

PLANNING BOARD	March 26, 2024, 7:00 PM
TOWN OF HAMPTON FALLS	TOWN HALL

FINAL

PLANNING BOARD MEETING

A. CALL TO ORDER:

Chairman Santora called the meeting to order at 7:05 PM.

B. ROLL CALL:

Present: Todd Santora, Chairman; Eric Cimon, Vice-Chairman; Edward B. Beattie, Selectmen's Representative; Lisa Brown-Kucharski; Abigail Tonry; Jon Ringel; Members.

Non-voting: Mark Sikorski, Building Inspector; Glenn Coppelman, RPC Circuit Rider Planner; Rachel D. Webb, Assistant Administrator.

Absent: Will Lojek, Member; Andrew Brubaker, Alternate.

Chairman Santora introduced Deputy Fire Chief Bobby Hudson who was in attendance to meet the Planning Board and to observe the meeting.

C. REORGANIZATION OF THE BOARD

1. Nomination and Election of Chairman:

MOTION: To nominate Todd Santora as Chairman of the Planning Board for 2024.

MOTION: L. BROWN-KUCHARSKI

SECOND: J. RINGEL

UNANIMOUS

2. Nomination and Election of Vice-Chairman:

MOTION: To nominate Eric Cimon as Vice-Chairman of the Planning Board for 2024.

MOTION: L. BROWN-KUCHARSKI

SECOND: E. BEATTIE

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3. Committee Assignments:

Chairman Santora stated that the Committee Assignments for 2024 would stay the same except for the following updates:

a) Route 1 Sewer Committee Chairman Santora proposed to disband the Committee, and when questioned why, by G. Coppelman, he responded that the committee has met twice in five years, and it has become an issue taken up by the Board of Selectmen. R. Webb stated that the Planning Board could always reappoint the committee if they needed it in the future.

b) RPC Commissioners remain the same with Richard McDermott and Andrew Brubaker's terms both expiring in 2026. G. Coppelman clarified the procedure of appointments to the RPC Rockingham Planning Commission are that the Planning Board nominates candidates for appointment, and then the Selectmen are the appointing authority for those positions. Chairman Santora noted that Andrew Brubaker has asked not to be appointed to any Hampton Falls Planning Board committees.

c) CIP Committee will be: T. Santora, L. Brown-Kucharski, T. Franciosa, S. Carlson, and W. Lojek, and Selectmen's Representative to be determined (but most likely M. Lane).

d) Master Plan Committee will be: T. Santora, L. Brown-Kucharski, E. Cimon, Tracy Beattie, and one (1) open position;

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- e) Road Committee will be A. Tonry; T. Santora; E. Cimon; J. Ringle; W. Lojek; M. Sikorski, Building Inspector; R. Hilliard, Road Agent
- f) Ords and Regs will be: T. Santora, A. Tonry, E. Cimon, W. Lojek, E. Beattie, L. Brown-Kucharski, G. Coppelman, M. Sikorski,

Chairman Santora stated that he had not heard from any volunteers to write a Newsletter submittal on behalf of the Planning Board, and L. Brown-Kucharski asked if what she wrote summarizing the February 2024 could be used. R. Webb said that Lisa's summary of the February meeting that was loaded onto the Planning Board's web page on the town's website. She continued that the Newsletter is released six (6) times annually or every two (2) months, so if L. Brown-Kucharski was writing a summary following each Planning Board meeting, then two of those could be routinely edited together for a Newsletter article. There was a discussion about comments that Planning Board members received from the community regarding the subjects of the Warrant Articles, that most were positive and grateful for the Ords and Regs committee moving those topics forward.

4. 2024 Planning Board members' Listing, please confirm contact info:

Chairman Santora asked the Planning Board members to please examine the Contact Info page provided and to let R. Webb know if any changes needed to be made to phone numbers, email addresses, etc. All contact information was confirmed as current.

G. Coppelman noted that he has been in his position as a consultant with the RPC assisting the Town of Hampton Falls for ten (10) years.

D. PUBLIC HEARING: There were no Public Hearings scheduled for this meeting. Chairman Santora said that there had been a Preliminary Consultation requested by an applicant for 147 Lafayette Road (the former Lamp Maker shop) however, the applicant withdrew.

E. OTHER BUSINESS:

1) Nomination of Richard McDermott as TAC representative of the Rockingham MPO Transportation Advisory Committee for the two-year period of January 01, 2024 to December 31, 2025. Chairman Santora explained that the way this appointment is made is that the Planning Board nominates a TAC representative for consideration by the Board of Selectmen, and the Selectmen make the appointment. G. Coppelman further elaborated that every town in the RPC region appoints a member to the TAC to give monthly guidance and input to the NH DOT Ten-Year Transportation Plan, and other transportation related issues. He added that the RPC has continued to offer Zoom participation (since COVID); however, there needs to be a quorum in person to conduct business.

MOTION: To nominate Richard McDermott as TAC representative of the Rockingham MPO Transportation Advisory Committee for the two-year period of January 01, 2024 to December 31, 2025.

MOTION: L. BROWN-KUCHARSKI

SECOND: A. TONRY

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J. Ringel asked where the meetings are held for TAC, and G. Coppelman responded at the RPC office in Exeter. L. Brown-Kucharski stated that she would be happy to contact R. McDermott to request that he periodically provide updates and feedback to the Planning Board regarding the activities of the TAC.

2) Communications by email: Chairman Santora stated that there is a ZBA meeting on Thursday this week regarding 12 Lafayette Road. He said that he spoke with the Planning Board's Land Use Attorney today who said that any Planning Board member who attends the ZBA meeting, or who communicates with the ZBA in any way, should not speak either in favor or against the proposal in case the application comes before the Planning Board at a later date. If this happens, that member may be considered biased and not impartial and should recuse themselves from voting on the application. The ultimate decision on recusal lies with the Planning Board member. E. Cimon clarified that the Planning Board can not require a member to recuse themselves, and Chairman Santora stated that it is ultimately up to the Board member to decide if they think they will be biased or not. Chairman Santora stated that he received a couple of court case examples from Town Administrator Karen Anderson, where towns have been sued due to perceived bias. E. Cimon asked if it would be the individual members who would be sued or the Town, and G. Coppelman responded that it would be the Town. He continued that if a member is prejudiced one way or another, and speaks to it publicly, (hypothetically at the ZBA) and the applicant is granted their variances, then they come to the Planning Board. If the member who has spoken either in favor or against does not recuse themselves from the Planning Board process, and if things don't go well at the Planning Board, then the applicant can pursue the Town for bias, bad process, etc. so it puts the Planning Board's decision in jeopardy if the applicant chooses to sue the Town. He continued that although it is the individual's personal responsibility and choice to recuse or not, part of that decision should also include what impact that might have on the Town and the Board's actions in the future.

A. Tonry asked why anyone would ever want to be on a board if they can not speak their mind on issues that do not relate to your board specifically. G. Coppelman responded that both ZBA and Planning Boards are quasi-judicial boards, and the members are supposed to act as if in a judicial capacity. He stated that if the members cannot pass, in their own minds, the juror test which is the standard that is used, as if you were to sit on a jury, then the members should recuse themselves. G. Coppelman stated that being on a quasi-judicial board comes with certain obligations and restrictions. A. Tonry responded that in the case of the 12 Lafayette Rd application at ZBA, if the variances get approved at ZBA, and then the applicant comes to Planning Board with no ability for the Planning Board to do anything about it, and the objections will have already gone by the board. G. Coppelman restated that if a Planning Board member expressed an opinion either in favor of, or against, a particular project, it could be perceived as bias, and that is the bottom line. L. Brown-Kucharski clarified that this would not be an issue if it were an application at ZBA that would not be coming to Planning Board after obtaining ZBA approval.

E. Beattie stated that he faced a similar issue a couple years ago, when he attended a meeting and sat in the audience and he thought about which of three (3) "hats" he would/should wear if he

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were to get up and comment at the meeting (resident, Planning Board member, or Selectman). He stated that he was frustrated because as a resident there was a lot he wanted to say, but he decided not to speak because he was aware of the recusal piece of sitting on quasi-judicial boards and knew that he had to give up that right because of the two other hats he wore. He said that he identified that this is the issue with which A. Tonry was wrestling, and that it is tough.

Chairman Santora stated that everyone on the Planning Board has experienced being figuratively “handcuffed” by decisions made by the ZBA, which is frustrating. He continued stating that the ZBA are not elected positions, they are appointed by the Selectmen, so if anyone has a problem with the ZBA then discuss it with the Selectmen.

A.Tonry stated that it is tough to appoint a board who has knowledge of the Town, as long-time residents with experience are getting slighter. Chairman Santora stated that the ZBA was appointed by a Board of Selectmen who have a lot of history in the town. A. Tonry stated that recent appointments were made of two (2) people who are new to town. E. Beattie spoke as a Selectman saying that first you need to have people who are willing to step up and to be appointed to serve, and it is tough to find those people. The second problem is that people who are new to town, and who are engaged in town, need to get their start somehow. Chairman Santora stated that J. Ringle is a perfect example, and E. Beattie stated that Candidates Night got him elected. E. Beattie said that his opinion was that the Selectmen felt as though the prior ZBA (before the two recent appointments) were not addressing the five (5) criteria required to evaluate variance applications. He reiterated the challenge of finding people to appoint for civic duty who have town knowledge. G. Coppelman stated that this issue is not unique to Hampton Falls, that it is happening everywhere. E. Beattie stated that when the current Board of Selectmen made the two recent appointments to ZBA, they talked about the five criteria for variances.

A.Tonry responded saying that for those reasons it was her opinion that it is unrealistic or improper to cripple board members who speak their personal opinions. L. Brown-Kucharski pointed out that although A. Tonry and herself have both been on the Planning Board for a very long time, there are also newly appointed newer residents on the Planning Board and it is a good combination of old and new members. E. Beattie stated that it is not anyone’s opinion on the bias and recusal conversation, that this has been decided in the courts. L. Brown-Kucharski reiterated what G. Coppelman said earlier in the meeting about Planning Board members thinking in the mindset of a juror to ask themselves if they have bias in reviewing a case, and she said that that reference helped her to put it in perspective. E. Cimon clarified that it is not just what you say at Planning Board or any other board, it is also how you govern the Planning Board. He reiterated that it is not what you say that is the potential problem, it is that you have indicated your bias. He said that the Planning Board is supposed to interpret the regulations, and follow those to the best of their ability and discern whether the applicant followed the process, and whether the Planning Board has the support of both the Building Inspector/Code Enforcement Officer, as well as the RPC’s Circuit Rider Planner. He said that if the applicant meets all the criteria, the Planning Board should not be denying an application because they personally do not like the proposal.

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F. REVIEW AND APPROVAL OF PREVIOUS PLANNING BOARD MEETING

MINUTES: February 27, 2024.

MOTION: To approve the minutes of the Planning Board's Meeting from February 27, 2024, as written.

MOTION: L. BROWN-KUCHARSKI

SECOND: A. TONRY

VOTE: YES=5, NO=0; ABSTENSION=1; MOTION PASSES

G. ORDINANCE AND REGULATIONS (Ords & Regs) COMMITTEE MEETING

Chairman Santora stated that he wanted to collect topics of interest from Planning Board members for the Ords & Regs committee to work on during the year. He stated that there will be an Ords & Regs meeting next month at 6:00 PM on the same night before the Planning Board meeting April 23, 2024. He would like to prioritize the topics raised tonight and then get started next month.

Topics raised by Planning Board members included:

- 1) L. Brown Kucharski: no camping on town-owned lands, ex. Raspberry Farm. She stated that someone from the state mentioned this once, as an easy "house-keeping" type of amendment to make that once adopted makes it easy for the Police to enforce.

E. Beattie asked the Building Inspector his opinion where there are "holes" in the Zoning Ordinance that he would like to fix.

- 2) M. Sikorski: ADUs (Accessory Dwelling Units- detached) 7.2.1, he wants an indication of how long the building needs to exist, to add a timestamp on how long the building needs to be there before an ADU can go in, so that permits are not issued back-to-back. G. Coppelman provided some context, that the state allows attached ADUs by right in residential zones (with conformance to certain specifications) within existing structures; and, a Town can also allow detached ADUs by option, which the voters of Hampton Falls approved. G. Coppelman continued that the intent was to allow the detached ADUs in structures that were already part of the original household such as barns and garages. Chairman Santora recalled that it came about because a property owner of a colonial house wanted to build a detached ranch-style house as a detached ADU on the property as a second unit, so that there would be two houses on one lot. M. Sikorski said that he receives inquiries on that subject fairly regularly where parents might want to build a small home out back for one of their adult children, but there is not enough frontage to subdivide off a separate lot.
- 3) Chairman Santora: ADUs (Accessory Dwelling Units-attached) minimum square footage is too small. He stated that several people have talked with him about wanting to move their parents in with them, but the problem is that the parents are downsizing from a much larger home and it is just too small to try to squeeze into 750 sqft (as limited by the zoning ordinance) so he was wondering if the specification could be examined to potentially change it up to 1,000 sqft or less and specify a maximum of two (2) bedrooms and one (1) bathroom. M. Sikorski said he has seen a floorplan that works is where the large family room is shared, and then the bedroom areas are on opposite ends of the house. He additionally stated that the 750 sqft does not include any storage space that may be underneath or above the unit, nor an additional garage bay. Chairman Santora

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mentioned that the people who raised this issue to him have all found alternate scenarios. M. Sikorski said that the ZBA has been gracious and not tightly held to the 750 sqft maximum. He said that if this idea went ahead, it may eliminate 30-40% of the applications that presently go to ZBA for this reason. He said there may be other ways to look at the issue if the footprint of the house is not proposed to be changed, that can be discussed at Ords & Regs.

M. Sikorski: Hawkers and Peddlers issues have arisen recently, although E. Beattie stated that those are a Selectmen's issue and not a zoning ordinance issue.

- 4) Chairman Santora: Short-term rentals (STRs) recently approved, does the Planning Board need to design the controls or requirements needed, such as Fire Inspection, Health inspection, etc. every 2, or 3, or 5 years. M. Sikorski suggested a checklist of requirements be created to maintain a STR, similar to the checklists in place for Home Occupations and Accessory Dwellings with a specified repetition of inspection.
- 5) Chairman Santora: add some controls to ensure Mixed Use Development in the Town Common District for new development.
- 6) Chairman Santora: look at the zoning requirement where eight (8) acres are required if three (3) or more housing units, in a mixed-use development may not make sense. He was thinking of ways to relook at the zoning ordinance to interest (re) development in the business districts. He said the 147 Lafayette Road property is an example of three buildings on a lot, where three uses could go in, but if it's 3 units or more then 8-acres would be required. A. Tonry said there is a difference when there is a single building with multiple uses or businesses within a single building that does not have that requirement.
- 7) M. Sikorski: wants to review the zoning district regulations and the Table of Uses to consider adding some verbiage, specifically where something is cited in the Table of Uses but is not backed up with a definition. He said that the Town really has not touched it since 2014.
- 8) A. Tonry: asked about Digital signs and if more definitions are necessary since the Warrant Article was approved.
- 9) A. Tonry asked about Trucks as signage and whether the Board's land use attorney advised the board to go ahead with that proposal or not, and Chairman Santora said that Atty Johnston said to go ahead.

Chairman Santora stated that the next steps with these identified areas of interest is for the Ords & Regs committee to prioritize them and to start working on them one by one throughout the year.

H. ADJOURNMENT:

MOTION: To adjourn the meeting at 8:10 pm.

MOTION: E. CIMON

SECOND: L. BROWN-KUCHARSKI

UNANIMOUS

NEXT PLANNING BOARD MEETING SCHEDULED TUESDAY, April 23, 2024, at 7:00 PM.

These minutes prepared by Rachel D. Webb, Assistant Administrator.