

Planning Lunches at Noon (PLAN) Monthly Webinar Series

Welcome to the December 2025 PLAN Webinar!

“Best Practices for Planning Boards - Proposing Zoning Amendments,
Hearing Applications, and Issuing Decisions”

Check out OPD’s [Planning and Zoning Training webpage](#) for:

- Slides and recording of past PLAN Webinars and conferences
- Planning Board and Zoning Board 101 slides and recordings
- Planning Board and Zoning Board Handbooks
- Optional Tests and Certificates



New Hampshire Department of
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Best Practices for Planning Boards - Proposing Zoning Amendments, Hearing Applications, and Issuing Decisions

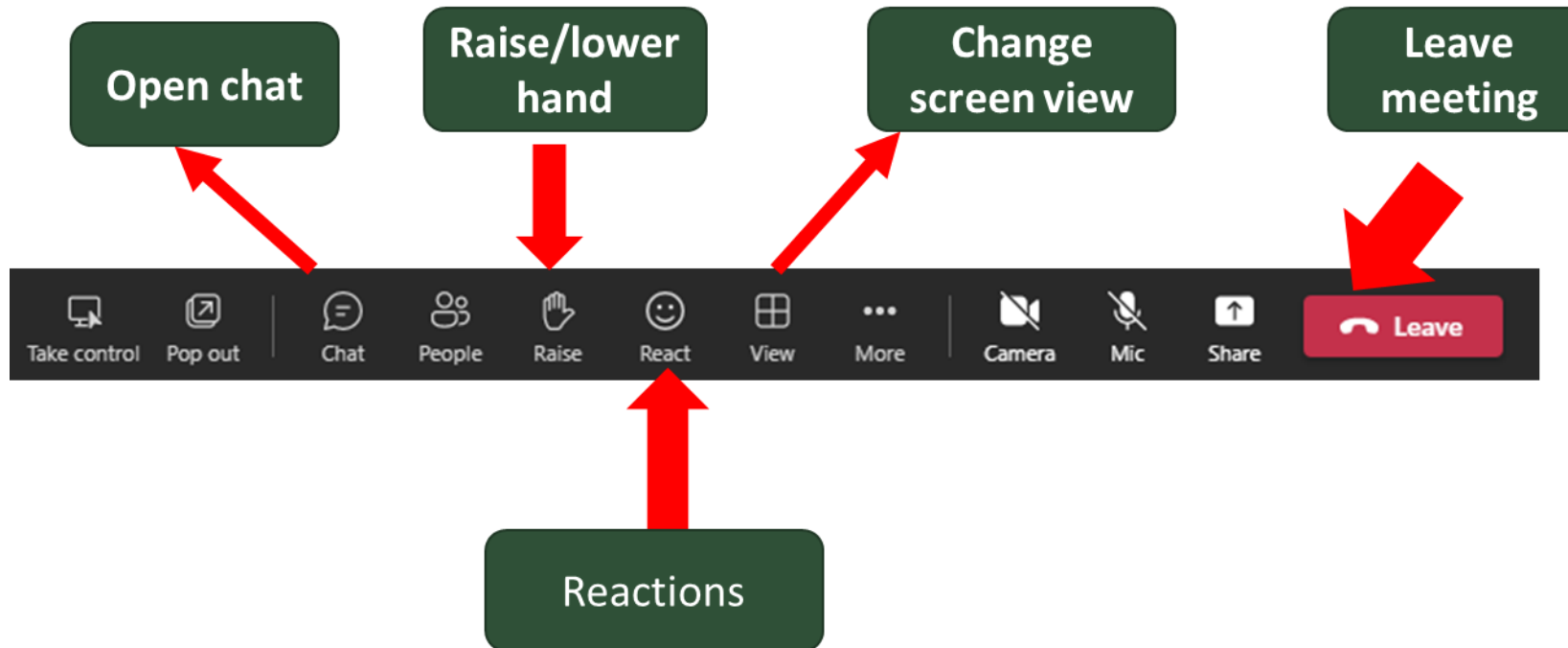
**Office of Planning and Development
NH Department of Business and Economic Affairs**

December 18, 2025

B E A New Hampshire Department of
BUSINESS AND
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How To Participate

- ▶ For questions, type them into the chat box
- ▶ We will do our best to answer all questions by the end of the webinar



Speakers

Brendan McDowell

NH Department of Business & Economic Affairs
Office of Planning and Development, Principal Planner

Noah Hodgetts

NH Department of Business & Economic Affairs
Office of Planning and Development, Principal Planner

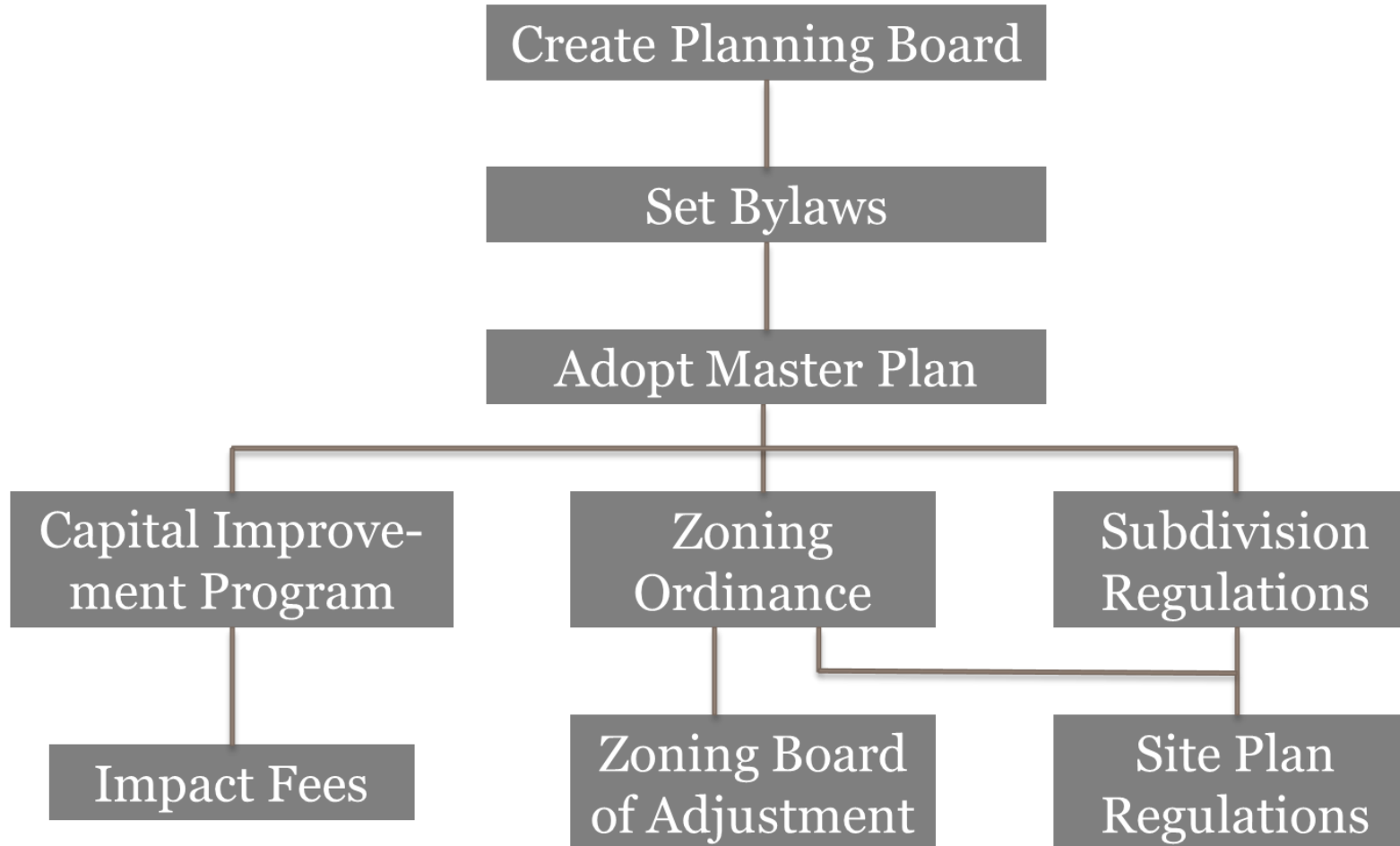


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Agenda

- Zoning Amendment Process
- Subdivision and Site Plan Application Review Process
 - Waivers
 - Checklists
 - Findings of Fact
 - Notice of Decision
- Planning Board Rules of Procedure
- How to Operate as a Board

Relationship between Zoning and Land Use Regulations



Zoning Amendment Calendars

November 2025		
Monday	November 10, 2025	First day to accept petitioned zoning amendments (675:4)
December 2025		
Wednesday	December 10, 2025	Last day to accept petitioned zoning amendments (675:4)
January 2026		
Sunday	January 4, 2026	Last day to post and publish notice for first public hearing on zoning amendments, if a second hearing is anticipated (675:3 ; 675:7)
Thursday	January 15, 2026	Last day to hold first public hearing on zoning amendments, if a second hearing is anticipated (675:3)
Thursday	January 22, 2026	Last day to post and publish notice for final public hearing on zoning amendments (675:3 ; 675:7)
February 2026		
Monday	February 2, 2026*	Last day to hold final public hearing on proposed zoning amendments. Planning Board must determine final zoning amendment form that is to be posted and filed with the town clerk on February 3, 2026 (675:3)
Tuesday	February 3, 2026	Last day to place on file with the town clerk the official copy of the proposed amendments (675:3.V)
March 2026		
Tuesday	March 3, 2026	Last day to submit zoning ordinance protest petition to require 2/3 vote at town meeting (675:5)
Tuesday	March 10, 2026	Town Meeting (39:1)

Zoning Amendment Calendars (2026)

Traditional Town Meeting

- ▶ [Traditional - March](#)
- ▶ [Traditional - May](#)

Official Ballot ("SB2") Town Meeting

- ▶ [SB2 - March](#)
- ▶ [SB2 - April](#)
- ▶ [SB2 - May](#)

What is a Zoning Amendment?

Zoning Amendment: any change to the zoning ordinance including language, table, graphics, or maps, approved by the legislative body. (Town Meeting, Town Council, City Council).

Cities and towns with town councils can adopt zoning amendments any time of year (*RSA 675:2*)

Non-town council towns and village districts can only adopt zoning amendments once a year by ballot at their annual meeting (*RSA 675:3*)

ZONING AMENDMENTS	
Warrant Article 2: Amendment #1: Are you in favor of the adoption of Amendment No. 1 as proposed by the Planning Board for the Farmington Zoning Ordinance as follows: To clarify that residential development on a lot must be within the minimum contiguous buildable area; and general textual clarifications to Table 2.01(B)?	295 YES <input type="radio"/> NO <input checked="" type="radio"/> 83
Warrant Article 3: Amendment #2: Are you in favor of the adoption of Amendment No. 2 as proposed by the Planning Board for the Farmington Zoning Ordinance as follows: To increase the maximum density for duplex and multi-family housing; clarify density bonus criteria for those properties connected to water or sewer; clarify that residential development on a lot must be within the minimum contiguous buildable area; and general textual clarifications to Table 2.02(B)?	241 YES <input type="radio"/> NO <input type="radio"/> 144
Warrant Article 4: Amendment #3: Are you in favor of the adoption of Amendment No. 3 as proposed by the Planning Board for the Farmington Zoning Ordinance as follows: To add density bonus criteria for those properties connected to water or sewer; clarify that residential development on a lot must be within the minimum contiguous buildable area; and general textual clarifications to Table 2.03(B)?	261 YES <input type="radio"/> NO <input type="radio"/> 116
Warrant Article 5: Amendment #4: Are you in favor of the adoption of Amendment No. 4 as proposed by the Planning Board for the Farmington Zoning Ordinance as follows: To set the maximum density for single family residential at one dwelling unit per 30,000 square feet; increase the maximum density per dwelling unit for duplex (15,000 square feet), multi-family (10,000 square feet), and mixed-use (5,000 square feet) units; amend the minimum lot size to 30,000 square feet; add density bonus criteria for those properties connected to water or sewer; and general textual clarifications to Table 2.04(B)?	242 YES <input type="radio"/> NO <input type="radio"/> 129
Warrant Article 6: Amendment #5: Are you in favor of the adoption of Amendment No. 5 as proposed by the Planning Board for the Farmington Zoning Ordinance as follows: To amend the maximum density per dwelling unit for single family (8,000 square feet), duplex (4,000 square feet), and multi-family (2,500 square feet) units; amend residential development restrictions on specific streets; and general textual clarifications to Table 2.05(B)?	238 YES <input type="radio"/> NO <input type="radio"/> 129
Warrant Article 7: Amendment #6: Are you in favor of the adoption of Amendment No. 6 as proposed by the Planning Board for the Farmington Zoning Ordinance as follows: To amend the maximum density for mixed-used developments and to set a minimum unit size (750 square feet)?	239 YES <input type="radio"/> NO <input type="radio"/> 129
Warrant Article 8: Amendment #7: Are you in favor of the adoption of Amendment No. 7 as proposed by the Planning Board for the Farmington Zoning Ordinance as follows: To allow for a duplex to be built on land subdivided using the rear lot provision in all residential zoning districts except for the Agricultural Residential District?	229 YES <input type="radio"/> NO <input type="radio"/> 145

What is a Zoning Amendment Cont'd

The planning board (RSA 674:1, V)

The governing body (RSA 675:3, VIII)

- The board of selectmen, village district commission, city or town council all have the authority to propose zoning amendments

Petitioned Zoning Amendment (RSA 675:4)

- 25 or more registered voters may petition for an amendment to a zoning ordinance, historic district ordinance, or a building code.

Zoning amendment language

- Correct format! Review with Town Clerk!
- PB support or not
- Reason or justification statement along with the amendment
- Governing Body and Petitioned amendment language can't be changed!



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Petitioned Zoning Amendments

- 25 registered voters can petition to amend or repeal a provision of the zoning ordinance, historic district and building codes.
- Petitioned zoning amendments must be received between 120 and 90 days before town meeting (the 2nd Tuesday in March, April or May)
- Petitions are submitted to the governing body who forward to planning board
- At first planning board meeting after the petition period the board shall set the date for the public hearing on the petition
- Petitioned amendments cannot be altered by planning board, but the board shall state if it approves/supports or disapproves/not support on the ballot
- ***Check Zoning Amendment Calendars as dates for acceptance of petitioned zoning amendments for 2026 town meeting may have passed already***

Legislative Body Process

- In towns, a zoning ordinance may be adopted or amended by ballot vote of a majority of the voters present and voting at an annual or special town meeting
 - Towns get one bite at the apple-Once a year to change zoning!
- In cities and towns with a town council form of government, the municipal charter determines how a zoning ordinance is to be adopted or amended, although a public hearing on any amendment must be held before adoption
 - Any time of the year
- The planning board must hold at least one public hearing according to RSA 675:7-
 - Pay attention to the Zoning Amendment calendars to make sure you have enough time to hold additional public hearings if necessary

Public Hearing Requirements (675:7)

- 10 calendar day notice (excluding day of posting and hearing) before public hearing shall be posted in 2 public places in municipality
- Notice also published in newspaper of general circulation in municipality, or, in the alternative posted on home page of town's website
- Any person owning property in municipality can request notice of all public hearings of zoning amendments, and such notice must be provided electronically or by 1st class mail at no cost to recipient
- Full text of the amendment not required provided the notice adequately describes the amendment and states a place where the full text is on file for public inspection.
- After the public hearing, the planning board shall vote to determine the final form of the amendment to be presented to the town which may include editorial revisions and textual modifications resulting from the public hearing (RSA 675:3, III)
 - Can vote to not recommend passage, but can't withdraw amendment

Notification & Mailing Requirements

- Does amendment change boundary of zoning district that affects 100 or fewer properties (RSA 675:7, I-a)?
 - If yes, notice of the public hearing must be mailed to the owners of each affected property
- Does amendment change minimum lot sizes or permitted uses in a zoning district that has 100 or fewer properties (RSA 675:7, I-a)?
 - If yes, notice must be mailed to the owner of each property in the district
- Notice must be sent by 1st Class mail to the address used for property tax bills
- In the case of petitioned zoning amendments, the petitioner must pay for the cost of notice required under RSA 675:7, I-b

Zoning Amendment Ballot Requirements (675:3)

- The municipal clerk, with assistance from the planning board or staff, prepares the question for the ballot:

“Are you in favor of the adoption of the amendment to the town zoning ordinance as proposed by the planning board” as follows: (insert topical description of amendment)?”

The Planning Board supports this amendment 6-0 OR

The Planning Board recommends this amendment

- Regardless of whether town has adopted an official ballot (SB2), zoning amendments should be on a separate ballot from ballot for election of town or village district officers (RSA 675:3,VII)
- An official copy of the final proposal to amend the zoning ordinance shall be placed on file and made available to the public at the municipal clerk's office no later than the fifth Tuesday prior to the date when action is to be taken.

**Zoning amendments cannot be amended after
the final public hearing.**



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Zoning Amendment Process Best Practices

- Don't take on too many amendments

ABSENTEE		BALLOT 1 OF 2
OFFICIAL BALLOT		
NON-PARTISAN		
TOWN OF BETHLEHEM		<i>Mary Jackson</i>
MARCH 12, 2024		TOWN CLERK
INSTRUCTIONS TO VOTERS		
TO VOTE, completely fill in the OVAL to the RIGHT of your choice(s) like this: <input type="radio"/>		
ARTICLES		
Article 2: Are you in favor of the adoption of Amendment No. 1 as proposed by the Planning Board for the Bethlehem Zoning Ordinance as follows: to reduce the required parking from 2 spaces to 1 space for accessory dwelling units (ADUs) that are no larger than 1,000 sq. ft. of gross floor area and which have no more than two bedrooms.	YES <u>363</u>	NO <u>135</u>
Article 3: Are you in favor of the adoption of Amendment No. 2 as proposed by the Planning Board for the Bethlehem Zoning Ordinance as follows: to allow a single-family home to have one detached accessory dwelling unit (ADU) up to 1,000 sq. ft. of gross floor area with two bedrooms as a Permitted Use in Districts II, III, and IV and by Special Exception in District I Main Street and District I.	YES <u>423</u>	NO <u>127</u>
Article 4: Are you in favor of the adoption of Amendment No. 3 as proposed by the Planning Board for the Bethlehem Zoning Ordinance as follows: to define "Residential Conversions" and allow the conversion of existing residential structures and those structures previously used for nonresidential purposes to multi-family uses as a Permitted Use in District I Main Street and District I and by Special Exception in Districts II, III, and IV.	YES <u>396</u>	NO <u>152</u>
Article 5: Are you in favor of the adoption of Amendment No. 4 as proposed by the Planning Board for the Bethlehem Zoning Ordinance as follows: to increase housing opportunity by allowing dwelling units above first-floor businesses as a Permitted Use in District I Main Street and District I and by Special Exception in Districts II, III, and IV; and also add a definition of "Mixed Use."	YES <u>448</u>	NO <u>105</u>

Article 6: Are you in favor of the adoption of Amendment No. 5 as proposed by the Planning Board for the Bethlehem Zoning Ordinance as follows: repeal and replace Article XII regarding Cluster Developments and allow Cluster Developments as a Permitted Use everywhere except District I Main Street and the Landfill District. Major changes to the Cluster Developments Article include the provision of additional guidance for the Planning Board when reviewing Cluster Developments, and a density bonus for developments with homes no larger than 1,200 sq. ft. gross floor area with a two-car garage.	YES <u>334</u>	NO <u>270</u>
Article 7: Are you in favor of the adoption of Amendment No. 6 as proposed by the Planning Board for the Bethlehem Zoning Ordinance as follows: add a definition of and allow Short Term Rentals of single family dwellings, owner occupied two family dwellings, and ADUs to owner occupied single family dwellings as a Permitted Use in District I Main Street, District I, District II, District III and District IV; repeal the definition of "Motels, hotels, guest homes and overnight cabins"; adopt a new definition of "Public Accommodation," which includes Campgrounds; add definitions of Accessory Building or Use, Bed and Breakfast, Campground, Owner-occupied, and Transient; add Bed and Breakfast and owner occupied short term rentals to the definition of Home Business; and adopt health and safety requirements for Short Term Rentals.	YES <u>349</u>	NO <u>194</u>
Article 8: Are you in favor of the adoption of Amendment No. 7 as proposed by the Planning Board for the Bethlehem Zoning Ordinance as follows: to remove Article XVII Impact Fees in its entirety (has never been used), along with the Definitions in Article XXII that are only used in that section of the Zoning Ordinance.	YES <u>408</u>	NO <u>119</u>
Article 9: Are you in favor of the adoption of Amendment No. 8 as proposed by the Planning Board for the Bethlehem Zoning Ordinance as follows: add a definition of Gross Floor Area as "the sum of the horizontal area of all floors of a building, measured from the exterior faces of the walls but not including unfinished cellars, attics, porches, etc."	YES <u>389</u>	NO <u>139</u>
Article 10: Shall the Town raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein, totaling \$3,582,974 (Three Million Five Hundred Eighty-Two Thousand Nine Hundred Seventy-Four Dollars). Should this article be defeated, the default budget shall be \$3,370,220 (Three Million Three Hundred Seventy Thousand Two Hundred Twenty Dollars), which is the same as last year, with certain adjustments required by previous action of the Town or by law; or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only. (The Board of Selectmen recommends this Article 4-0). Tax Impact 6.57	YES <u>377</u>	NO <u>171</u>
TURN BALLOT OVER AND CONTINUE VOTING		


Best Practices Cont'd

- Don't put all amendments into one article.

WARRANT ARTICLES	
Article 02	Adopt Zoning Ordinance Changes
Are you in favor of the adoption of Amendment No. #1 as proposed by the Planning Board for the town zoning ordinance as follows:	
Amend Chapter 15, Floodplain Development Regulations, as necessary to comply with requirements of the National Flood Insurance Program	
Establish a definition for the term "Short-Term Residential Rental"	
Revise the definition of "Solar – Small-Scale Solar."	
To address the permissibility of "Short-Term Residential Rental" in various districts	
To enact certain revisions to Chapter 12, Sign Regulations, including setbacks from front lot lines, and revising street number requirements	
To revise Chapter 13, Section 1306, Accessory Dwelling Units by allowing for attached or detached accessory dwelling units, and corresponding requirements addressing Life Safety, provisions of utilities, appearance of the accessory dwelling unit, applicability of other land use requirements, and relief provision requirements	
To establish Chapter 29, Short-Term Residential Rental requirements	
To establish Appendix C, a Table of Uses; and	
To revise the revision history, as applicable.	
Recommended by the Planning Board	
279 YES <input type="radio"/>	
114 NO <input type="radio"/>	
TURN BALLOT OVER AND CONTINUE VOTING	

Best Practices Cont'd

- If you can, prepare a Voter's Guide for your Zoning Amendments explaining what they are in plain terms.
- [Barrington Voter Guide 2024](#)



TOWN OF BARRINGTON
NEW HAMPSHIRE

Office of the Select Board

2024 Town Meeting Voter Guide

Article 2 – Zoning

Elderly Assisted Home Care Facilities – Number of Residents

Ballot Question

Are you in favor of Amendment #1 to the Barrington Zoning Ordinance as recommended by the Planning Board, as follows: Amend definitions and table of uses to allow elderly assisted home care facilities to house an unlimited number of residents in the Village, Town Center, Regional Commercial and Highway Commercial Overlay District, rather than restricting those facilities to 15 residents or the maximum density permitted by NHDES. Elderly assisted home care facilities will still be limited to 15 residents and have a maximum density limitation in the General Residential and Neighborhood Residential districts and will require a conditional use permit in all districts, including the Regional Commercial District.

Explanation

In an elderly assisted home care use, this change would allow for additional elderly residents in the areas of Town zoned for commercial use; the 15-resident restriction or maximum density permitted by NHDES would remain in place for the areas of Town zoned residential.

This amendment is recommended for approval by the Planning Board 5-1. The majority feel that this change would promote a commercially viable assisted living facility (or similar) in Barrington which would provide residents options to remain in Barrington as they require additional care. The minority feels that the current limitations on this use are appropriate.

FARMINGTON PROPOSED ZONING AMENDMENTS



The Farmington Planning Board has put forth a series of proposed Zoning Amendments that seek to address the current housing shortage. These changes include: minimum lot size requirements; clarifying density calculations for different housing types; and density bonuses for districts with municipal utilities (water/sewer).

The changes below are addressed by district; however, please note that some districts may have more than one proposed amendment and it's presented in parts.



AMENDMENT 1. AGRICULTURAL DISTRICT

Warrant Article Summary (Contiguous Area): Lots where residential development will occur, which do not have access to water/sewer, must be built within the 40,000 square feet of contiguous buildable area to the maximum extent possible. This includes: structures, sewage disposal, leach fields, and water supply.

Why Change? Currently, the regulations only require that an applicant show that a 40,000 square foot area can exist on the lot, but does not require that the development be built in that area.

Goal: To encourage high-quality housing developments that reduce impacts to wetlands and other environmentally sensitive areas.



TOWN OF BARRINGTON NEW HAMPSHIRE

Office of the Select Board

2024 Town Meeting Voter Guide

Article 10 – Zoning Frontage – Consistent Definition

Ballot Question

Are you in favor of Amendment #9 to the Barrington Zoning Ordinance as recommended by the Planning Board, as follows: Remove the definition of frontage from Article 18 - Definitions; and amend the definition of Lot Frontage in Article 18 to be consistent with the definition in Article 4.1 - Dimensional Regulations.

Explanation

The definition of frontage in Article 18 - Definitions differs from the definition of lot frontage in Article 4 - Dimensional Requirements. This amendment resolves the conflicting definitions.

This amendment is recommended for approval by the Planning Board 6-0. They feel definitions should be consistent.

Article 11 – Zoning Defining Various Uses in the Table of Uses

Ballot Question

Are you in favor of Amendment #10 to the Barrington Zoning Ordinance as recommended by the Planning Board, as follows: Add definitions of arts & crafts establishments, automobile parts/supply retail establishment, bank, bed & breakfast, billiard parlors/pool hall, bowling alley, educational institution, farm stand, funeral homes, golf course, health club, landscape nurseries/greenhouses, movie theater, and social or fraternal organization.

Explanation

It is important that allowed uses are properly defined. These uses are identified in the Table of Uses but not currently defined.

This amendment is recommended for approval by the Planning Board 6-0. They feel that all uses should be properly defined, and they should be appropriate for the zoning districts allowing the use.

Article 12 – Zoning Restaurant and Outdoor Dining – Definition and Districts

Ballot Question

Are you in favor of Amendment #11 to the Barrington Zoning Ordinance as recommended by the Planning Board as follows: To add a definition of Restaurant, outdoor customer dining area, and to allow that use by right in the Village, Town Center, and Regional Commercial districts and by Conditional Use Permit in the General Residential, Neighborhood Residential, and Highway Commercial District Overlay districts.

Explanation

It is important that allowed uses are properly defined. This would also allow outdoor dining in the commercial center of Town.

This amendment is recommended for approval by the Planning Board 6-0. They feel that all uses should be properly defined, and that outdoor dining is appropriate in Barrington's Village and Town Center.

Best Practices Cont'd

- Clearly mark up the Zoning Ordinance with the year that amendments have been made or add a section that specifies each year's amendments.
- Bow does a summary at the end.
- Bristol marks them up throughout the ordinance.

AMENDED — March 12, 2024

Amended Temporary Structures and Uses under Section 3.02 and added it as Section 7.27; deleted Principal Uses Section 5.11.B12 Home Based Day Care, as the use also appears in the table as an accessory use; amended Section 10.02 Floodplain (F) District; added attached and detached Accessory Dwelling Units (ADUs) under Section 5.11 Accessory Uses A.6a and b and amended Section 7.04 to allow detached ADUs; amended Section 7.10 Radio/TV Tower or Antenna and Personal Wireless Service Facility (PWSF) Section E to allow PWSFs up to 190 feet in height and to modify the language regarding stealth technology; amended 10.01 Wetlands Conservation (WC) District Sections D and E including clarifying language and updating the Table of Uses for the Wetland Conservation District; and replaced Article 17 Bow Mills Mixed Use District in its entirety.

4.9 Recreational Vehicles

- Any property owner or lessee may accommodate one (1) recreational vehicle at a time to be used as temporary living quarters. Use is limited to a period not to exceed 90 days collectively per calendar year. The vehicle must be registered, mobile, and comply with all applicable sanitary and sewerage disposal requirements and meet all front, side and rear setbacks.
- A recreational vehicle as defined in this Ordinance shall not be considered a residence or dwelling.
- A recreational vehicle may be parked during periods of non-use provided it remains mobile and is not connected to utilities and is not used as living quarters.
- The property owner may apply for a Special Exception from the Zoning Board to live in a recreational vehicle for a period of up to 1 year, but they must have an approved Land Use Permit to build a new home on the same lot. (*Amended 2013, 2024*)

Best Practices Cont'd

- The date of your Zoning Ordinance Revision is when the vote was taken to amend it, NOT when you physically edited the document to incorporate the changes.

Town of Canterbury – Zoning Ordinance – Rev 04/09/2024

Article 1

Preamble, Title, and Authority

This ordinance shall be known as the Zoning Ordinance of the Town of Canterbury, New Hampshire, herein referred to as "this ordinance", and is adopted pursuant to the authority granted by the laws of the State of New Hampshire, Chapters 673 through 677, New Hampshire Revised Statutes Annotated, as amended. In conformity with a Master Plan; viz. "The Plan for Tomorrow" and for the purpose of promoting the health, safety, morals and general welfare of the inhabitants of Canterbury. The provisions of this ordinance are considered minimum requirements.

Effective Date: 03/14/1990

As Amended:

03/12/91, 03/10/92, 03/08/93, 03/08/94, 03/15/96, 03/11/97, 03/13/98, 03/09/99, 03/14/00, 03/13/01, 03/11/03, 03/12/04, 03/08/05, 03/14/06, 03/13/07, 03/11/08, 03/09/10, 03/08/11, 03/15/12, 03/11/14, 03/10/15, 03/11/16, 03/12/19, 03/13/20, 03/09/21 (Added Article 19 Campgrounds), 03/08/22 (Amended Article 8.1, 13 & 19), 04/03/2024 (Amended Articles 2, 3, 5, 6, 11, 12, 13, 18)

RESULTS OF TOWN ELECTION, MARCH 12, 2024



True Copy Attest

ANNUAL TOWN ELECTION
CANTERBURY, NEW HAMPSHIRE
MARCH 12, 2024

Samuel Pappas
TOWN CLERK

INSTRUCTIONS TO VOTERS

Best Practices Cont'd

DON'T FORGET THE MUNICIPAL ATTORNEY!

Do not publish or finalize proposed zoning amendment language for the ballot without review by the municipal attorney



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A Few Final Thoughts

- Zoning ordinances are meant to be ever evolving to reflect the changing needs of the community and protection of healthy, safety, and general welfare.
- Reach out to local, seasoned developers to ground truth the impact a proposed zoning change may have on a project penciling out.
- **You can never do too much education and community engagement to help dispel misinformation about the impact of proposed zoning amendments!**
- Don't expect change overnight!

Planning Board Subdivision and Site Plan Regulation Adoption

- Planning Board reviews and drafts subdivision and site plan regulations and accompanying documents(i.e. applications and checklists). (674:36) (674:44)
 - ▶ Any municipality may adopt subdivision regulations
 - ▶ Must have adopted zoning ordinance, and subdivision regulations, to adopt site plan review regulations
- Planning Board holds a public hearing on regulations to allow the public to speak and take public input.
- Deliberates in public and then adopts regulations



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Subdivision Regulations (674:36)

MAY Address:

- Services
- Street Layout
- Utilities
- Public Health
- Open Space
- Lot Configuration
- Thresholds for major and minor subdivisions

May provide for waivers

*Goal/Purpose-Provide against “scattered and premature development.”

Practice Pointer-The adoption and amendment of subdivision and site plan regulations can be done at any time throughout the year as they do not have to go to town meeting for approval. They would follow the normal 10-day public hearing notice procedures.



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Site Plan Regulations (674:44)

May include:

- Traffic
- Parking
- Utilities
- Landscaping
- Building location
- Signage
- Lighting
- Noise

Must include:

- Procedures
- Purpose
- Standards
- Performance Guarantees
- ***Must provide for waivers***



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Planning Board Application Process (676:4)

1. Application submitted to the planning board according to the board's meeting and deadline schedule or at a minimum of 21 days before a public hearing.
2. 676:4.I(b): the planning board SHALL specify by regulation (674:36 *Subdivision*/ 674:44 *Site Plan*) what constitutes a completed application sufficient to invoke jurisdiction to obtain approval.
3. A completed application means sufficient information is included to allow the board to proceed with consideration and make an informed decision.

Checklists

Checklists are to itemize the types of plans, studies, designs, information, materials, required fees, escrows, etc. that are required by the regulations.

- Planning boards without staff support could have the Secretary of the Planning Board process applications to check the submission contains all the required information required in the checklist prior to the meeting. If that is not feasible then the board should review the application at a public hearing.
- **OPTION** Conduct completeness review as a conceptual consultation. Applicant applies with preliminary information and reviews with the board what the checklist and regulations require in order to have it accept an application as complete.

Waivers

1. Subdivision Regulations 674:36 (optional)
2. Site Plan Regulations 674:44 (required)
 - ▶ Applicants must show good cause that strict conformity to the regulations would cause an unnecessary hardship and a waiver would not go against the spirit and intent of the regulations.
 - ▶ Waiver requests must be in writing and should identify the section of the regulation in which the waiver is being requested.
 - ▶ The board should be clear in their reason for granting OR not granting the waiver
 - ▶ **Practice Pointer:** vote on each waiver separately

Waivers cont'd

- ***“Will this affect the information we need in order for us to hear and decide on this application? (Yes or No)”***
- ***“Is there enough information to make an informed decision based on your regulations?” (Yes or No)***
 - PUT DECISION IN WRITING whether it is a “yes” or “no”
 - If waiver is granted the application can be accepted as complete and the public hearing can begin.
 - ❖ This can be done at the same meeting, as long as it was noticed that way to the public and abutters
- If the waiver is not granted, the application can be denied.
- The board and/or staff should work with the applicant for what material or information is missing.

Application Completeness

Formal Application-

- 676:4, I(b) “The planning board shall specify by regulation what constitutes a completed application sufficient to invoke jurisdiction to obtain approval.”
- “A “**completed application**” means sufficient information is included or submitted to allow the board to proceed with consideration and to make an informed decision”

*Regulations spell out what a completed application includes.

- Planning Board at next regular meeting or within 30 days of application delivery, vote on application completeness
- **Practice Pointer:** Determining an application is incomplete and requesting additional information from the applicant to meet all checklist requirements is preferable to a premature determination of completeness



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Application Process (Cont'd)

676:4,I(c)(1): Planning Board has 65 days from application completeness determination to approve, conditionally approve, or deny application

- Hold public hearing – can be same meeting as vote on application completeness if notice has been given to abutters and the public of public hearing on application
- Consider, review, and discuss proposed conditions of approval or reasons for denial while public hearing is still open.
- Provide last chance for applicant and abutters to comment.
- Close the public hearing!
- Begin deliberations-
 - Discuss among the board and staff potential conditions of approval or reasons for denial
 - BE CLEAR WITH CONDITIONS AND REASONS.
 - Don't pay attention to the number of conditions of approval
 - Minutes don't count for enforcement



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Planning Board's Role

- To accept or not and review and approve/deny formal applications that are submitted.
- Chair: Allow the applicant and abutters to speak and be heard. Do NOT have to allow repetitive comments!
- Run a calm and respectful meeting-set time limits
- If uncertain on whether to accept an application as complete or not-don't hesitate to continue acceptance
- Utilize the existing regulations in your decision-making process i.e., does the application meet the Master Plan goals? Site Plan/Subdivision Regs?

***When in doubt... It is ok to continue the application for more information or guidance from staff and/or Municipal Attorney**



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Motions

- Motions may be made by any regular member (chair included) or alternate serving in place of a regular member
- Motions should contain the complete action
 - All conditions of approval; reasons for denial
 - Require second; require deliberation; require vote
- A failed motion (not a majority of yeas*) is not an approved action to do the opposite!
- If the motion to approve fails it does not mean the application is denied; a new motion must be made. Discussion continues.

Site Walks

- Considered an important part of the application decision making process.
- Can be done at the beginning of the process-or as part of the application process.
- It is a meeting! Post an agenda and take minutes!
- Public **MUST** be allowed to attend. Denying public access can lead to delays or denial of the application.
- Good for fact finding and visualizing the development in the area
- If no site walk is scheduled, individual members may view the site on their own.

Third Party Review (676:4-b)

- Should be part of every application.
- DON'T take applicant's "word" on engineering/traffic/drainage, etc. studies-get a professional to review on the town's behalf.
- Hire experts to help you understand
 - ▶ Complex/phased applications, controversial issues, unusual subject matter
 - ▶ Get an estimate, establish an applicant-funded escrow (separate account).
 - ▶ All third-party reviews are paid for by the applicant.
 - ▶ Keep good records of funds
 - ▶ Put process in application and regulations



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Third Part Review Cont'd

Role of Planning Board's expert:

- ▶ Work with applicant's expert to develop an improved plan
- ▶ Provide alternative review of the same facts
- ▶ Work to protect the municipality's interests
- ▶ Establish a basis for approval or denial
- ▶ Utilize for actual development of project i.e., drainage inspections, road inspections, escrow drawdowns, final inspections, compliance, etc.

Types of Conditional Approval


- Conditional approval under **RSA 676:4, I(i)** is only an “interim step in the process of the board’s consideration” and is not a final approval. **For a valid final approval under the statute, there must be no unfulfilled conditions precedent.**
- Conditions precedent: conditions/items that must be completed in order to obtain final approval. i.e., revised plans, escrow funds, final documents, receipt of state/federal permits, etc.
 - a “Conditional Approval” is NOT final
 - When conditions precedent have been met the final approval is granted. Final plans can be signed.
- Conditions subsequent: conditions or operations that are for the life of the project-they are “attached” to an approval. i.e. hours of operation, maintenance of landscaping, lighting times, etc.

Types of Approval - Continued

- When granting approvals with conditions, be clear which conditions are precedent and which are subsequent.
- If a board wants the final approval based on the applicant completing certain conditions precedent, the board needs to be clear that failure to comply with conditions precedent means there is no final approval.
- A conditional approval that includes only conditions subsequent constitutes a final decision appealable under RSA 677:15, I.
- Use templates!
- ***When in doubt.. Consult with Municipal Attorney!**

Notice of Decision (676:3)

- After the Planning Board has voted on the application, the final decision must be;
 - Put in written form
 - Provided to the applicant
 - Placed on file in the Town's offices and made available to the public within 5 business days.
- **The decision shall include specific written findings of fact that support the decision in addition to conditions of approval**
- Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, unless the court determines that there are other factors warranting the disapproval.



Town of Boscawen, NH
116 North Main Street, Boscawen, NH 03303
Telephone: 603-753-9188

Planning Board Notice of Decision

Donald C. Fannie
83 Sewalls Falls Road
Concord, NH 03301

November 4, 2024

At a regularly scheduled and duly noticed meeting of the Boscawen Planning Board on **Monday, November 4, 2024**, at 6:30pm, the Board **conditionally approved** the application submitted by Donald C. Fannie, 83 Sewalls Falls Road, Concord, NH 03303, with a location of North Main Street, Boscawen, NH 03303, Map 83 Lot 8 Sublot 1, located in a R2W&S zone, for a **Conditional Use Permit for a Planned Unit Development in accordance with Article XXV of the Zoning Ordinance** with the following conditions and findings of facts:

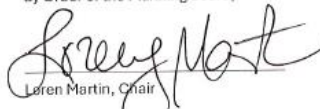
Finding of Facts:
The application complies with the Town of Boscawen's Zoning Ordinance and Land Development Regulations given the plans presented and waivers granted.

Conditions precedent:

1. Any additional buffer or landscaping that the Board may choose to require shall be shown on the final plan
2. A construction schedule shall be added to the final plan
3. Proposed ownership shall be indicated on the final plan
4. Professional stamps and signatures, as well as owner's signature shall be on the final plan
5. All conditions and waivers shall be on the final plan
6. Notice of Decision shall be recorded at the Merrimack County Registry of Deeds

Conditions subsequent:

1. Site Plan approval must be obtained for the Planned Unit Development prior to the issuance of building permits
2. Impact Fees apply

By Order of the Planning Board,

Loren Martin, Chair

Findings of Fact

- The degree to which a board should make detailed findings of fact in support of an approval may vary based on the level of controversy associated with the application
- For denials, a board should consider what are the aspects about the application that is preventing it from saying “yes.”
 - Include references to the specific sections of the subdivision and site plan regulations, which haven’t been met
 - Don’t base findings of fact supporting a denial only on the opinion/sentiment of the majority of the board about an application
- **Findings of Fact should NOT replace Conditions of Approval**

Rules of Procedure – RSA 676:1

RSA 676:1:

Planning Board **MUST** Adopt Rules of Procedure
“concerning the method of conducting its business.”

- Outline Method of Conducting Business
 - Do not use Robert’s Rules
 - Days and times of meetings
 - Order of business
- Conduct at meetings
- Rules for Officers, Members and Alternates i.e., absenteeism, discipline, recusals, removal of members
- Rules the board must follow for applications, decisions, etc.
- Be available to the public

How to be a good board member?

- DO YOUR HOMEWORK!
- Be fair and unbiased
- Attend the meetings, be on time, look presentable
- Work with staff on learning ordinances
- Cooperate with other boards
- Be respectful to fellow members and the public
- DO NOT COMMUNICATE VIA EMAIL (RSA 91-A)
- ASK MUNICIPAL ATTORNEY!



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How to be a good board member?

- Do not use social media to discuss applications
- Do not develop or express preconceived opinions about any applications
- Do not abstain
- Recuse yourself when appropriate (674:14,I)
- Juror Standard (500-A:12 Examination)
 - Expects to gain or lose from the case
 - Is related to either party
 - Has advised or assisted either party
 - Directly or indirectly given or formed an opinion



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New RESOURCE:
2025 Changes to Planning and Zoning Statutes: A Guide for Municipalities

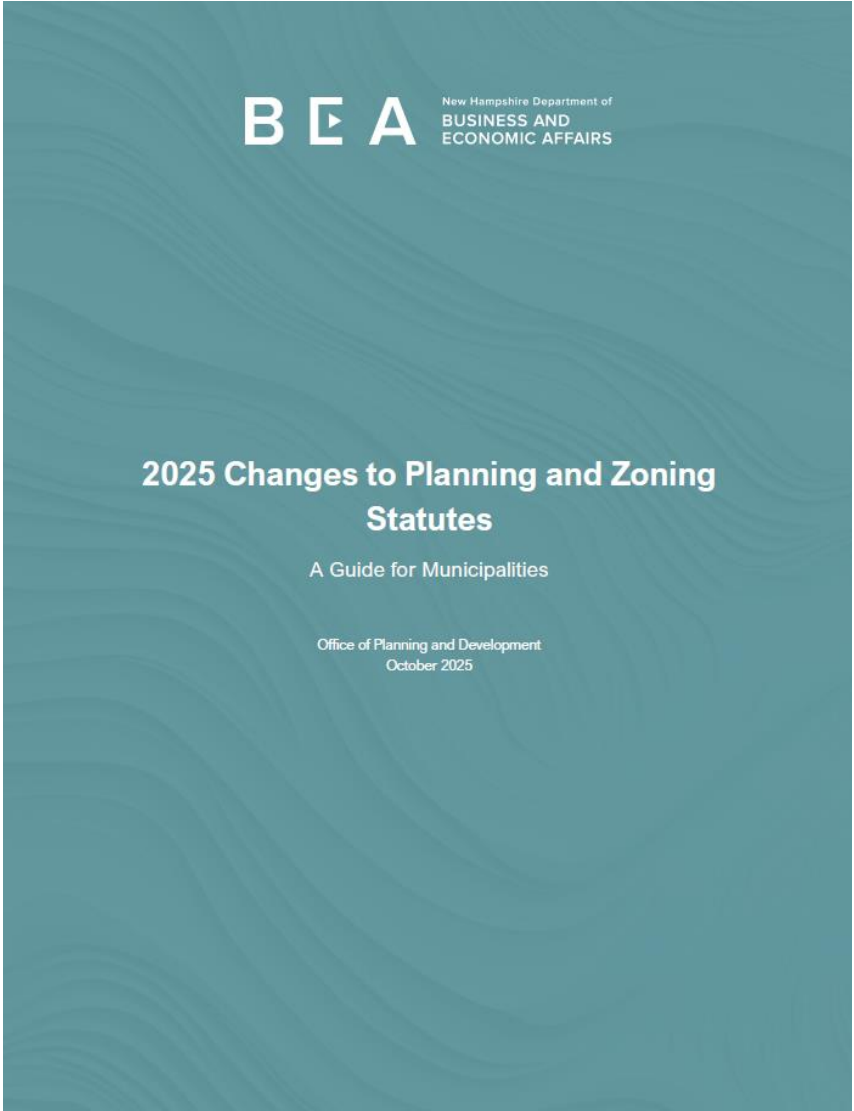


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Q&A

THANK YOU