

**TOWN OF NEWPORT, NH**  
**Minutes of the Planning Board Meeting**  
**March 20, 2018 – 6:00 P.M.**  
**Board of Selectmen's Room**  
**15 Sunapee Street**  
**Regular Meeting and Public Hearing**

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**MEMBERS PRESENT:** David Burnham, Chairman; Ken Merrow, Vice Chairman; Bert Spaulding, Sr.; Ray Kibbey; Barry Connell, BOS Ex Officio; Bill Walsh; Howard Dunn

**MEMBERS ABSENT:** none

**VIDEOGRAPHER:** Nancy Meyer, NCTV

**STAFF PRESENT:** Julie M. Magnuson, Planning and Zoning Administrator

**CALL TO ORDER:** Chairman Burnham called the meeting to order at 6:02 p.m. followed by a roll call.

**NEW BUSINESS:**

**Proposed Zoning Amendment Language 2018 – Keeping of Hens:** General discussion performed regarding the language of this proposed amendment on Keeping of Hens.

David Burnham read the Proposed Zoning Amendment Language 2018 – The Keeping of Hens into record as follows:

*The intent and purpose of this section is to allow the keeping of a limited number of hens, primarily for the purpose of providing fresh eggs to the occupants of the dwelling in all zoning districts.*

*The keeping of hens shall be permitted for all one – and/or two – family dwellings provided the following standards are met (the standards do not apply to hens kept in the rural lands zoning district where farming is a permitted use):*

- A. It shall be unlawful to keep more than the following number of hens on any track of land;
  - *Less than one acre permitted 2 hens*
  - *1 to 2 acres: up to a total of 4 hens*
  - *2 to 5 acres: up to a total of 10 hens*
  - *More than 5 acres: up to 2 hens per acres*
  - *More than 5 acres: no requirement**
- B. No hens shall be allowed in multi-family dwellings.*
- C. No roosters shall be allowed.*
- D. All hens shall be kept outdoors within a secure enclosure at all times.*
- E. The secure enclosure and the coop shall comply with minimum yard setbacks for the respective zoning district, and shall not be located within the dwelling's front yard.*

*On Motion by Bill Walsh, seconded by Bert Spaulding, Sr., the Board voted to amend the Proposed Zoning Amendment Language 2018 – Keeping of Hens Section A to read Less than one acre permitted 3 hens. All Board members voted yes, except for Mr. Merrow who voted no. The vote carried.*

John Hooper participated in suggestions regarding the number of hens and amending Section B verbiage regarding the “multi-family dwellings”.

*On motion by Ray Kibbey, seconded by Bert Spaulding, Sr., the Board unanimously voted to amend the Proposed Zoning Amendment Language 2018 – Keeping of Hens, Section A to strike the language “more than 5 acres: up to 2 hens per acre” in the bullet that reads as follows: More than 5 acres: up to 2 hens per acre.*

*On motion by Ken Merrow, seconded by Ray Kibbey, the Board unanimously voted to amend the Proposed Zoning Amendment Language 2018 – Keeping of Hens, Section A to strike the word “requirement” and replace this word with “limitation on the number of hens” in the bullet that reads as follows: More than 5 acres no requirement.*

*On motion by Bert Spaulding, Sr., seconded by Howard Dunn, the Board voted to amend the Proposed Zoning Amendment Language 2018 – Keeping of Hens, Section A to change the number of hens to read as follows: 1 to 2 acres: up to a total of 6 hens, 2 to 5 acres: up to a total of 15 hens. Bert Spaulding, Sr., Bill Walsh, Ray Kibbey, David Burnham, and Howard Dunn voted yes. Barry Connell and Ken Merrow voted no. Vote Carried.*

*On motion by Howard Dunn, seconded by Bert Spaulding, Sr., the Board unanimously voted to amend the Proposed Zoning Amendment Language 2018 – Keeping of Hens, second paragraph, to strike the word “hen” and replace this word with “chickens” where it will read as follows: The keeping of hens shall be permitted for all one – and/or two – family dwelling provided the following standards are met (these standards do not apply to chickens kept in the rural lands zoning districts where farming is a permitted use).*

*On motion by Howard Dunn, seconded by Bert Spaulding, Sr., the Board unanimously voted to amend the Proposed Zoning Amendment Language 2018 – Keeping of Hens, Section B, to strike the language “in multi-family dwellings” and replace this language with “on lots containing more than 2 dwelling units” where it will read as follows: B. No Hens shall be allowed on lots containing more than 2 dwelling units.*

Seth Wilner’s email to Julie M. Magnuson and dated March 13, 2018 was provided to the Board.

Bert Spaulding, Sr., provided the Board RSA 21:34-a, RSA 674:32-a, RSA 672:1 Declaration of Purpose, and RSA 674:32-b. Ken Merrow requested RSA 21:34-a. Ms. Magnuson provided the Board with a copy of RSA 21:34-a.

Ms. Magnuson explained the Town Manager, Attorney Shawn Tanguay of Gardner, Fulton & Waugh, Margaret Burns of the Municipal Association, and Jen Hartman of Gardner, Fulton & Waugh all stated the agriculture statute does not apply to the Town of Newport. She further

explained that the Town Manager discussed with her the direction she provided to the Board regarding the agriculture statue conclusion.

Bert Spaulding, Sr., opposed Ms. Magnuson third party information provided to the Board regarding the agriculture statue and further states that any information she had intended to share with the Board should have been provided in writing.

Ms. Magnuson disagreed with Mr. Spaulding and further explained that written legal opinions are substantially expensive for the Town and conversations with goal notes should be suffice.

Bert Spaulding, Sr., introduced RSA 674:32-a, 672:1 – I, II, III -a, b, and c. Mr. Spaulding explains that the Town of Newport is a Permissive Zoning. Mr. Spaulding believes that the districts that have not specifically addressed agriculture in the Town's regulations defaults to permitted use and such conclusion of law is supported under State Statues.

Bill Walsh believes we should follow the advice of our own Town's counsel and not the advice of parties that hold no duty to the Town.

Mr. Chairman addressed 674:32-a.

*On motion by Howard Dunn, seconded by Bill Walsh, the Board voted to recommend to the Town of Newport - the legislative body, that it enact the zoning amendment consistent with the revised language the Board voted on in tonight's meeting regarding the Proposed Zoning Amendment Language 2018 – Keeping of Hens and/or recommend to the Board of Selectman that they place this on the warrant to be voted on by the legislative body. All Board members voted yes, except for Ken Merrow who voted no. The vote carried.*

Mr. Chairman read in the final Proposed Zoning Amendment Language 2018 – Keeping of Hens to read as follows:

The intent and purpose of this section is to allow the keeping of a limited number of hens, primarily for the purpose for providing fresh eggs to the occupants of the dwelling in zoning districts.

The keeping of hens shall be permitted for all one – and/or two – family dwellings provided the following standards are met (these standards do not apply to chickens in the rural lands zoning districts where farming is a permitted use):

- A. It shall be unlawful to keep more than the following number of hens:
  - Less than one acre permitted 3 hens
  - 1 to 2 acres: up to a total of 6 hens
  - 2 to 5 acres: up to a total of 15 hens
  - More than 5 acres no limitation on the number of hens
- B. No hens shall be allowed on lots containing more than 2 dwelling units.
- C. All hens shall be kept outdoors within a secure enclosure at all times.
- D. The secure enclosures and the coop shall comply with minimum yard setbacks for the respective zoning district and shall not be located within the dwelling's front yard.

Mr. Spaulding noted for the record, the amendments to the Proposed Zoning Amendment Language 2018 – Keeping of Hens have resulted in substantial changes. He further states that the requires these substantial changes to be noticed for the public for review. The remaining Board members disagreed. Bill Walsh and David Burnham found the changes made were all editorial in nature.

**Review and comments on the following topic:** General discussion performed regarding the Town approved 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> Knolls Street Infrastructure Project. Arthur and Linda Demeis offered property and is identified as Map 116 Lot 047 and located on the corner of Knoll and Juniper Streets.

**MINUTES: January 9, 2018 and February 13, 2018**

Chairman Burnham introduced minutes dated January 9, 2018 for review.

*On motion by Ken Mellow, seconded by Howard Dunn, the Board unanimously voted to approve the January 9, 2018 minutes as presented.*

The Board tabled the February 13, 2018 minutes to the April 26, 2016 Planning Board Meeting, as a result of the Board's confusion regarding sealed-minutes processes.

**ADMINISTRATION: none**

On a motion by Ken Mellow, seconded by all Board members; *the Board adjourned at 7:47 p.m. The motion passed with complete consensus.*

Respectfully submitted,

Kymberly Kenney  
Scribe

Approved on: