

**SWANZEY PLANNING BOARD MINUTES
JANUARY 5, 2012**

Note: Minutes are not final until reviewed and approved by the Board. Review and approval of minutes generally takes place at the next regularly scheduled meeting of the Board.

The regular meeting of the Swanzeay Planning Board was called to order at 7:00 p.m. by Chair Glenn Page. Members present: Glenn Page, Scott Self, Joe Smith, Jeanne Thieme and alternate Paula Miller. Town Planner Sara Carbonneau was also present. Miller was seated for Fuerderer. The agenda for the meeting was read and the following matters were discussed:

Regional Impact: Board members considered whether any items on the agenda could “reasonably be construed as having the potential for regional impact.” Motion by Self that no items on the agenda could reasonably be construed as having the potential for regional impact. Seconded by Smith. Vote: All in favor.

A. PUBLIC HEARINGS -

1. Petitioned Zoning Amendment - Public hearing on the proposed petitioned zoning amendment:

"In Section VIII (Shoreland Protection District) amend subsection C (Primary Building Line/Setback) to read as follows:

C. PRIMARY BUILDING LINE/SETBACK:

a. With the exception of those properties situated on or near Wilson Pond that are subject to RSA 483-B, no primary structure as defined by RSA 483-B, shall be built, placed or erected within one hundred twenty-five feet from the reference line as defined by RSA 483-B:4, XVII as may be amended.

b. Wilson Pond Primary Structure Setback: For primary structures situated on or near Wilson Pond that are subject to RSA 483-B, primary structures as defined by

RSA 483-B shall be set back from the reference line in accordance with RSA 483-B, as may be amended."

Public hearing opened. There were several residents of Wilson Pond area in attendance, as well as other interested parties. Some members from the Conservation Commission were also present.

Page stated that it is state law that any petitioned zoning amendment that acquires the signatures of 25 or more registered voters must be placed on the warrant for town vote. Carbonneau explained that the Planning Board is required to either approve or not approve the petitioned zoning amendment - such approval/non-approval is to be included on the warrant/ballot.

Several Wilson Pond residents noted that now that the area is connected to public water and sewer, there is less need for the more restrictive setback. Some Wilson Pond residents also noted that RSA 483-B regulates such things as impervious surface, vegetative buffers, trees cutting, etc., which would protect water quality. It was also noted that the State has adopted 50 foot primary structure setback from the reference line - so it is assumed that the 50 foot setback is sufficient to protect water quality.

Martin Ray stated that since many of the structures on Wilson Pond are non-conforming due to the fact that they do not meet the 125 foot setback, such things as modest additions to the primary structures require a variance from the ZBA.

Deb Crowder spoke on behalf of the Conservation Commission stating that the Commission was opposed to the petitioned zoning amendment, noting that the existing 125' buffer will maintain vegetation and water quality. Crowder acknowledged that the connection of Wilson Pond properties to town water and sewer has greatly protected the water quality. However, she noted that the Town's increased setback of 125 feet provides for a greater vegetative buffer, which helps to maintain water quality. Crowder noted that pursuant to the statute, the town is able to set its own setbacks. Michael Day stated that there have been a number of violations of RSA 483-B in recent years.

Questions were raised about non-conforming structures, the ability to repair, replace and/or enlarge existing structures and the need to seek relief from the ZBA. Carbonneau noted that many structures on Wilson Pond are non-conforming as to setbacks, as they do not meet the 125 foot setback from the reference line (there may also be other reasons why the structures are non-conforming). If the setback from the reference line was reduced to 50 feet, it may result in less structures being non-conforming.

Harlan Class stated an example, i.e. if there were a fire and home needed to be torn down, can he rebuild. Page and Self explained that yes he could, but it would need to be within the same footprint and same cubic volume (or smaller) as the previous structure.

Michael Ryan asked what the acreage limitation is, how many homes on the waterfront and are there any open permits at this time. Page replied that the minimum lot size (to create a new lot) in the area is 1 acre. Page stated that he didn't know how many waterfront properties exist. Carbonneau stated she believed that there were no open building permits for new homes on Wilson Pond at this time. Ryan expressed

his opposition to the proposed zoning amendment, citing his agreement with the positions expressed by Crowder. Mike Morrison stated that when discussed with NH-DES, reducing the setback could increase the risk of fertilizer entering the water, which could lower the quality of the water.

Many questions were raised about RSA 483-B and what residents could and could not do on their property. Carbonneau stressed that she and the Planning Board were not qualified to discuss the specifics of RSA 483-B and encouraged interested citizens to review the materials on the NH-DES website. She offered her assistance in showing interested citizens how to find the information on the State's website.

Meg Poirer asked when the 125' was established. Carbonneau stated thought that it was in the early 1990s. Poirer stated that the water quality has been good and the results of the last testing showed that the water is drinkable this year.

Self commented on the wording stating that "on or near" Wilson Pond would be difficult to define. Carbonneau noted that "on or near" is qualified by those properties subject to RSA 483-B (which is from 0 feet to 250 feet from the reference line of the water body).

Richard Dell'Erba expressed his opposition to the proposed zoning amendment, providing the Board with information from the Town's 2003 Master Plan update, as well as Swanzeys Water Resource Management and Protection Plan (2003 update). Public hearing closed.

Page asked the Board to make a decision regarding the recommendation to either support or not support the Petition on the warrant. Motion by Smith recommending the Board not support the warrant article. Seconded by Thieme. Self stated that he opposes this motion, as he feels that Wilson Pond residents are subject to more stringent setbacks than other property owners and that they have little leverage in changing this ordinance. Vote: In favor of Smith's motion - Page, Thieme, Smith & Miller. Opposed: Self. Motion passes.

B. DISCUSSIONS/OTHER BUSINESS -

1. Request to Establish Hot Dog Stand - Dana Youtsey requests permission to operate a hot dog stand on property situated at 679 West Swanzeys Road, Tax Map 73, Lot 13 situated in the Business District. Mike Ford appeared before the Board on Youtsey's behalf. The property is owned by Scott & Jay MacPhail. Carbonneau informed the Board that awhile ago Youtsey applied to sell hotdogs from a permanent structure on the premises. This request was withdrawn prior to the Planning Board's consideration. Youtsey is now asking for a mobile wagon that would be moved daily back to his home and would like to amend the application to include hours from 8:00 a.m. to 8:00 p.m. seven days a week, year round. He is seeking approval from the Health Officer and will need State approval. Motion by Self to approve request for hot dog stand with amended hours and upon inspections by the Code Enforcement Officer and the Fire Chief. Seconded by Miller. Vote: All in favor.

2. Other business as may be required.

a. Approval of Minutes – The Board reviewed the minutes of the November 10, 2011 and December 22, 2011 meetings. Motion by Scott to approve

minutes as written from December 22, 2011 as submitted. Seconded by Smith. Vote: All in favor. Approval of minutes from November 10, 2011 could not be considered, as there was not a quorum of members who were present that evening.

b. Carbonneau informed the Board of the upcoming budget related hearing on January 12, 2012 at 7:30 p.m.

Motion by Thieme to adjourn. Seconded by Smith. Vote: All in favor.

Meeting adjourned at 8:00 p.m.

Submitted by,

Donna Munson
Recording Secretary