

## Hebron Planning Board

### Hebron Conservation Commission

# Joint Public Hearing-- DRAFT

Minutes from January 9, 2008 hearing

**Planning Board Members present:** Ellie Lonske, Acting Chair, Dick Cowern, Chuck Beno, Martha Twombly, Alt. Absent members: Roger Larochele, David Wall, Tom Gump, Alt.

**Conservation Commission Members present:** Martha Twombly, Chair, Roger LaFontaine, Ed Gempka, Alt and Suzanne Smith, Alt. Members absent: Travis Austin, Bruce Barnard, David Goldthwaite, and Sheila Oranch.

**Others Present:** Alan Barnard and Jane Ramsay, secretary

**Time Convened:** 7:05 p.m. **Time Adjourned:** 9:20 p.m. The meeting had been posted in two places in town, advertised in the *Citizen* newspaper and posted on the Town website.

### Agenda Items

1. Review and Board Approval of changes to Zoning Regulations proposed by the Planning Board
2. Review and Board Approval of the Wetland Protection Overlay District ordinances proposed by the Conservation Commission.

Ellie Lonske called the meeting to order at 7:05 p.m. She made Martha Twombly a voting member of the Planning Board.

Martha Twombly made Suzanne Smith and Ed Gempka voting members of the Conservation Commission.

Ellie said that any substantive changes to the proposed ordinances would require another Public Hearing before February 5, 2008, but spelling errors, formatting changes and other minor grammar corrections could be done without one. Both proposals had been submitted to Town Counsel, Tim Bates, for his review. He sent back suggestions that were then incorporated into the documents. Many of his suggestions were made to clarify items or eliminate extra verbiage.

### Planning Board Zoning Proposals

Article IV N:2 The wording is to be: All dwellings shall be outside of any Protective Buffer.

Article IV :N3 . Alan Barnard questioned whether the wording was clear and Ellie suggested replacing a period with a semi colon after Usable Land so it would read:

3. All dwellings shall be sited within the Usable Land; an area of Very Steep Slopes totaling no more than 10,00 square feet may be altered for construction purposes (e.g. Structures, driveways, wells, septic systems) using best management practices for erosion control.

Article VI B5 ( c) Alan Barnard asked why the Board had not determined a specific number of square feet that can be altered in Very Steep Slopes in a Cluster Development. Ellie replied that the Board had discussed whether a specific number should be stated and felt it would be better to deal with individual cases on a case to case basis. Town Counsel reviewed the article and the voters will have a chance to vote on it at Town Meeting.

### **Wetland Protection Overlay District proposal**

The proposed changes that were made at the December 17, 2007 Public Hearing were incorporated in the document that was sent to Attorney Bates for review. His suggestions for changes were incorporated in the document sent out on December 29, 2007.

Martha went through the proposal and read the changes he made.

Section B: Authority. Extra verbiage was deleted.

Section C 7: The RSA referenced in the Dec. 17, 2007 version was incorrect. It was removed.

Section D 1: Further definition of wetland types was included and the typing error (wsetland) was corrected to read wetland.

Section E 4b: Language was made clearer. Best Management Practices in the Dec 17, 2007 document are more specifically listed in table 1 and are deleted in section E 4b.

Section F1 Commas were added for clarity.

Table 1. Next to last item: the wording is more specific than the December 17, 2007 document.

Table 1 After last item there should be a line (box)

Section G: The changes clarify the review of Special Exceptions in addition to criteria in Article VIII of Hebron's Zoning Ordinance.

Section H Attorney Bates made changes to this section, but his concerns had been addressed in F1 in the December 29, 2007 document.

Section H 4: The word "prime" was deleted.

Section J 3: wording was clarified.

Section K. The 1 in front of the only sentence in section J is to be removed.

Other suggestions about formatting the document were made. It was suggested that the items under Section F1 start with a capital letter, the items in the tables be numbered or identified by letters and there was a question about whether "stormwater" and "shoreland" were one or two words.

Alan Barnard, speaking as a member of the audience, brought up several items that concerned him.

D6: He said the Town should be exempt from the ordinance because it needed to be able to act in an emergency and it was bound by State and DES regulations anyway. Chuck Beno and Dick Cowern agreed. Martha suggested adding , "except for State permits." **Ed Gempka moved and Suzanne Smith seconded the motion to remove D6. All the Conservation members in attendance voted yes and D6 was eliminated from the document.**

Section E4 c: Alan felt that the definition of 3,000 square feet was too small an area. He suggested an acre which is 43,000 square feet would be better. Martha responded that the 3,000 square foot figure was taken from the NH Guide Book . Alan said that figure represented the amount of disturbance that could take place, not the area of wetland itself. He brought out maps showing the impact that ordinance would have if applied to the approved subdivision of Jane Ramsay's land off Sarah Lane. Using the definition of wetland and the proposed 50 foot wetland buffer, the area upon which a house could be built in that subdivision would be reduced 85%. Most of the land there is dry under foot and considered to be poorly drained soil. He suggested that the criteria be poorly drained and very poorly drained soil rather than wetland. He said are 205 acres of wetlands in the Master Plan and there are 17 Designated wetlands in Town. He suggested that only the Designated wetlands be bound by the 50 foot buffer regulation because the landowner often does not know wetlands exist on his/her property and an expert would have to be hired to determine if wetlands do exist, the Selectmen would have to require a wetland survey before a building permit could be issued to protect them from lawsuits, and the ZBA would be overwhelmed with requests for special exceptions. Ellie said that the changes to the Zoning have been following a pattern of addressing the areas of most concern first. She said the first was Very Steep Slopes followed by Steep Slopes and now Wetlands. She suggested the ordinance tackle buffers around designated wetlands first and then, over time, include other wetlands in the ordinance. Chuck Beno said the way the ordinance was written now was too restrictive and odious to the smaller property owners.

It was also brought out that there would be an enforcement problem and if there were abutting wetlands connected to the wetlands on an individual's property, it would be a logistical nightmare getting anything done. The DES Shoreland Protection Act was discussed and Alan explained that the buffers from streams and brooks fall under its jurisdiction but usually buffers are a "trade off" for vernal pools for the landowner and DES easily grants permits through poorly drained soil.

Ellie said it seemed to her the Conservation Commission had a choice of three options 1. Leave it as it was. 2. Change the 3,000 square feet to another number or 3. Only require buffers around the Designated Wetlands in town. Roger LaFontaine said he thought leaving the ordinance as it was would set it up for a defeat at Town Meeting and eliminating the proposed buffers around non designated wetlands would be fair and reasonable. Ed liked the idea of only making the buffer setback for Designated Wetlands and said he thought the process of change could be done gradually. Suzanne felt the definition of non-designated wetlands should be left in the ordinance and Martha said septic system setbacks should not be removed.

**Ed made a motion, seconded by Roger to remove E4 c The part of the last sentence that begins "..provided that" and (1) (2) (3) from the document. The vote was unanimous in the affirmative. It was**

**moved by Ed and seconded by Suzanne to remove the reference to Brook, Stream or Pond in the definition of non-designated Exempt wetlands (E4 c) The vote was unanimous in the affirmative.**

Section F1 b: Alan said he felt addition of fill, dredging or grading should be allowed by special exception because it is possible to prevent further erosion or other problems if those activities were done in case of heavy rains or flooding. State permits would have to be obtained so those activities would be regulated. It would also be up to the State to enforce their own regulations and would relieve the Town from having to do so. **A motion was made by Ed and seconded by Roger to include the following in Table 1 after the last entry, "Remedial activities to correct erosion problems may be allowed by special exception." The vote was in the affirmative.**

Table 2 box 2 There was a discussion of the use of mountain bikes in wetland areas and the damage they cause. It was suggested mountain bikes be added to the other prohibited uses but the consensus was that the more restrictive the ordinance was, the more likely it would be to be defeated by the voters at Town Meeting.

Table 3 (3) The 50' buffer setback for Non Designated Wetlands should be changed to N/A because of previous changes. The word "criteria" in \*\* as per DES... should be changed to "rules".

**J1: Roger moved and Ed seconded changing the word "may" following "The Town of Hebron" to "Shall." The motion passed.**

The Conservation Commission will rewrite the WPOD to reflect the changes made at this meeting and will schedule and hold another (the third) Public Hearing before February 5, 2008. The tentative date will be Monday, January 28, 2008. A copy of the WPOD will be made available at the Town Office, Town Clerk's office and the Land Use Room and on the Town Website before then.

Roger moved and Chuck seconded the motion to adjourn the meeting. The vote was in the affirmative. The meeting was adjourned at 9:20 p.m.

Jane H Ramsay

Acting secretary for the Planning Board

Secretary for the Conservation Commission