Welcome to OSI’s PLAN Monthly Webinar Series!
The webinar will begin shortly. Please mute and turn off camera.

Check out OSI’s Planning and Zoning Training Website For:
• Slides and recording of all completed webinars in the PLAN series
• Schedule for upcoming webinars
• A short, anonymous online survey to gather feedback and to suggest topics for future webinars

www.nh.gov/osi/planning/planning-training
Webinar Logistics

- Presentation then Question and Answer session
  Please type questions into chat box
- Please be sure to **turn off** your camera and your microphone now.
  
  We will be **recording** the presentation portion of this webinar. Any camera videos that are on during this portion may become part of the recording.
Welcome to the Board!
Introduction to Local Land Use Boards

APRIL 15, 2021

MICHAEL KLASS, PRINCIPAL PLANNER

STEPHANIE VERDILE, PRINCIPAL PLANNER
Municipal and Regional Planning Assistance
- Technical assistance, training, handbooks, and resources
- Annual municipal land use regulations survey, results and maps

State Data Center
- Population and housing data (in partnership with U.S. Census)
- 2020 Census information, outreach, and training

Floodplain Management Program
- 219 communities participate in the National Flood Insurance Program – adoption and enforcement of floodplain regulations
- Technical assistance, training, and resources
Today’s Roadmap

• Provide background and history on planning
• Introduce land use boards and their purpose
• Outline basics of planning process
• Discuss board procedures
• Offer tips on how to be a good board member
Why Regulate Land Use Development?

Foundations of Planning

- Health
- Safety
- Welfare
Why Regulate Land Use Development?

1800’s
Planned
Industrial
Towns &
Cities
Livability Principles and Smart Growth

- Traditional Settlement Patterns
- Community and Economic Vitality
- Housing Choices
- Natural Resources Functions & Quality
- Transportation Choices
- Climate Change & Energy Efficiency
Hot Topics

- Housing, Housing, Housing
  - Housing availability and affordability
  - Accessory Dwelling Units
  - Short-term Rentals
Planning and Land Use Regulation Law

- New Hampshire is NOT a Home Rule State
- RSAs – Revised Statutes Annotated
  - Planning and Zoning laws
    RSA Chapters 672 to 678
  - Right to Know Law
    RSA Chapter 91-A
- Administrative Rules
- NH Supreme Court
Land Use Boards

RSA 672:7 - defines land use board

- Planning Board
- Zoning Board of Adjustment
- Historic District Commissions
- Building Inspector/Building Code Board of Appeals
- Others authorized by RSA 673 or the legislative body
  - Heritage Commission
  - Agriculture Commission
  - Housing Commission
But Not the Conservation Commission

- Not defined as a land use board. It is established under RSA 36-A.
- The PB and ZBA often seek its opinion. Its opinion is advisory.
- Charged with protecting municipal natural resources
Zoning Board of Adjustment Roles

Only Enumerated Powers (RSA 674:33)

- Appeals of Administrative Decisions
- Variances → Based on statutory criteria
- Special Exceptions → based on local ZO criteria
- Equitable waiver
- Other...
The Planning Process
Planning Process

- Create Planning Board
  - Set Bylaws
  - Adopt Master Plan
    - Capital Improvement Program
    - Zoning Ordinance
    - Subdivision Regulations
    - Impact Fees
    - Zoning Board of Adjustment
    - Site Plan Regulations
The Master Plan

- Describes how, why, when and where the community should build, rebuild and preserve
- Foundation for land use and development principles and regulations
- Legal standing to the implementation of the Town’s vision and land use chapters
- Necessary for the implementation of Impact Fees
The Master Plan

Data Collection

Amendment

Data Analysis

Monitor

Community Vision

Implementation

Goals

Objectives
Is a planning and budgeting tool used by municipalities for the financing and purchase of municipal expenses over an extended period of time.

Legislative body authorizes the adoption, creation, and amendment of a CIP.

Authorization should include who is responsible either the planning board or a CIP Committee with a planning board member.

The creation, maintenance, and amendments to the CIP then lies with the Planning Board or a CIP Committee.
Helps a municipality prioritize and plan for major expenses and purchases without causing large spikes in the tax rate;

Utilizes the master plan to identify and prepare for areas with development pressures and meet community wishes for locating and financing community facilities;

Creates cooperation and understanding of municipal needs between municipal boards, the public, and municipal departments by reviewing and prioritizing department needs and costs for the town;
Zoning Ordinance

- Adoption of a Master Plan is a prerequisite
- The Planning Board RECOMMENDS and does not adopt zoning ordinances
- The Zoning Ordinance and amendments should support or implement the goals of the Master Plan
Zoning Adoption

- Planning Board’s Role:
  - Reviews and drafts proposals based upon needs
  - Holds a public hearing to review feedback on proposed ordinance or amendments
  - Vote to send the ordinance or amendment to the ballot (part of Town Meeting process)

- Legislative Body Approval:
  - Placed on agenda and discussed at deliberative session or town meeting
  - Placed on ballot and voted on by the community’s residents

- If the vote passes, the draft is then incorporated into the Zoning Ordinance
Subdivision and Site Plan Adoption Process

The Planning Board:

• Reviews and drafts proposals
• Holds a public hearing
• Adopts the proposal
Subdivision Regulations

MAY Address:
- Services
- Street Layout
- Utilities
- Health
- Open Space

- Configuration
- And more...

April 15, 2021
Site Plan Regulations

MUST Address:

• Procedures
• Purpose
• Standards
• Performance Guarantees
• Waiver Provisions
Site Plan Regulations

MAY Address:

- Traffic
- Parking
- Utilities
- Landscaping
- Building location
- Signage
- Lighting
- Noise
Other Regulatory Functions

- Off-Site Improvement Exaction, specific to site plan and subdivision development
- Regulation of Earth Excavations in which they are the “Regulator”
- Acceptance of Streets (RSA 674:40)
- Construction on Class VI or Private Roads (RSA 674:41)
- Utility or road maintenance by state or municipality on scenic roads (RSA 231:157-158)
- Driveway Regulations (RSA 236:16)
- Innovative Land Uses Controls (RSA 674:21)
Regional Planning Commissions
Planning Staff

- Town planning staff (or not...)
- RPC consultation
- Town Engineer
- Other consultation
Types of Meetings

- Public v. Nonpublic
  - Meeting with legal counsel

- Meeting v. Public Hearing
Board Meetings

- Planning Board Notice of a Public Hearing-RSA 676:4.I(d)(I)
- ZBA Notice of Public Hearing- RSA 676:7
- Adoption and Amendment of Master Plan, Subdivision and Site Plan Regulations, and Historic District ordinances-RSA 675:6 and 675:7
Meeting Frequency

RSA 673:10

- Planning Board
  - At least once per month
  - Consider having a monthly Work Session meeting

- ZBA, Heritage, Historic District, Ag, Housing
  - At the call of the chair
Basic Meeting Mechanics

- Members – (elected v. appointed)
- Alternates – Appointed by planning board, zoning board or select board.
- Organization – Board officers should be voted upon annually, meetings and hearing notices
- Majority = quorum is required to transact business
- Minutes and Written Decisions (676:3) – Available within 5 business days of such vote.
RSA 676:1: Board MUST Adopt Rules of Procedure

- Guide for board members, applicants, abutters, and the public
- Avoid arbitrary process, all applicants treated the same
- Identify when and how Alternates participate in meetings
1. Convene and read legal notice and state the manner of hearing conduct

2. Board considers and discusses business (application or amendments) before them

3. Chair opens public hearing for public input

4. Chair closes public hearing and board deliberates

5. Make a motion with a second and vote.

6. Issuance of Decision (as applicable) and minutes according to 676:3
Board Member Conduct

- Come prepared
- Stays focused
- Honor the law
- Maintain order and respect
- Recuse when appropriate
Disqualification of Member.

No member of a zoning board of adjustment, building code board of appeals, planning board, heritage commission, historic district commission, agricultural commission, or housing commission shall participate in deciding or shall sit upon the hearing of any question which the board is to decide in a judicial capacity if that member has a direct personal or pecuniary interest in the outcome which differs from the interest of other citizens, or if that member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law. Reasons for disqualification do not include exemption from service as a juror or knowledge of the facts involved gained in the performance of the member's official duties.

RSA 673:14, I
500-A:12 Examination. –

I. Any juror may be required by the court, on motion of a party in the case to be tried, to answer upon oath if he:

(a) Expects to gain or lose upon the disposition of the case;
(b) Is related to either party;
(c) Has advised or assisted either party;
(d) Has directly or indirectly given his opinion or has formed an opinion;
(e) Is employed by or employs any party in the case;
(f) Is prejudiced to any degree regarding the case; or
(g) Employs any of the counsel appearing in the case in any action then pending in the court.

II. If it appears that any juror is not indifferent, he shall be set aside on that trial.
Avoiding Conflicts

- Advisory Vote – RSA 673:14, II.
- Recuse (yes) vs. Abstain (no)
- Avoid Social Media Opinions on Pending Matters
- Disclose and Remove Yourself
- Err on the Side of Caution!
OSI Planning and Zoning Resources

- Planning Board and Zoning Board Handbooks
- Planning and Zoning Training
  - Annual Spring Planning & Zoning Conference
    - Saturday, May 15, 2021 – 9 am to 12 pm – Virtual, Free, & Recorded
  - Monthly Webinar Series on planning-related topics
- Plan-link listserv
- Planning News
  - Planning-related news and events sent out every Friday
- Online resources, data, and maps
  - www.nh.gov/osi/planning/
Contact Information

Michael Klass,  
NH OSI  
- michael.a.klass@osi.nh.gov  
- 603-271-6651

Stephanie Verdile,  
NH OSI  
- Stephanie.N_VERDILE@OSI.NH.GOV  
- 603-271-1765

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