

Meeting Minutes
HOLDERNESS SELECT BOARD/HOLDERNESS ZONING BOARD
MEETING
May 1, 2024

Select Board Members Present: Chair, Jill White, Sam Brickley, Peter Francesco and Kelly Schwaner.

Zoning Board Members Present: Chair, Bob Maloney, Vice Chair, Bill Zurhellen, Members, Erik MacLeish, Bryan Sweeney and Robin Dorff

Others Present: Town Administrator, Michael Capone, Municipal Counsel, Attorney Christine Johnston.

Call to Order: Ms. White called the meeting to order at 5:32PM in the lower-level meeting room of the Holderness Free Library. Ms. White introduced Attorney Christine Johnston, Town Counsel, who noted that general conversation regarding the enforcement process could be accomplished in a public session, but specific case conversations would require the meeting to go into nonpublic session.

Mr. Maloney indicated that the intent of the Zoning Board being present was to seek guidance and better understand the enforcement process, and to that extent, the meeting should be public. There was general agreement from those present with regard to that sentiment.

Mr. Dorff indicated that his expectation was to better understand the process. He had building experience in another State and wanted to better understand how it works in Holderness.

Mr. Zurhellen mentioned that his experience in New York involved a building inspector and occupancy permits.

Attorney Johnston explained that New Hampshire was quite different than other States in a number of ways. She noted that Towns are not required to have much more than just a Planning Board (and even that is optional). They also do not have to adopt a zoning ordinance or a local building code. If they do adopt a zoning ordinance, that ordinance should define who has overall responsibility for enforcement. In Holderness that authority resides with the Select Board.

Attorney Johnston also noted that Holderness has not adopted a local building code and as such does not have a building inspector.

Mr. Dorff asked what the Town wants to do about enforcement.

Mr. Mac Leish expressed his desire that it be fair and consistent.

Mr. Sweeney supported Mr. Dorff's inquiry.

Mr. Brickley noted that it was the responsibility of the Board to manage the prudential affairs of the Town. When addressing enforcement, the Board has to consider things such as the degree of the offense, the cost to resolve the issue and the overall culture of the community with regard to enforcement.

Mr. Dorff expressed concerns with the impacts to abutters.

Mr. Brickley commented that there are always many things to consider and each case is different.

Attorney Johnston noted that decisions are not always clear and we need to consider questions raised for which we do not have a good response.

Mr. Dorff and Mr. Maloney inquired about the appeals process.

Attorney Johnston commented that is generally the housing appeals board or superior court.

Mr. Maloney asked if we could make follow up inspection of a property a condition of approval.

Attorney Johnston said that was not an option.

Mr. Francesco noted that the Town has successfully prosecuted a number of enforcement issues through the years. He also asked Attorney Johnston about accessing private property.

Attorney Johnston commented options to access private property were extremely limited and there were generally only specific reasons why a government official could enter a property without owner permission. She took a few minutes to explain the administrative inspection warrant process available through the district court system.

Mr. Mac Leish asked what the best approach to informing the Board of future enforcement concerns should be.

The Select Board members commented that any inquiries should go to the Town Administrator and he would direct them to the appropriate party to address. He would also advise both the Select Board and Counsel of any issues they may need to address.

The Town Administrator commented that he would work with both the compliance officer, with support from the land use administrator, to address any enforcement issues that come before the Town. He also noted that they would practice "cooperative enforcement" where they work with all parties in manner that respects everyone's rights.

The members of the Zoning Board thanked both the Select Board and Attorney Johnston for their time and noted they felt the conversation had been helpful.

The Select Board and Attorney Johnston agreed the conversation had been productive and thanked the zoning board members for reaching out.

Adjournment: With no further business to come before the Boards, the meeting was adjourned at 6:27PM.

Respectfully Submitted,

Michael R. Capone
Town Administrator