

**UNAPPROVED MINUTES  
Town of Auburn  
Planning Board  
PUBLIC HEARING  
December 14, 2016**

**Present:** Ron Poltak, Chairman; Paula Marzloff, Vice Chairman; Michael Rolfe, Member. Jeff Porter & Tom LaCroix, Alternates. Dale Phillips, Selectmen's Representative. Minutes recorded by Denise Royce.

**Absent:** Steve Grillo, Member. Jess Edwards, Alternate.

**MINUTES**

There were no minutes to approve as the Board did not have a chance to review them prior to tonight's meeting.

**ANNOUNCEMENTS/CORRESPONDENCE**

➤ None were reviewed at this time.

**GENERAL BUSINESS**

**Planning Board Workshop Regarding:  
Master Plan  
CIP Update  
Subdivision Regulations**

Mr. Poltak called the meeting to order at 7:01 p.m. and welcomed the Town of Auburn's new Town Counsel, Stephen Bennett and introduced himself to Mr. Bennett and asked the Board members to introduce themselves as well. Mr. Poltak stated that he has had a chance to speak briefly with Mr. Bennett over the phone today and added that Mr. Bennett is also on the Planning Board in Mount Vernon. Mr. Poltak commented that Mr. Bennett is very familiar with all the subject matters that we will be talking about tonight. Mr. Poltak wanted to explain to everyone present that, the purpose of tonight's meeting is going to be specific to the necessity of us making changes in our zoning regulations but necessitated out of need and out of further necessity of coming into compliance with state statute and state law. Mr. Poltak indicated that he has had a chance to review in depth all that was sent to each Board member and that there are four (4) subject matters to take up and the first thing he would like to take up is regarding the Accessory Dwelling Units requirements that the general courts has passed on to the communities.

Then the Board needs to take up the establishment of how we will be administering Building Permits in the future. Thirdly, Agritourism and then fourthly the state requirement regarding swimming pool barriers which includes fences and anything else that would prevent access.

Mr. Poltak also wanted to explain that some communities have come forward with an attempt to come into compliance with regard to signs and the usage of signs. Mr. Poltak informed the Board members that they would not be taking this up and the reason they would not be taking this up is because it was too complicated and that there is no template. There is also no agreement amongst the legal community associated with the interpretation of that court's decision. With that in mind, Mr. Poltak did not believe that there were any problems that were worthy of discussion currently existing in our community so we will go with what we have and let that play out so we can learn precisely from the experiences of a few of the communities in the states and allow the legal community as well to learn from it associated with the interpretation of what the ruling amounts too. Mr. Poltak added that, he would presume that in a year from now that we would tackle the sign ordinance.

Mr. Poltak stated that this was a public meeting and would conduct it as such. Mr. Poltak added that he has had a chance to speak with Mrs. Rouleau-Cote and that they are in agreement with regard to the total approach and will start with the Accessory Dwelling Units. Mr. Poltak talked about the Board deciding what size of Accessory Dwelling Unit will be and that the state is intending it to be allowed and to have two (2) bedrooms. Mrs. Rouleau-Cote added that it shall be no more than two (2) bedrooms. Mr. Poltak said that now the Board would need to determine what the square footage would be. Mr. Poltak went on to say that in order to have a control on the community of what's happening out there because by state statute that an "ADU" is now permitted in the zone that has residential housing. Mrs. Rouleau-Cote wanted to clarify that where a single family home is permitted that an "ADU" shall be permitted by Special Exception or Conditional Use Permit. Mr. Poltak talked about determining the square footage in order to accommodate that provision for the allowance of two (2) bedrooms.

At this time, Mr. Poltak turned the meeting over to Mrs. Rouleau-Cote, Building Inspector to discuss the proposed changes. Mrs. Rouleau-Cote began by discussing the following amendments to Article 2.02 which is the Definitions, Words and Terms. Mrs. Rouleau-Cote went on to discuss the following:

**Amend Article 2.02 Definitions, Words and Terms, to modify definition of Dwelling Unit, Accessory to comply with NH RSA 674:72, Accessory Dwelling Units.**

- (28). Dwelling Unit, Accessory:  
Residential living unit that is within or attached to a single family dwelling, and that provides independent living facilities for one or more persons, include provisions for sleeping, eating, cooking and sanitation on the same parcel of land as the principal dwelling unit it occupies.

Accessory Dwelling Units shall be permitted by Special Exception as governed under Article 14.14 of the Auburn Zoning Ordinance in all zoning districts that permit single family detached dwellings.

*(Discussion between Mr. Porter and Mrs. Rouleau-Cote with regard to possibly having a detached "ADU" and Mrs. Rouleau-Cote indicated that in letter "H" the Town of Auburn does not allow a detached "ADU".)*

The Special Exception shall be required for construction and or change of occupancy for creation of an accessory dwelling.

*(Mrs. Rouleau-Cote pointed out that requiring a Special Exception through the ZBA would be new because currently the "ADU" is permitted within the Residential One and Two zones.)*

The Accessory Dwelling Unit shall meet the following requirements:

- (a). An accessory dwelling unit shall have no more than two bedrooms, and shall not exceed \_\_\_\_\_ square feet in living area and shall be attached to a single family dwelling. Attached means sharing a common habitable space wall.

*(Mrs. Rouleau-Cote stated that the "ADU" shall have no more than two bedrooms and the state of NH's legislation states that we have to allow them at least two bedrooms. They can have one but we have to allow them at least two and our current zoning only allows for one bedroom so this is a change that we have to make to meet the State Statute. Currently we allow 950 square feet and the above has been left blank for the Board to decide what they want to put in there. The State requirement is that we have to allow them at least 750 square feet.)*

*The Board members discussed having 750 square feet and believed it would be tight to have two bedrooms. Mr. Porter asked if this could be a Special Exception to request it to be bigger. Mrs. Rouleau-Cote said no, that whatever number they decide to put in there then it would become a Variance request to go larger. Further discussion ensued with regard to square footage. Mr. Poltak commented that the larger you make these ADU's that once it is done being used by an immediate family member it is more apt to become a rental unit. Mr. Rolfe asked if they would have their own utilities. Mrs. Rouleau-Cote explained that the Town of Auburn does not stipulate as most of them are shared and reminded the Board members that this is an ADU that is attached. Mr. Rolfe talked about the full basement and Mrs. Rouleau-Cote informed the Board that the basement cannot be finished and that she is very clear on that and out of most of the ADU's currently in Auburn now share a heating system, common well and septic and very rarely do they have separate utilities. The Board decided to keep it at 750 square feet.*

- (b). An interior door shall be provided between the principal dwelling and the accessory dwelling unit, but it shall not be required that it remain unlocked. The accessory dwelling unit shall have door with direct access to the exterior, or common space to hallway to exterior door.

*(Mrs. Rouleau-Cote indicated that this was new language that State Statute threw it in there that we cannot have a provision as to whether it's locked or unlocked. We do not have any jurisdiction over that other than there will be a door that communicates between the two units.)*

- (c). The accessory dwelling unit shall have interconnecting smoke/carbon monoxide/heat detectors with the principal dwelling unit.
- (d). There shall be adequate provisions for water supply and sewage disposal for the accessory dwelling unit in accord with NH RSA 485-A:38, but separate systems shall not be required for the principal and accessory dwelling units..
- (e). An accessory dwelling unit shall meet all zoning setbacks and all applicable building codes. There shall be adequate parking to accommodate an accessory dwelling unit.
- (f). The property owner must occupy one of the dwelling units as his/her principal place of residence.

*(Mrs. Rouleau-Cote pointed out that this is written in the State Statute and we cannot say which unit they must occupy but they must occupy one of the units. Mrs. Marzloff asked how we define principal residence. Mr. Poltak believed wherever they are registered. Mr. Bennett stated that it has to be owner occupied but does not necessarily have to be their residence for voting. A brief discussion ensued with regard to principal place of residence. Mr. Bennett indicated that the principal place of residence is considered the place they plan on returning. Even when you leave, your intention is to come back. Mr. Bennett stated that it was not a requirement under state law that they have to live there, it's up to the town where it says that you MAY require the owner to live there. Mrs. Marzloff believed it was the least we could do.)*

- (g). Only one accessory dwelling unit shall be permitted for any single family dwelling.
- (h). Detached Accessory Dwelling Units are not permitted.

Discussion ensued with regard to the square footage of the ADU and in conclusion, the Board decided to go with 750 square feet. Mr. Poltak informed the Board that they would need to vote on this. Further discussion ensued with regard to the ADU becoming a rental unit and Mrs. Marzloff wanted instead of requiring a Special Exception that they would require a Conditional Use Permit because then they would have to come before this board and not the ZBA. Mr. Poltak indicated that we have nothing on the books that gives this Board to take over that authority right now.

Mrs. Marzloff pointed out that this Board is in charge of creating this regulation and Mrs. Rouleau-Cote is in charge of enforcement and therefore, felt that it should stay with this Board. Mrs. Rouleau-Cote indicated that she does attend the ZBA hearings and can

speak on behalf of the Zoning Administrator. Mr. Porter asked if there was anything prohibiting the number of parking spaces. Mrs. Rouleau-Cote stated that the site plan regulations typically would tell you the number of parking spaces and believes its 3 parking spaces per dwelling unit.

Mr. Poltak wanted to get back on track and understands that the Board has more work in the future but as far as we can go tonight it really comes down to square footage and the process we are going to employ the Zoning Board of Adjustment for approvals and then we will have to take up Condition Use Permits in the future as well as some of the other issues the Board has expressed. Mr. Poltak believed that this Board will have some discussions and decisions to render and wanted to concentrate on square footage. Mrs. Marzloff asked Mr. Poltak if he was looking for a motion tonight. Mr. Poltak said yes. Mr. Poltak asked Mr. Bennett what they did in Mount Vernon with regard to square footage. Mr. Bennett indicated that they went with the 750 square feet. Mr. Bennett explained that they had the same discussion as this Board was having.

Mr. Poltak stated that he would take a motion at this time and elevated Mr. LaCroix to full voting status.

**Mrs. Marzloff moved that the Board insert under item “A” pursuant to the statute a limit of 750 square feet. Mr. Rolfe seconded the motion. A vote was taken; all were in favor, the motion passed unanimously.**

Mrs. Rouleau-Cote wanted to point out to the Board that the second page of this section was just amending Article 4 to amend the permitted uses and clarifies everywhere that Accessory Dwelling Units were permitted would not be permitted by Special Exception.

Mr. Porter asked Mrs. Rouleau-Cote if the ADU requires it to be a full basement. Mrs. Rouleau-Cote stated no and added that she does not have a lot of issues with that currently.

#### **AMEND ARTICLE 2.02 Definition, Words and Terms to Read:**

Mrs. Rouleau-Cote stated that the Board will have to help her out on this one because the Agriculture currently in our definitions that we have definitions for Agriculture, Commercial Agriculture, Non-Commercial Agriculture and a Produce Stand. The State Statute has changed in the definition of Agriculture and as a community we have been advised that we should change our definition of Agriculture to mimic New Hampshire’s RSA. Mrs. Rouleau-Cote passed out a copy of the RSA for the Board to review and indicated that basically what they have been advised to do is instead of defining Agriculture in our ordinance, we are basically just defining Agriculture per the State Statute. Mrs. Rouleau-Cote informed the Board members that there were pluses and minuses to that and that the pluses are that if the state ever changes its definition of Agriculture in the RSA then we won’t have to continually change every time they change. The downfall is if they change and there is something that we didn’t like then we are automatically defaulting to their definition of Agriculture. The Board did not

believe there was much around here. Mrs. Rouleau-Cote agreed and believed this makes it cleaner and that we'd be in line with State Statute. The recommendation is that we amend Article 2.02 Definition, the word Agriculture shall be Agriculture, Farm and Farming as defined in RSA 21:34-a and as amended in the future. At this time, Mrs. Rouleau-Cote went through the definitions for the Board.

Mrs. Rouleau-Cote stated that she pulled out two (2) specific definitions that are in the State Statute which were Agritourism because that was basically the marketing and the commercial use of the farm which is also defined under that RSA and pointed out that in the Town of Auburn that *"Agritourism and marketing as defined under NH RSA 21:34-a (b) (5) shall require Special Exception in accordance with Article 14.14 of the Auburn Zoning Ordinance and be subject to Site Plan Review through the Auburn Planning Board."* Mrs. Rouleau-Cote gave examples of farms hosting dinners, vineyards, weddings, venues or anything like that would be defined as "Agritourism" which would be requiring a Special Exception and Site Plan Review with the Planning Board.

Mrs. Rouleau-Cote pointed out that the second subset definition that she added was the *"Farm Roadside Stand: shall remain an agricultural operation and not be considered commercial (Agritourism), provided that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms of the stand owner. The floor area of the Farm Roadside Stand shall not exceed one hundred fifty (150) square feet."* Mrs. Rouleau-Cote indicated that there were not a lot of these within the Town of Auburn but put it in there to protect ourselves in case. Mrs. Rouleau-Cote stated that she put not to exceed one hundred fifty (150) square feet because it basically mimic's what our current Produce Stand has for a definition and indicated that the Board could alter that if they wanted or keep it at one hundred fifty (150) square feet. Mr. Poltak commented that there hasn't been a problem with that and believed it worked and the other Board members agreed.

Mrs. Rouleau-Cote commented that she put in Farmer's Market and was unsure whether or not they should address this. Mr. Bennett stated that the biggest issues with Farmer's Markets are traffic control and parking. Mrs. Marzloff added that it usually is held in a public place such as a school parking lot or a church parking lot or in the case of Exeter it's held in the gym. A brief discussion ensued with regard to Farmer's Markets. Mrs. Rouleau-Cote pointed out that she was not opposed to removing "C" and not go down that route because there's nothing saying that we have to define Farmer's Market and the Board agreed.

Mrs. Rouleau-Cote again reiterated that Article 4 was just pointing out where these would be permitted or permitted by Special Exception so everything that used to be Commercial Agriculture is now Agritourism that would require a Special Exception.

## **AMEND ARTICLE 13:01 Building Permits Required**

Mr. Poltak asked Mrs. Rouleau-Cote to move on to Article 13:01 Building Permits. Mrs. Rouleau-Cote began by saying that the Building Permit Fees are an appendix in the



Zoning Ordinance which is required to go before the town voters. Mrs. Rouleau-Cote explained that in an attempt to try to modernize our Building Permit program upstairs and the issuance of building permits and establishing fees that are more in line with other communities and the like. Mrs. Rouleau-Cote further explained that, after speaking with legal counsel that it was advised to herself and the Selectmen that the proper place to probably put the permit fee structure would be through a process with the Board of Selectmen which would still require a public hearing but would not have to be up to town vote and would be a presentation to the people in attendance and the Board of Selectmen to establish the fees and they have that ability under RSA 674:51 so she is asking to amend Article 13:01 Building Permits Required to read *"No building shall be erected, constructed, reconstructed, altered or repaired without a building permit issued by the Building Inspector. The Building Inspector is authorized to charge and collect for the Town, the fees for building permits, inspections and certificates of occupancy. The Auburn Board of Selectmen shall be authorized to establish a fee schedule and amend as necessary"* and this would be consistent with RSA 674:51. Mr. LaCroix asked if it could be put on the website. Mrs. Rouleau-Cote said yes and explained that by going through the Selectmen that it did not have to wait until March election.

Mr. Poltak stated that at the end he would be asking for the Board to make a motion to move forward with the proposed zoning amendments as discussed and that the Board would have to decide when that would be.

Mr. Porter asked Mrs. Rouleau-Cote if it would be a duly notice public hearing. Both Mrs. Rouleau-Cote and Mr. Bennett said yes, it would be a duly notice public hearing. It was suggested that a section be added to the last sentence to read as follows: *"The Auburn Board of Selectmen shall be authorized to establish a fee schedule and amend as necessary following statutory public hearing process."* Mrs. Phillips asked Mrs. Rouleau-Cote when she was thinking of going before the Board of Selectmen. Mrs. Rouleau-Cote stated that she would have to wait until March to see if she can go to the Selectmen because if this fails then she has to wait until next March to change her Building Permit Fees. Mrs. Phillips believed that they needed to do something about that. The Board suggested that the Planning Board add "Recommended by the Planning Board."

## **AMEND ARTICLE 13.06 In-Ground Pools**

Mrs. Rouleau-Cote read the section as follows:

*Amend Article 13.06 In-Ground Pools – to expand pool barrier requirements to be consistent with NH State Building Code."*

Mrs. Rouleau-Cote read the current zoning ordinance regarding In-Ground Pools which reads as follows *"A four (4) foot high safety enclosure shall be required around the perimeter of all in-ground pools."*

Mrs. Rouleau-Cote indicated that she wanted to re-name Article 13.06 - Swimming Pool Barrier Requirements to read as follows:

*Amend Article 13.06 to read:*

*All swimming pools installed within the Town of Auburn shall comply with applicable state building codes and amendments under NH RSA 155-A. All pools shall have barrier requirements in place prior to final inspection and upon certificate of completion issued.”* Mrs. Rouleau-Cote commented that you could even have an above-ground pool that if the barrier is not the appropriate 48 inches that it may require some fencing or it may require some provisions. A brief discussion ensued with regard to pool barriers. Mrs. Rouleau-Cote pointed out that this encapsulates all of the building code requirements for pool barriers which also addresses if you have an in-ground pool behind your house and part of the house is your barrier then this addresses the doors and stuff that leads to the pool area. Mrs. Rouleau-Cote wanted to point out that these are things that she is currently enforcing and is part of the State Code which is bringing our ordinance in line with RSA 155-A. A brief discussion between Mrs. Rouleau-Cote and the Board members ensued regarding pool barriers.

Mr. Poltak wanted to move to the next phase and asked Mr. Bennett if he could hold one public hearing as he did not believe the amendments were too extensive. Mr. Bennett said yes the Board could hold one public hearing. Mr. Poltak asked Mr. Bennett if he could hold a public hearing on the proposed zoning changes on a regularly scheduled Planning Board meeting. Mr. Bennett stated that it would have to be noticed separately but could not see a problem having the public hearing first and then moving on to the amendments.

Mr. Poltak stated that the Board has a scheduled meeting on January 4<sup>th</sup> which would be taken up with the Master Plan with Mr. Tatem finishing up the CIP. Mr. Poltak stated that January 5<sup>th</sup> was the last day to post and publish notice of first public hearing if a second hearing is anticipated. Mr. Poltak believed that if they followed this that they could hold a public hearing and hold the public hearing on the zoning amendments on January 18<sup>th</sup> which is a currently scheduled Planning Board meeting. The Board discussed when to hold the public hearing. The Board all agreed that it worked for all of them.

Mr. Poltak explained that they would hold the Public Hearing on Wednesday, January 18<sup>th</sup> and hold the Public Hearing for the zoning amendments which would have to be noticed and posted separately which would actually be two (2) meetings in the same night.

**Mr. Rolfe made a motion to hold the Public Hearing on Wednesday, January 18<sup>th</sup> and hold the Public Hearing for the Zoning Amendments which would have to be noticed and posted separately and posted no later than January 5<sup>th</sup>, which would actually be two (2) meetings in the same night, Mrs. Marzloff seconded the motion. A vote was taken; all were in favor, the motion passed unanimously.**



**OTHER**

**ADJOURN**

**Mrs. Phillips moved to adjourn the Hearing. Mr. Rolfe seconded the motion. All were in favor, the motion passed unanimously and the meeting stood adjourned at 8:15p.m.**

***The next Planning Board meeting will be held on Wednesday, January 4, 2017 at 7:00pm at the Town Hall, 47 Chester Road unless otherwise noted.***