

## 2012 RECOMMENDED ZONING ORDINANCE AMENDMENTS

The Planning Board held a public hearing for input on the following amendments to the Zoning Ordinance on January 19, 2012. The amendments, developed and reviewed by the Planning Board, were approved for placement on the town ballot for voting on March 13, 2012 at Town Hall.

(The question is written as it will be placed on the ballot. The text, which will not be on the ballot, is shown with deleted language as ~~strike through~~ text and changes or additions shown in *italic* print. The Intent and Public Information explains the reasoning by the Board for the amendment proposal.)

Article 2. To see how the Town will vote by official ballot on the proposed amendments, as recommended by the Planning Board, to the Town Zoning Ordinance as follows:

**1.** 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 Section 700.2 Structures to clarify the zoning rights associated with non-conforming structures existing prior to the adoption of zoning.

*700.2 Structures - Any structure existing at the time of the original passage of this Ordinance, March 1985, or which has been legally constructed since but is now non-conforming to the ordinance and which does not conform to the maximum height limitations and /or minimum setbacks, shall have the right to continue indefinitely. A structure may be razed and reconstructed provided reconstruction is completely within the existing footprint, is started within six (6) months of the demolition date, and is completed with two (2) years of demolition. Legally established structures, which do not conform to present setback requirements may be expanded in size, provided the addition or expansion complies with current setback requirements and lot coverage.*

Intent and Public Information: The current zoning ordinance describes the rules associated with expansion of a non-conforming structure. This addition clarifies and ensures that non-conforming structures which are not changing may continue as established prior to the adoption of zoning. It also clarifies the requirements associated with reconstruction of a demolished structure.

**2.** Are you in favor of the adoption of Amendment No. 2 as proposed by the Planning Board for the Town Zoning Ordinance as follows:

Amend Section 700.3 Lots to clarify the zoning rights associated with non-conforming lots existing prior to the adoption of zoning.

*700.3 Lots - Any lot of record existing at the time of passage of this Ordinance, March 1985, or which has been legally constructed since but is now non-conforming to the ordinance and not conforming to present minimum lot size, minimum frontage requirements, or minimum dimensional requirements, shall have the right to continue in their present use indefinitely, as well as being used for any other conforming use for the district in which it is located. Undeveloped nonconforming lots may be developed with any use permissible in the zoning district without compliance with minimum lot size, frontage or dimensional requirements, so long as the following conditions are met: (1) sufficient off-street parking for any such proposed use is*

*provided within the property boundaries; (2) lots whose sole frontage is upon a Class VI or private road not shown on a plan approved by the planning board must first successfully complete the permit process as set forth in RSA 674:41; and (3) all other provisions of the zoning ordinance are met such as, but not limited to, setbacks, lot coverage, septic requirements, etc. No non-conforming lot may be permitted to be further subdivided or otherwise made less conforming in nature.*

Intent and Public Information: Lots established prior to the adoption of zoning which do not conform to current lot size, frontage, and other dimensional requirements are generally referred to as “grandfathered lots” of record. This addition will allow construction without seeking a variance for lot size and frontage *as long as the structure can conform in all other ways – setbacks, lot coverage, etc.* to the ordinance.

**3.** Are you in favor of the adoption of Amendment No. 3 as proposed by the Planning Board for the Town Zoning Ordinance as follows:

Amend Section 400.10 Sewage and Waste Disposal Systems to clarify that changes to a structure or change of use of a structure that will cause an increase or change of use in sewage and waste disposal must conform to state and local septic regulations.

~~400.10 Sewage and Waste Disposal Systems: Construction, development, or improvement of any structure that ~~could~~ will cause an increase in sewage and waste disposal shall ~~meet~~ require proof of installation of a State approved septic system and comply with all applicable state and local health requirements. These requirements shall include (but not limited to) this Zoning Ordinance, Holderness Sewage and Waste Disposal Ordinance, and the NH Department of Environmental Services Regulations. The most stringent requirements shall apply in the case of conflict. (3/96)~~

Intent and Public Information: Quality of the groundwater, lakes, and streams is of prime importance. The change is made to assure that any sewage and waste disposal is done properly and according to town and state regulations.

**4.** Are you in favor of the adoption of Amendment No. 4 as proposed by the Planning Board for the Town Zoning Ordinance as follows:

Add Section 400.10.1 Gray Water Systems – which prohibits Gray Water systems

*400.10.1 Gray Water Systems: Gray Water systems are prohibited including those which use mini-dry wells.*

Intent and Public Information: Groundwater quality can be greatly impacted by gray water systems and should not be allowed.

**5.** Are you in favor of the adoption of Amendment No. 5 as proposed by the Planning Board for the Town Zoning Ordinance as follows:

Amend Section 400.8.1.2 to clarify that setback requirements apply to wells

~~No structure, including water supplies (wells), other than stairs to docks or water supply (well) shall be located within fifty (50) feet from the reference line of a lake or pond, ordinary high water line of perennial streams, or edge of wetland. This fifty (50) foot segment will be maintained as a native vegetative or woodland buffer. Access pathways through these areas may not exceed six (6) feet in width. Permitted signs, fences less than six feet in height, stairs to~~

docks, and bridges for recreational use are exempt from these setback requirements. (3/02 & 3/10)

Intent and Public Information: The amendment corrects the confusion caused by an inadvertent missing comma and clarifies that wells are subject to setback requirements.

**6.** Are you in favor of the adoption of Amendment No. 6 as proposed by the Planning Board for the Town Zoning Ordinance as follows:

Amend Section 800.3 Variances – to be consistent with RSA 674:33 and 674:33-a

800.3: Variances: The Board of Adjustment ~~shall have the power to authorize~~ ~~may~~, on an appeal, ~~grant~~ a variance from the provisions of this Ordinance ~~pursuant to RSA 674:33 and 674:33-a and as they may be amended. only where the board finds that all of the following conditions apply:~~

~~800.3.1: There are special circumstances or conditions applying to the lot or structure for which the variance is sought (such as, the exceptional narrowness, shallowness or shape of the lot or structure in question, or exceptional topographical conditions), which are peculiar to such lot or structure, and the application of the requirements of this Ordinance will deprive an owner of such lot or structure a reasonable use of it, and will impose upon such owner of such lot or structure a hardship no shared by the owners of other lots or structures in the same district. (Financial hardship does not constitute “hardship” in this case.) The applicant shall not have created the hardship.~~

~~800.3.2: The specific variance, if granted, represents the minimum variance that will afford reasonable relief to the owner and is necessary for a reasonable use of the lot or structure.~~

~~800.3.3: The granting of the variance will be in harmony with the general purposes and intent of this Ordinance, and with the convenience, welfare, and character of the district within which it is proposed, and will not be injurious or otherwise detrimental to the public welfare.~~

~~800.3.4: The use proposed is a permitted use, as described under Section 300.~~

~~800.3.1: The ZBA shall have the same authorities as granted to the Planning Board under State law and regulations to collect fees from an application to cover expenses occurred in the performance of their duties.~~

**7.** Are you in favor of the adoption of Amendment No. 7 as proposed by the Planning Board for the Town Zoning Ordinance as follows:

Add a Definition for non-residential development to be consistent with Site Plan Regulations

*Non-Residential Development means all development of buildings, structures, or land except one family and two family dwellings and related non-commercial accessory structures.*

Intent and Public Information: Section 1000.4 specifies Site Plan Regulation jurisdiction which includes non-residential development, but the ordinance does not have a definition describing the term.

**8.** Are you in favor of the adoption of Amendment No. 8 as proposed by the Planning Board for the Town Zoning Ordinance as follows:

Add Definitions terms associated with Septic Systems (or Individual Septic Disposal Systems – ISDS) as defined by the NH Code of Administrative Rules Env-Wq.

*Dry Well – An effluent disposal area constructed as a covered, underground pit with an open-jointed or perforated lining and surrounded with septic stone, into which effluent is discharged for final disposal into the surrounding soil. The term includes seepage pit and effluent disposal pit. As defined by the NH Code of Administrative Rules Env-Wq 1002.24 and as it may be*

*amended.*

*Leachfield or Effluent Disposal Area (EDA) – An area designed for the final disposal of effluent, commonly referred to as a leach field, including the bed and any required fill extensions, in which effluent is dispersed using leach lines or dry wells. As defined by the NH Code of Administrative Rules Env-Wq 1002.27 and as it may be amended.*

Intent and Public Information: Dry wells have, in the past, been portrayed as alternative systems to “septic systems” and not applicable to setbacks, etc. for septic systems. The state definitions for Dry Well and Effluent Disposal Areas (EDAs or leach fields) clearly specify that dry wells are considered EDAs.