

**Ashland Planning Board
Draft Meeting Minutes
Wednesday, February 28, 2024**

CALL TO ORDER: Mardean Badger, Chair of the Board, called the meeting to order at 6:30 PM

MEMBERS PRESENT: Mardean Badger
Andy Fitch
Kathleen DeWolfe
Kendall Hughes
Paula Hancock
Frank Stevens (alternate)

DISPOSITION OF MINUTES

The Board reviewed the minutes from the February 7, 2024, meeting. Kathleen DeWolfe made a motion to accept the minutes as amended. Kendall Hughes seconded the motion. The motion passed unanimously, 5-0 roll call vote.

PLANNING BOARD AND ENFORCEMENT POWERS

The Planning Board reviewed the following land use ordinances and noted the specific articles that address the issue of enforcement authority. [See also attached document]

- **Ashland Zoning Ordinance, Article 7.2a: Enforcement:** “Upon receiving any credible information that the Ordinance is being violated and upon an affirmative vote that a violation more probably is being committed, the Selectboard are hereby authorized to enforce the provisions of the Ordinance.”
- It has been recommended that the Planning Board seek the advice of the Ashland Town Attorney whether the Selectboard has the only authority to enforce the ordinance.
- **Ashland Zoning Ordinance, Article 3.3.8, relative to Illegal Signs:** the Building Inspector forwards the violation to the Selectboard for enforcement.
- **Ashland Zoning Ordinance, Article 3.5a, relative to junkyards:** the town issues the notice of violation.
- **Ashland Zoning Ordinance, Article 9, relative to communication devices (cell tower):** the Selectboard is the enforcement agent.
- **Ashland Zoning Ordinance, Article 9A, relative to large wind energy systems (windmills):** the Selectboard is the enforcement agent.
- **Ashland Zoning Ordinance, Article 9B, relative to Groundwater Protection:** the Code Enforcement Officer is responsible for inspections of groundwater issues.
- **Site Plan Review Regulations, Article 6.1:** the Planning Board forwards the request for enforcement to the Selectboard.
- **Driveway Regulations, Article 5.3:** request for enforcement is forwarded to the Selectboard.
- **Commercial Earth Excavation regulations, Section XIV:** Planning Board can suspend, revoke or inspect the site of an excavation as part of the permitting process.
- **Building Regulations, Article 11:** the Building Inspector notifies the Selectboard, who then enforces the ordinance
- In the case of violations that come to our attention, the Planning Board will notify the Selectboard in writing, including description of the violation, the relative ordinance, possible remedies or actions, and a request that the Selectboard initiate enforcement.

- The Building Inspector is also the Code Enforcement Officer for the town of Ashland.
- The Planning Board Handbook lists a hierarchy of actions that can be initiated by an enforcement agent.
- A verbal complaint from a resident should be dealt with the same as any written complaint received by the Planning Board.

CEASE-AND-DESIST ORDER

- A cease-and-desist order was issued on Monday, February 26, 2024, on the excavation and construction taking place on the Brandon Hiltz property (TML 214-015) on West Street as follows:

Violation

1. Excavation, construction/expansion of private roadways, and alteration of terrain without Site Plan Approval by the Ashland Planning Board.
 - a. Ashland, NH Site Plan Review Regulations, Article 1.3.
2. Excavation, construction/expansion of private roadways, and alteration of terrain has continued even after being notified that Owner had to receive Site Plan Approval by the Ashland Planning Board.
 - a. Ashland, NH Commercial Earth Excavation Regulations, Section IV.
 - b. Ashland, NH Commercial Earth Excavation Regulations, Section XIV.

Conditions of Compliance.

1. All work is to cease on the site immediately and remain idle until the project has obtained all Municipal, State, and Federally required permitting and approvals.
 2. At such time as the project has received approval from the Ashland Planning Board, and their Notice of Decision is received by the Building Inspector/Code Enforcement Officer, the Cease and Desist Order will be removed or be authorized to be removed in writing by the Building Inspector/Code Enforcement Officer.
 3. The Town of Ashland, NH reserves the right to reimpose the Cease and Desist Order at any time if the West St. project fails to fully comply with the Ashland Planning Board's Notice of Decision or for violations of any code, law, ordinance, or regulation.
- The following issues were also noted:
 - An Alteration of Terrain permit from DES has not been obtained at this time.
 - Inspection of the property has not been allowed by the property owner.
 - There is excavation taking place in the midst of the wetlands on the property.
 - The current application submitted by Brandon Hiltz does not address the issues of blasting on the property or excavation taking place on the property.
 - The issue of current use needs to be addressed concerning this property

UPDATE ON CURRENT ISSUES

At the Wednesday, March 6, 2024, regularly scheduled Planning Board meeting the following issues will be reviewed and discussed:

- Continuation of 2-lot Subdivision TML 212-021 Scenic View Road (Rte 3 and 25) Rural Residential Zone and Squam Overlay, William and Yolanda Audy
- Continuation – Subdivision of 14-lot TML 106-022, Granite Ridge Development Thompson Street. Rural Residential Zone, MEL Land Trust

- Continuation Site Plan Review TML 201-002, 3 Country Club Drive, Owl's Nest Vineyard Course, Rural Residential Zone. New deck and patio area for existing clubhouse building
- Site Plan Review TML 213-015, West Street Commercial Zone and Rural Residential Zone, BH Real Estate Holdings LLC. Construction of shop building, parking area and entrance drive
- Subdivision – TML 109-065, 65 Main Street, High Life Building Company, subdivision of multifamily building into 3 condominium units

KWIATKOWSKI UPDATE

The owner has sent condominium documents to Grafton County. The mylar document of the plot plan has been submitted without the required signatures from the Planning Board

WMCC UPDATE

There has been no change relative to the WMCC parking issue.

SUBDIVISION REGULATION UPDATE

The Planning Board reviewed the Subdivision Regulations regarding any necessary updates or changes in language. The Board made the following points:

- The Board needs to review all referenced RSAs within the document.
- The introduction (Article 1) of the regulations contains standard language. The Authority section of the document remains the same.
- Article 2.1a: Ashland has no official map of the town. The Board needs to contact our legal counsel to verify this.
- Section 2.1d: review for any other factor that should be added.
- Article 2.1d: change the typo "my" to "may."
- Article 2.1e deals with scattered development. This is development of land on the outskirts of town and the impact this development has on town resources and connections to water and sewer systems in town. It also deals with the cost of extension of water and sewer service to the development.
- Article 2.1f: Lot Line Adjustment does not create a new lot but merely changes the boundary line between lots.
- Article 2.3 and 2.6: The Board needs to review in more detail the recreation areas created in a cluster development as well as the continued maintenance of the recreation area.
- Article 2.4c deals with access roads and fire lanes as well as access to the development by the fire department. The site needs to have adequate turnaround areas for emergency vehicles.
- Article 2.5 Water Supply: add wording to include the Water Department, such as "(to be determined by the Fire Chief or designee, and the Water Department)"
- Article 2.6: The Board will review in more detail Cluster Development at a future meeting, to look at the use of new language and bring in some flexibility, for example, Article 2.6e does not allow waiving setbacks.
- Article 2.7 Flood Hazard Areas: this was updated in December 2023.
- Article 2.9 State Permits: Add DES approval of all septic systems and wells shown on a Subdivision plan.
- Article 2.10 Erosion Control: Add more examples of materials used for erosion control.
- Article 2.11 Monuments: Should the Board add the option of metal pipes and pins to designate monuments? The Board will review this in more detail at a future meeting.

The Planning Board needs to review [Article 3](#) Street Design [and](#) Construction, [alongside the Town's newly adopted policy on Construction of Roads.](#)

SUBDIVISION REGULATIONS APPLICATION

Two changes [to the Subdivision Application form](#) were passed by consensus:

- add a box [to check if the property is in](#) "Current Use."
- At the beginning of the Abutters List, [add](#) the definition of an abutter.

MASTER PLAN

The Planning Board reviewed briefly Chapter 1 Land Use of the Master Plan. The Board discussed the following changes:

- Any references to the survey of 2009 and 1984 will be removed and updated
- The Board needs to do an updated survey with more focused questions. [Several short surveys can be created and released at staggered times.](#)
- All charts [and statistics](#) regarding population growth and housing need to be updated.
- [Data Sources](#)
 - Office of State Planning
 - Lakes Region Planning Commission
 - Pemi River [Corridor](#) Management [Plan](#)
 - Statewide housing data
 - [US Census Data](#)
- [Find](#) other better communities to compare Ashland with; the present comparisons are woefully outdated.
- [One survey should ask for opinions on the](#) Master Plan Vision Statement; [the vision statement should be included](#) in its entirety.
- The survey can be placed on the town website and on Facebook.
- The Board needs to discuss in more detail how to connect with seasonal residents and residents who do not have access to a computer; paper surveys can be left in several places in town to reach these populations.

ADJOURNMENT

Mardean Badger made a motion to adjourn. The motion was seconded. The motion passed. The meeting adjourned at 8:20 PM. The next Planning Board meeting will be Wednesday, March 6, 2024 at 6:30 PM at 6 Collins Street.

Minutes submitted by Paula Hancock

Town of Ashland
LAND USE AND ENFORCEMENT POWERS

Who has the authority to enforce each of our land use ordinances?

Ashland Zoning Ordinance

- **Article 7 Administration and Enforcement – 7.2(a) and (b) Enforcement**

<p>This section applies to the <u>WHOLE ZONING ORDINANCE</u></p>

- **7.2 Enforcement**

7.2a Upon receiving any credible information that this Ordinance is being violated, and upon an affirmative vote that a violation more probably is being committed, the Selectmen are hereby authorized to enforce the provisions of this Ordinance by application for appropriate relief in the Superior Court, or by taking any other legal action.

- 7.2b Any violation of any provision of this Ordinance by any person, firm, corporation, or other legal entity, whether the owner of the property or whether acting under authority of such owner, shall be a violation pursuant to the Criminal Code of New Hampshire for each day of such offense. In addition, after conviction, the additional penalties provided for by RSA 676:17 may apply.

- **3.3.8 Enforcement**

- The owner of any illegal sign shall be notified in writing of said violation and be given 30 days to respond in writing to the Building Inspector with a plan to correct said violation. Failure to comply with the Building Inspector's notice will result in the violation being sent to the Board of Selectmen for enforcement and compliance.

- **3.5a Junk Yards / Definitions / Violations**

- Upon discovery of a violation of section 3.5 [a], the Town shall issue a written notice of violation to the violator requiring that the property come into compliance within 30 days of the date of the notice of violation. If the Town determines that the violation poses an immediate threat to public health or safety, the violator must bring the property into compliance immediately. If the property is not brought into compliance with Article 3.5 [a] within 30 days from the date of notification, or within 3 days of the date of notice of violation where it has been determined that the violation poses an immediate threat to public health or safety, the violator will be subject to a civil penalty of up to \$275.00 for each day that the violation continues, plus the Town's enforcement costs as authorized by NH RSA 676:17.

- **Article 9 Communication Devices / 9.4 Procedural Requirements for Communications Devices**

- **9.4 Procedural Requirements for Communications Devices** This ordinance shall be administered by the Ashland Planning Board. Enforcement shall be by the Board of Selectmen. Before a building permit may be issued for a Communication Device or Tower, the Applicant must have received final site plan approval from the Planning Board, which shall include compliance with the provisions of this Ordinance.

- **Article 9A Large Wind Energy Systems / 9A.9 Enforcement and Penalties**
 - 1. The enforcement of this Section shall be the responsibility of the Ashland Board of Selectmen or its agent, who is hereby authorized to cause any LWES, building, place, premises or use to be inspected, and to order in writing the remedying of any condition found to exist in violation of this Section.

- **Article 9B Groundwater Protection / XIV. Maintenance and Inspection / XV. Enforcement Procedures and Penalties**
 - XIV. Maintenance and Inspection
 - A. For uses requiring Planning Board approval for any reason, a narrative description of maintenance requirements for structures required to comply with Performance Standards shall be recorded to run with the land on which such structures are located, at the Registry of Deeds for Grafton County. The description so prepared shall comply with the requirements of RSA 478:4-a.
 - B. Inspections may be required to verify compliance with Performance Standards. Inspections shall be performed by the Code Enforcement Officer at reasonable times with prior notice to the landowner.
 - C. All properties in the Groundwater Protection District known to the Code Enforcement Officer as using or storing regulated substances in containers with a capacity of five gallons or more, except for facilities where all regulated substances storage is exempt from this Ordinance under Article XII, shall be subject to inspections under this Article.
 - D. The Ashland Board of Selectmen may require a fee for compliance inspections. The property owner shall pay the fee. A fee schedule shall be established by the Ashland Board of Selectmen as provided for in RSA 41-9:a.
 - XV. Enforcement Procedures and Penalties
 - Any violation of the requirements of this ordinance shall be subject to the enforcement procedures and penalties detailed in RSA 676 or RSA 485-C.

Site Plan Review Regulations

- **Article 7.2 Administration**
 - 7.2 Enforcement and Penalties: Upon determination by the Planning Board that a violation of these regulations has occurred, notice recommending appropriate enforcement procedures shall be given to the Board of Selectmen, who is responsible for the enforcement of these regulations.
 - 7.2a The Town of Ashland may seek injunctive relief under NH RSA 676:15.
 - 7.2b Whoever shall violate any of these regulations shall be subject to the fines and penalties set forth in RSA 676:17 and shall be liable for all legal costs incurred by the Town in enforcing these regulations.

Subdivision Regulations

- **Article 6 Administration**
 - 6.1 Enforcement: Upon determination by the Planning Board that a violation of these regulations or statutory provisions has occurred, notice shall be given to the Board of Selectmen recommending appropriate enforcement procedures. The Board of Selectmen is responsible for the enforcement of these regulations. However, the

Selectmen may appoint the Planning Board, in appropriate cases, to enforce the provision thereof.

Driveway Regulations

- **Article 5 Administration**

- 5.3 Enforcement: **The Board of Selectmen is responsible for the enforcement of these regulations.** Upon determination by the Planning Board that a violation of these regulations has occurred, notice shall be given to the Board of Selectmen recommending appropriate enforcement procedures.

Commercial Earth Excavation Regulations

- Section V Exceptions / A(5) [government road construction]
- Section VII-B Abandoned Excavations
- **Section XIV Administration and Enforcement**
 - A. Permits
 - 1) Permits shall be issued only to the owner or his agent and shall not be transferable without the prior written consent of the Planning Board. A copy of the permit shall be prominently displayed at the site or the principal access to the site.
 - 2) A permit shall be valid for up to five years and the expiration date shall be specified. Permits may be amended in accordance with RSA 155-E 6. A permit is automatically withdrawn if no substantial work is done on the site for a period of two years from the date of the issuance of the permit.
 - 3) Excavation of earth without a valid permit is a violation of RSA 155-E and these regulations. Violators may be issued a cease and desist order for non-compliance.
 - 4) The Planning Board may include in the permit any such reasonable conditions as are consistent with the purpose of these regulations.
 - 5) The Planning Board may establish a schedule by which all permitted sites are inspected on an annual basis. Incidental excavation exceptions that will remove more than 1,000 cubic yards will have an inspection schedule as determined by the Planning Board.
 - 6) Town administration may audit the records and measure stockpiles to assure compliance with the collection of payments due under Section XI-B, method 4.
 - B. Bonding
 - Bonding or other surety shall be determined prior to the issuance of a permit. Bonding will be reviewed at the time of periodic inspections.
 - C. Inspections
 - **The Planning Board or its designee may make periodic inspections of all excavation sites, or incidental excavations, to determine if the operations are in conformance with these regulations, the approved plans, or the exception criteria.** The owner or operator will be contacted to arrange a mutually acceptable time for each inspection. A site inspection review letter will be sent to the owner citing any deficiencies and providing a timeline for correction of the deficiency.
 - D. Suspensions and Revocations

- **The Planning Board may suspend or revoke a permit** if the Planning Board determines that any provision of the permit has been violated, or a material misstatement made in the application upon which a permit was granted. **The Planning Board may suspend or revoke the exception for incidental excavation** if the Planning Board determines that any provision of the exception has been violated, or a material misstatement made in the exception application upon which an exception was granted. Such suspension or revocation shall be subject to a motion for rehearing thereon and appeal in accordance with these regulations.
 - E. Appeals
 - Any person affected by the Board’s decision to approve or disapprove an application or any amendment thereto or any suspension or revocation of a permit, **may appeal to the Board for a rehearing** on such decision or any matter determined thereby. The motion for rehearing shall be filed within ten (10) days of such decision and shall fully specify every ground upon which it is alleged that the decision or order complained of is unlawful or unreasonable. The Board shall either grant or deny the request for rehearing within ten (10) days, and if the request is granted, a rehearing shall be scheduled within thirty (30) days. Any person affected by the Board’s decision on a motion or rehearing may appeal in accordance with RSA 677:4-15.
 - F. Penalties
 - Fines, penalties and remedies for violations of this regulation shall be as stated in RSA 155- E:10, II.

Building Regulations

- **Article 2.1 Duties of the Building Inspector** *[6th bullet point]*
 - The **Building Inspector** shall be the Administrative Officer of this Ordinance. He shall:
 - **Bring to the attention of the Board of Selectmen any violations of this Ordinance and take such action in the enforcement of this Ordinance as may be directed by the Selectmen.**
- **Article 11 Enforcement**
 - **Upon any well-founded information that this Ordinance is being violated, the Selectmen shall take immediate steps to enforce the provisions of this Ordinance** by seeking an injunction in the Superior Court or by any other appropriate legal action. Whoever violates any of the above regulations shall be subject to the fines and penalties set forth in New Hampshire RSA 676:17 and shall be liable for all legal costs incurred by the Town in enforcing the regulations.