for the Board.

John Matthews promised he will follow up on wording with the Town Moderator and the question of filling vacancies after Town Meeting.

Alan Barnard suggested the Planning Board as the Town Moderator to solicit further suggestions from attendees for future zoning updates.

Adjourned 10:00 PM

## **SUMMARY OF MOTIONS**

No motions were made or considered. No specific cases were discussed.