

RULES & REGULATION SUB-COMMITTEE MEETING

**Friday December 1, 2023
12:00 pm (Noon) – Rye Town Hall**

Present: Chair Steve Carter, Patricia Losik (viz Zoom), Katy Sherman, Planning Administrator Kim Reed, Land Use Assistant Kara Campbell.

Chair Carter opens the meeting and pledge of allegiance then introductions.

Mr. Carter starts with Energy Committee request.

Mrs. Reed explains that last meeting Tom from Energy Committee was here and then was going to work the building inspector on the language that was drafted for proposed amendment. RZO 2024-05. New language in this case not removing anything just adding 1908.2.A adds #3.

Builders must provide a third-party certified report demonstrating compliance with the International Energy Conservation Code, as currently adopted by the NH State Building Code, to receive a certificate of occupancy.

Chair Carter does this fulfill what you were asking.

Tom Pfau yes but where it belongs but Change of Occupancy is it different than Certificate.

Ms. Reed says why she wished the building inspector had time to weigh in on it.

Ms. Losik thought it was similar to the back flow before occupancy granted, looking where that ended up because that was in building regulations. Section 35-5, it is permit and this is not a permit.

Chair Carter said it was a permit to get an irrigation system.

Ms. Losik reads the building code section.

Ms. Sherman said we are not talking about language just to place it correct?

Ms. Reed reads the back flow language from last year.

Chair Carter this could under certificate could go under first paragraph requirements for certificate of occupancy and move ahead A and fit nicely with issuance of occupancy.

Ms. Sherman understand change of occupancy and agree with Steve and what to hear from Chuck and know he has been sick.

Chair Carter placement above.

Ms. Losik agrees not change of occupancy.

Chair Carter second paragraph and the code deals with air so it does not moldy.

Mr. Pfau testing code and documentation that they did.

Chair Carter asks who 3rd party.

Mr. Pfau explains. This part of process, this more than honor system, the builder document that this has been done.

Ms. Losik back to Attorney Maher it is already included in the building code regulations, it is already in there and NH at 2018 and you are saying the code of 2021 more stringent, you wanted to be called out in the zoning not the language we have here.

Mr. Pfau no date attached to this whatever the code is. What this is doing is asking builders document what they are required to do, they could hire someone to do it or enroll NH Saves and they will pay for someone to do it. Not specify the way they do it, can do it either way they cannot do it themselves and the building inspector is not required to do it and no more work on him.

Chair Carter move to Planning Board.

Motion by Ms. Sherman to move to the Planning Board December 19, 2023.

Ms. Losik, no foul but defer to the Building Inspector's input.

Mr. Pfau our building inspector has a checklist what you need to get an occupancy permit and no where on this checklist is that documented.

Ms. Losik asks if checklist be modified.

Mr. Pfau up to the building inspector.

Ms. Sherman would like it on the checklist.

Mr. Pfau need it prominent.

Ms. Reed does not hurt to put it on the Planning Board for December 19th and in the meantime Tom reach out to the building inspector. If wait any longer, DOA.

Ms. Losik likes idea.

Chair Carter, with that Change.

Ms. Sherman move discussion Planning Board at the discretion of the Building Inspector.

Seconded by Ms. Losik.

Ms. Reed says to Tom he should attend December 19th and in the meantime she asks that he reach out to the Building Inspector.

Ms. Sherman says at the same time ask if he can put it on his checklist.

Ms. Losik says thank you for stepping up with language.

Chair Carter move to next item expansion of historic district.

David Choate sits at the table and says Kaitlyn cannot make it she had a conflict.

Mr. Choate agenda advertises expansion of the Historic District but I got lost between all the emails between Kim and Kaitlyn and where discuss ended.

Ms. Reed sent proposed amendment just the parcels.

Mr. Choate said he was hoping to move along with the application in the process too.

Ms. Reed said that Kaitlyn was not going forward with that.

Mr. Choate said that was not true. She was waiting to hear back from Matt.

Ms. Reed said not what conveyed to her, it was her understanding that Kaitlyn said it was too much to do and she did not have the time to do it.

Mr. Choate said a bit much to ask volunteers to write language. Mae Bradshaw was going to help. Did not print out all the emails.

Chair Carter said we are not moving forward.

Mr. Choate said want application to simplified. Example Kim comes in files application to building permit, etc.

Chair Carter said this is not what is on the agenda.

Ms. Reed explains at the last meeting this is what they came to us last meeting with their application checklist and we all agreed that I was going to take the current Historic District Section of the Zoning Ordinance put it in word format and send it to Kaitlyn and David and they were going to go through the checklist and mark it up to see what is different and return to us today, they did not need to type or new language just edited the word version of the zoning with what they want in the checklist. I got an email from Kaitlyn it was a lot to do and she did not have the time.

Chair Carter remembers the discussion.

Mr. Choate the main thing is the application is the application is a document gets created not sure the Town has to approve. Want if something minor don't need to come in minor versus major. We do not have a Staff person for the HDC.

Ms. Reed said you have Kara Campbell, she was hired as the Land Use Assistant. She is staff for the HDC.

Mr. Choate says nothing in the ordinance that would allow her to approve it.

Ms. Reed says no but do you have a Rules of Procedure? Because rules of procedure you can make changes to your own application.

Mr. Choate blunt talking about this for months and no guidance what to do. Said he got no response until day before meeting last week and he said they have been on this for over a year. Cannot speak for Kaitlyn she is not here. If have to wait another year.

Ms. Sherman last meeting thought motion to move forward with this special what you are talking about and this week talking about expansion and demo.

Ms. Reed the motion I was going to send them the word document in the zoning and they were going to take their checklist and mark up the zoning.

Ms. Losik minutes of last meeting, specific question asked to Both David and Kaitlyn to go through their application and it seemed clear from the minutes to align it with the current zoning to see what is different.

Ms. Reed agreed. I followed through and sent them the word document.

Ms. Losik recall and Kim gave a few examples of some of the language to align it unless say reference an application which is not a good idea. Asks if everyone 3.3.

Ms. Reed says the Planning Board when they make changes to their application it goes through their Rules of Procedure and I was just telling David to check if they just have an application they could go through their rules. Their rules not same as Planning Board then don't need ballot.

Mr. Choate check into that.

Ms. Losik is it possible get this.

Mr. Choate the actual application have to be approved by anyone.

Mr. Reed says she does not know you need to look at your rules of procedure. Anything in Zoning needs to go on the ballot.

Mr. Choate does not know about rules of procedure.

Ms. Losik from RZO 190-3.3.D(1(a) applications for certificate for approval from the building inspector, she thinks and what discussed you or someone go through and look what is in the zoning relative to your application in 3 parts and mark up that language and can that be done.

Mr. Choate says the application available in the building office does not say application approved by the Town. Does the contents of the application spelled out in the ordinance conflict we can do that analogy quickly.

Ms. Losik said update 3.3.D(1).

Mr. Reed said they have it in word, we thought last meeting clear just mark it up and bring it back.

Mr. Choate said something wanting to hear back from Matt. Why don't do this, A. See if have rules of procedure we can rely on. B. Compare application proposal with the ordinance.

Chair Carter in this paragraph you already have the ability to do this "However if action is repair where like materials are replace with like materials then only notification of the Historic District required." It appears do not need application.

Mr. Choate notification not ability to say what materials.

Chair Carter said you are making it more difficult to do a repair.

MR. Choate said no.

Chair Carter this does not say that.

Ms. Losik to Steve are you seeing the "However" an out there they would not have to go through application procedure.

Mr. Choate uses Portsmouth as an example for an addition. Ability work session before hearing, come in and talk about it. Interim step we cannot do right now.

Chair Carter that is addition, not what you are talking about rotten clapboards replace in kind.

Ms. Reed no where in here says you cannot have work session.

Ms. Losik that language "However" is notification process does not involve application. Is this reality, they notify you.

Mr. Choate example windstorm shingles blown off, they notify Kaitlyn. She sends email commissioners does this follow notification. Replace same shingles. What We are trying to get interim step major change. People next to Tate and Foss change Windows. Had them looking for guidance.

Chair Carter what strikes me you are talking about new #1 pushes them right into application process. Upon receipt of complete application either no interest or notify in writing proceed, what you are looking for encouraging come in.

Ms. Reed asks if this is really zoning or application.

Mr. Choate just want a work session doesn't the planning board have work session.

Ms. Sherman do you want it mandatory.

Ms. Reed said if work session it is already an application and during the application progress the Board schedules a work session which is a continuation of the application not in the LDR.

Chair Cater said we have conceptual.

Mr. Reed explains conceptual is an application in the LDR still need a fee, goes on the Agenda and it is a non-binding discussion.

Mr. Choate do you have to notify abutters. Okay with fee.

Ms. Reed you okay with fee but applicant may not.

Ms. Losik why is this different than D? Broad language we just discussed like materials replace like materials for example windows not like. Why not put that in your application procedure as a conference.

Mr. Choate call it what you like. All we want is flexibility if you think we can do it case solve.

Ms. Reed you need to check with your Rules of Procedure.

Ms. Losik see in our code see ZBA and Planning Rules of Procedure.

Ms. Reed ours our different, the Planning and Zoning must have Rules of Procedure spelled out in RSA. When Mae Bradshaw was Select Board the Select Board made sure all boards had Rules of Procedure.

Mr. Choate ask Kara if she will follow up with Matt since Kaitlyn says Matt not responding he must be busy.

Ms. Losik HDC guidelines. Something missing.

Chair Carter can put something in 1.A consult with HDC prior to completing the application.

Ms. Reed put it in the application.

Mr. Choate reads the HDC application to the committee.

Chair Carter you want work session prior to them completing application.

Mr. Choate not saying that don't want to notify all the abutters.

Ms. Losik you have the ability to, you are a Land Use make sure work session all specific and as Land Use when meeting appropriate guidelines with worksession.

Mr. Choate look at checklist some of this is stuff on application is premature in a work session. Conceptual right word.

Ms. Reed will find out who has the authority to change your application. Is it the committee itself, through your rules of procedure it is you at a meeting, building inspector? Or Select Board? In your ordinance already given authority.

Mr. Choate have homework will be ready for Public Hearing.

Mr. Reed says public hearing what do you mean we do not have anything to present, what do you mean.

Mr. Choate said Steve said something about January.

Chair Carter said no.

Ms. Reed said we do not have anything to present to the full board to schedule a public hearing on this yet.

Mr. Choate may not be necessary if in Rules of Procedure. He asks if the Planning Board wants to change its application, what do you do. Does it go before the full Town.

Ms. Reed says through the Rules of Procedure.

Ms. Losik says change goes Rules of Regulations then to the Full Board for review, a public hearing is scheduled and the Board adopts the changes.

Ms. Losik says to David to look at New Castle. And Canterbury, preliminary meeting similar to our conceptual.

MR. Choate is more manageable than what we thought.

Ms. Sherman says wouldn't the building inspector tell them to come talk to you if they live in the historic district and they want to make changes.

Mr. Choate says in perfect world then he goes on to say that the demo committee cannot get the building department on board to assist, we have asked for it to happen no desire over there to happen, had Chuck in a meeting, no desire he said was too busy.

Move on to Expand HDC

Mr. Choate going to discuss at next HDC taking their property out of the HDC expansion and I will be as diligent in researching the minutes as they have been reviewing our minutes to remind them 10 or 20 years down the road that they are stewards of their property, and I am being factitious because I know they are going to be great stewards. They don't want to be in the district it will be my recommendation to withdraw their property and keep the other 7 in.

Chair Carter seems like a lot of work to get 1 Central Rd in the HDC.

Mr. Choate no others.

Chair Carter there are 2.

Mr. Choate names houses, 50 years is considered historic. Here is the rationale, if you go down toward post office a lot of homes what likelihood can expand to post office, we have other directions we want to go.

Chair Carter that is a problem you have to go down a long way on Wallis or Washington to find historic houses. If expand from Cemetery to Post office.

Mr. Choate cannot pick or chose.

Chair Carter understand but other question why isn't green part of the historic district part of historic nature.

Ms. Sherman said she agreed, she thought after last meeting they were going to go to the Select Board and ask to include this portion in the expansion of the district.

Ms. Reed we did talk about that at the last meeting and they said they were going to.

Mr. Choate said ya, they were going to have a discussion about that. Then he said this whole conversation where these 2 monuments need to go the Indigenous People and 400 founding fathers monument, not putting them in the historic district we think the flag pole. That has taken on a life of its own, we don't even want to tell you where they want to put them. Had that discuss we can just add that in.

Ms. Sherman disagree you must do this piece by piece not go all the way to the Post Office or Foss Beach, bite off bits.

Mr. Choate next up Washington Road. Alex Herlihy the logical place to stop is Fern Ave. take in Drake House.

Ms. Sherman logical not to have Moynahan, it is a block and include the greenery.

Ms. Reed hearing 3 things: 1. David said they have to talk to pull 70 Central and 2. They need to talk to the Select Board about pulling in the green and 3. Took parcels David gave me and I put in proposed zoning language and I am hearing not ready to move forward. HDC not met to vote on 70 Central or green.

Chair Carter table.

Mr. Choate don't want to miss Town Meeting of this coming year. We can have special meeting of HDC we have to meet for the school monuments anyways. We can have as soon as notification. No reason we will not vote to take it out, formularize.

Chair Carter asks if other people not excited to be in the HDC.

Mr. Choate no one except Moynahans.

Ms. Sherman asked if everyone has been informed.

Mr. Choate said yes they were all invited to HDC meeting in October and Stacy Smith and Lydia Tinsley reached out talked to neighbors only one expressed concerned house set back by Trolley Barn.

Ms. Losik says 35 Central ask about that if said first step you talked about Wallis and Washington you think move with blocks or individual properties.

Mr. Choate cannot move with individual properties.

Ms. Losik what is the best process. If end up more regulation, is language good. Is there going to be resistance.

Mr. Choate done our homework and only are the Moynahans. We are so far down the road on this, our consultants done with their report. We want to get it done before Town Meeting, afraid someone will do something.

Ms. Sherman take off 70 Central and put on the greenery and Select Board has to approve and must vote HDC.

Chair Carter continue to another meeting.

Ms. Losik 2 part question. Looking at other houses, in process of Master Plan is the HDC looking on other properties around the community.

Mr. Choate answer is no. A property significant consider it not had that discussion.

Ms. Losik second why Cable House there and other properties how is that distinguished.

Mr. Choate all the records are lost. No discussion. Considering this passes Town Meeting.

Ms. Losik lean towards table this. Continue to work on Master Plan looking existing conditions draft report you referenced Housing Needs. Housing stock over 50 years old, older houses.

Ms. Losik sermonize if had different mentality on the zoning board saving more houses. He said if Select Board rely on Kara to lean on Matt. Put Town Green and HDC meet to remove 70 Central.

Ms. Sherman says if not go through us can the HDC petition it.

Ms. Reed said yes HDC can petition so can the abutters then move it to 2/3 vote.

Mr. Choate move for your schedule.

Motion table this next meeting by Pat, second Katy.

Jeanne Moynahan assumption this goes on Town Warrant.

Ms. Reed after HDC and Rules and Regs meets again and flush out language then goes to the Full Planning Board, If Planning Board yes move it then they scheulde a public hearing posted in

the Portsmouth Herald, and abutter notices go out. At the public hearing if not changes then it can be voted to go on the Ballot. If there are wording changes a second public hearing must be held 10 days after.

Mr. Choate said then we will do a petition.

Ms. Moynahan asked when petitions are due.

Mr. Choate said we have \$19,500 grant to do this.

DEMO Review.

Mr. Choate refers to the proposed zoning amendment Kim wrote and Pat marked up, he questions on page 2.

Ms. Losik references language insert call your attention look at inter relationship in G, page 3 potentially significant is defined and those give you 4 stepping stones which are strong stepping stones.

The Committee goes through the draft and changes.

Ms. Reed said Attorney Maher said no legislative language to mandate.

Ms. Losik confused a lot discussion about this, seems like conclusion of a public hearing the DRC either notify building inspector not significant that is done, 5A not come into play anymore, 5 b deciding at the public hearing that it is either significant or not.

Mr. Choate in reality determine significant and want a public hearing try talk the owner out of demolition of the building. He explains the process.

Ms. Losik I think it is confusing, in 2 you meet when you first get the information and then determine based on that packet if significant or not.

Mr. Choate goes through process.

Ms. Losik go to 4 then hold public hearing you have made your determination at the public hearing.

Mr. Choate no what if at the meeting need more information.

Ms. Losik as Land Use isn't that continuation of the public hearing don't the abutters get notified.

Mr. Choate are you saying you have the ability to continue it.

Ms. Losik yes a continuation is different than work session.

Chair Carter says going to be a public hearing. 4 is the public hearing.

Ms. Losik agree.

Mr. Choate say at the Public Hearing.

Mr. Reed agree what Ms. Losik is saying if the Planning Board of ZBA have a packet and unclear the board makes a motion to continue to a date certain then you can hold your worksession it would be a continuation of the public hearing, you would not need C. At anytime the HDC make a motion to continue.

Mr. Choate what about 45 days Planning Board can be continued consent of applicant.

Ms. Losik and the committee went through the changes.

Mr. Choate agreed with the changes and complained that he had meeting with Chuck and the building department not willing to help let people know if they are going to demolition to give the demo committee a heads up.

Ms. Sherman add A and B change wording 4 and take out 5.

Ms. Losik agrees.

Mr. Choate says to circulate, and he will let the committee know if they will go forward he wants to give the rest of the members courtesy. Not important that this go forward this year.

Mr. Choate sites an example that they had a connection with a realtor, Jen Madden.

Ms. Reed said she is also on the Demo Review.

Mr. Choate said she is also on the ZBA.

Mr. Choate agreed with changes, circulate to him for the committee.

Ms. Reed date for Rules and Regs. 12/11/2023 at noon.

Ms. Reed recommends waiting on the amendment to the Rye Zoning Map until after hear from the HDC about the expansion of the district and they can do both together.

Ms. Losik said the Map is not on the Town General Code.

Ms. Reed talks about the change recommended by Chris Piela of the Zoning Board and asked Jason Rucker, DPW Director and he responded with another change.

Ms. Reed 2024-04 § 190-5.7 Stormwater management.

Ms. Sherman add in what DPW Director wanted to add.

Chair Carter recommended a change.

C. Drainage into watercourses/Town drainage system. No use of land; no construction, reconstruction, alterations, replacement, or expansion of buildings, structures and impervious surfaces; no grading of the land; and no destruction or alteration of natural vegetation or ground cover shall increase the surface water drainage or flowage into existing watercourses or into the Town's storm drainage system ***incumbent upon the applicant to prove via approved engineering plans the Town's storm drainage system has*** ~~unless the Public Works Director determines that the watercourse or drainage system will have~~ the capacity to accommodate the additional flow, both now and in the future.

Vote by committee to move this to the Planning Board December 19, 2023 meeting.

Adjourned.

Respectfully submitted,

Kimberly Reed