

**GILMANTON PLANNING BOARD**  
**TUESDAY, FEBRUARY 6, 2007**  
**ACADEMY BUILDING**  
**MINUTES OF PUBLIC HEARING**

**Present:** Vice-Chairman John Funk, Selectmen's Representative Ella Jo Regan, Felix Barlik, Dan Hudson, Doug Isleib, David Russell, Alternate Members David Clairmont, Marty Martindale; and Planning Administrator Lynne Brunelle.

**Absent:** Nancy Girard & Pamela Fecteau

Acting Chair John Funk opened the meeting at 7 p.m. and explained public hearing procedures. At this time, the Chair acknowledged Building Inspector/Code Enforcement Officer Bob Flanders, who was also in attendance.

**PUBLIC HEARING – Update Building Codes: Purpose** - To bring the Codes up to date in order to maintain a favorable insurance rating by adopting the 2005 National Electric Code, as amended; the 2006 International Building Code w/Appendices, as amended; the 2006 International Residential Code w/Appendices, as amended; and all other Codes as adopted by reference by the State of New Hampshire.

Building Inspector Bob Flanders addressed the Board and referenced the Town's Insurance Standards Organization or ISO Rating. The town was rated a 9 out of 10 being the worst, and because he was enforcing the recent building codes, the ISO Rating was improved to a 5, which will save the residents approximately \$50,000 on homeowners insurance collectively. If the codes that are being enforced are more than 5 years old then it will impact the ISO Rating by reducing it one point per year. The codes are reviewed and/or updated every three years, i.e. 2000, 2003, 2006; there is a one-year difference between the Building Code and the Electric Code cycle i.e. 2002, 2005, 2008.

The State of NH adopted the 2005 National Electrical Code a year ago in July, and they may update the International Building Code to 2006, but there's no guarantee that it will go through the Legislature this year. The reason why the State didn't adopt the 2006 Codes is because the Code Books were not available at the time the legislation was proposed in October 2005; therefore, the Legislature decided not to adopt the 2003 Codes. D. Russell concurred that the only reason why the State stayed with the 2000 Code was to make it less confusing. By adopting the 2006 IBC, the Town will still be able to retain the better ISO Rating, even in the event it doesn't pass with the State. Mr. Flanders continued that the State did not adopt the appendices with the new codes and he thinks it's very important for the town to do so.

D. Isleib asked if the codes differ from town to town? Mr. Flanders indicated that each town may adopt stricter regulations than what the state has adopted. He referenced two 4" binders containing the codes, which obviously would be too much to copy; however, he is willing to assist anyone with questions.

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It is a loose-leaf binder and he would be more than happy to make copies of a specific section. He continued that the Town Builders Packet also contains information pertaining to the codes being followed. The town used to follow the BOCA codes, but now there is a State Coalition to apply a uniform code throughout state. He is also a member of the State Building Officials Association, which meets monthly to assess the application and consistency of enforcing the codes.

At this time, the Chairman opened the floor for public input.

Brett Currier was in attendance and stated that every year there seems to be another proposal to improve the town's ISO rating. He continued that he owns a camp in Stewartstown, equivalent to the house he owns in Gilmanton, and the insurance is the same and they have no building codes. He would like to see proof of the proposed savings. Mr. Currier stated that surrounding towns are going by the 2000 Code, the same as the State, and is supported by the NH Home Builder's Association. He thinks that the town should wait for the State to adopt the 2006 Codes so everyone is on the same page and it doesn't confuse the contractors. Mr. Currier stated for the record that he is adamantly against the proposal.

Mr. Flanders responded that in October of 2005, the Legislature learned that the 2006 Code Books would not be available until February 2006. The Senate could not accept the House Bill without the books, so instead of adopting the 2003 Codes to only change it again, they left the 2000 Codes in place. So if the town doesn't adopt the 2006 Code this year, it will need to be adopted next year. Mr. Flanders indicated that the State did not adopt the Appendices, which are very important and part of the reason for this proposal.

D. Clairmont asked how many Appendices are being proposed for adoption? Mr. Flanders stated that all of the Appendices need to be adopted. D. Clairmont asked if the town can adopt the Appendices only? Mr. Flanders responded that it would be somewhat awkward and confusing to enforce the Appendices without the Codes, and he would rather be consistent.

F. Barlik stated that if the State is going by the 2000 Code without the Appendices, then shouldn't the town adopt the 2000 Appendices, instead of the 2006 Code? Again, Mr. Flanders referenced the ISO Rating and indicated that the town wouldn't be able to retain the rating of 5.

D. Hudson informed those present that he attended the meeting in which the State Fire Marshall was present and had inquired about the Appendices. The Fire Marshall indicated that the State probably would not adopt the Appendices due to political reasons. He also asked if it would be appropriate for the town to adopt them and the Fire Marshall advised the town to do so.

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Mr. Flanders stated that some examples of Codes that are addressed in the Appendices include venting methods for gas systems, gas piping, electrical wiring for pools and spas, sprinklers, etc.

D. Clairmont stated that if the surrounding towns are using 2000 Codes, then maybe Gilmananton should remain at 2000 to keep things as uniform as possible. Mr. Flanders responded that there are many towns utilizing the 2003 Codes and they will eventually be using the 2006 Codes. E. Regan suggested that copies of the updated codes may be obtained in the office and an experienced contractor should be able to adapt.

D. Isleib asked if the State is going by the 2005 National Electric Code and the 2000 International Building Code? Mr. Flanders stated that was correct. D. Isleib asked if the homeowners would benefit from the savings if their houses were built prior to this time? Mr. Flanders stated that any changes or renovations would need to conform to the new code, but the entire Town would benefit from the higher ISO Rating.

Mickey Daigle was in attendance and asked what the significant changes are between the 2000 and 2006 Codes? Mr. Flanders responded that some of the changes include that building permits are not required for structures under 200 s.f.; but this doesn't affect Gilmananton. He indicated that the changes are shown in the Code Books by a vertical line, therefore, they are easily identified. D. Hudson stated that the biggest modification is the adoption of Appendices A through Q, which include many important items.

Mickey Daigle was in attendance and referenced "Appendix I: Private Sewerage Disposal" and "Appendix J: Grading" and asked how that would effect him. Mr. Flanders stated that Appendix I would be addressed by the State of NH DES regulations, and Appendix J involves the grading of the first 10' requires a minimum of 6" sloping away from the foundation, which is a very minor change.

F. Barlik asked if a contractor was used to working with the 2000 Code, would he have to look at both 2003 and 2006 Codes in order to understand the changes? Mr. Flanders stated that this would be correct in some cases, but all the Code Books in the office indicate the changes.

J. Funk asked how much of the binder is the actual Code and how much the Appendices, and asked if the State has ever adopted the Appendices? Mr. Flanders responded that the State has never adopted the Appendices and that approximately 95% is Code and 5% Appendices.

Mr. Currier asked if the Appendices allow for more judgment on the part of the Code Enforcement Officer and if the Codes are more "cut and dried"? Mr. Flanders responded that the Code itself gives prescriptive requirements, and the Appendices require no more interpretation than the Code.

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He suggested that there may be more detail in the Appendices, for example piping for gas appliances is not available in the Code but is available in the Appendices. Another example is the grounding of electricity to a swimming pool or spa is very important but it is not addressed in the Code but is in the Appendices.

With no further input from the public, the Chairman entertained a motion to close the public hearing. **Motion:** F. Barlik moved to close the public hearing, seconded by E. Regan. Motion carried unanimously.

**PUBLIC HEARING – National Flood Insurance Program: Purpose** - To amend Zoning Ordinance Article II, “Districts” and Article III, “General Provisions Applicable to All Districts” to establish a Floodplain Management Ordinance that will qualify the Town for enrollment in the National Flood Insurance Program.

Acting Chair J. Funk opened the public hearing and acknowledged Fire Chief Tim Robbins, who was in attendance to address this article.

Chief Robbins explained that in order for the town to be eligible for National Flood Insurance Program (NFIP) there are four steps to follow. The Selectmen have already completed the Application for Participation and adopted a Resolution of Intent. The next step is to amend the Zoning Ordinance and adopt the model Floodplain Management Ordinance. Finally, if this passes at Town Meeting, then the Site Plan and Subdivision Regulations need to be amended to incorporate the language required.

Chief Robbins conveyed that there exist two flood zones in town: River Road and Nighthawk Hollow Drive. This ordinance will allow people living in those areas to obtain flood insurance at a regulated rate. It does not cost the town anything to be included in the NFIP.

Bob Flanders indicated that he has worked in many towns included in the NFIP and by being included, the town will receive the benefit of mutual aid from local communities as well as being eligible for compensation by the Federal Emergency Management Administration (FEMA).

E. Regan asked if there are new floodplain maps? Chief Robbins stated that he does not believe there are updated maps.

D. Isleib asked if this would affect building permits and/or codes, and if so, will their insurance be for the pre-existing condition? Mr. Flanders responded that the ordinance should not affect existing structures, but any new construction would need to comply. One of the new conditions would be knowing the elevation of the house so that the first floor of a new structure would be above that elevation. Therefore, there will be additional steps required for new construction of buildings and/or septic.

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F. Barlik asked Chief Robbins if he's satisfied with the proposed language. The Chief responded that he is fine with the proposed language and that Lynne has already forwarded the draft to Jennifer DeLong at the State of NH and found it acceptable.

There was no input received from those members of public present.

**Motion:** F. Barlik moved to close the public hearing, seconded by D. Isleib. Vote passed unanimously.

**PUBLIC HEARING – Zoning District Boundaries: Purpose** - To amend Article II.C. of the Zoning Ordinance, "Zoning Boundary Districts" to clarify that the frontage or point of access of a lot shall determine the applicable Zoning District.

J. Funk opened the public hearing and explained the reason for the proposal was because of issues that have arisen in determining where a property is located when it straddles two zones. He then read the specific language into the record as: *The frontage or point of access shall determine the applicable Zoning District. In the event that there is insufficient frontage or acreage for that district, then the more restrictive requirements shall apply.*

E. Regan explained that there were two recent incidents that were brought to the Board's attention where the properties were located partially in the Rural Zone and in the Village Zone. She believes that the proposed amendment will help clarify the regulation and its application.

There was no input received from those members of public present.

**Motion:** F. Barlik moved to close the public hearing, seconded by E. Regan. Vote passed unanimously.

**PUBLIC HEARING – Sanitary Protection: Purpose** - To amend Article III.A. of the Zoning Ordinance, "Sanitary Protection" to protect surface and groundwater by requiring that an existing septic system be evaluated whenever a structure is being improved to determine the adequacy of the existing system for the current and/or proposed uses.

J. Funk opened the public hearing and explained that the Building Inspector suggested the proposed amendment based on his experience with properties having older existing systems with no approved septic design on record. This is an effort to catch the systems that are not adequate by requiring that a new design be performed, but would not require its installation unless the existing system fails. Basically, this is an attempt to give the town the opportunity and authority to look at old, inadequate systems to the benefit of the property owner, their abutters and the environment.

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F. Barlik asked about a hypothetical case where somebody has an older septic system and wants to add two bedrooms. What should they do? Building Inspector Bob Flanders explained that before a building permit could be issued for the addition, the applicant would be required to obtain an adequate design to support the additional load, but would not be required to install it. Mr. Currier interjected that this is not true; the new design must be installed before the applicant could obtain a building permit. Mr. Flanders responded that a State approved septic design is good for four years and the State of NH DES maintains that it does not need to be installed until the existing system fails. In other words, the Building Inspector has a guarantee that the property can support the increased impact.

D. Isleib referenced the State of NH Env-WS 1003.10 regulating the repair and replacement of existing systems. He quoted that “in order to expand existing number of bedrooms listed on your State Septic Approval, you must get new design prepared by a licensed designer and approved by the State. You may continue to use the existing system until it fails.”

D. Russell commended the Building Inspector for recommending the amendment and there is a House Bill being proposed that is almost identical to this one.

D. Clairmont asked if the applicant presents a new design do they also need a septic evaluation? Mr. Flanders responded that if there is an approved plan on record there’s no reason for an evaluation because it’s the older systems that need to be evaluated. J. Funk stated that the intent of the proposal was that there be an evaluation, if needed, but it does not state that there needs to be a plan on record. Planning Administrator Lynne Brunelle suggested that this could be further clarified in the Builders Packet, which is adopted by the Board of Selectmen.

Mr. Currier referenced the proposed language and inquired why would a foundation increase the load? Mr. Flanders informed him that the structure would need to meet the required setbacks with the foundation versus without. Mr. Currier thinks this should be clarified in the article and is concerned that there may be interpretation issues depending upon the enforcing authority. Mr. Flanders stated that this allows the town the mechanism to require a replacement system, if the current one fails.

**Motion:** D. Russell moved to close the public hearing, seconded by D. Isleib. Vote passed unanimously.

**DELIBERATION/DECISION:**

Planning Administrator Lynne Brunelle advised the Board that only non-substantive changes may be made to the proposed language because this is the last public hearing before Town Meeting.

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**Article #5 – Sanitary Facilities:** Lynne conveyed Town Counsel’s suggestions to insert the proposed the language at the end of Section III.A. as its own paragraph. It was also suggested that the word “otherwise” be removed as it does not change the intent. The Board members agreed and the following decision was rendered:

**Motion:** F. Barlik moved to place the amendment to Article III.A. of the Zoning Ordinance on the ballot. E. Regan seconded, motion carried 5-0.

**Article #4 – Zoning District Boundaries:** The Board members concurred with the language as proposed and the following decision was rendered:

**Motion:** D. Russell moved to place the amendment to Article II.C. of the Zoning Ordinance on the ballot as presented. F. Barlik seconded, motion carried 5-0.

**Article #3 – Floodplain Management Ordinance:** The Board members concurred with the proposed ordinance as presented and the following decision was rendered:

**Motion:** E. Regan moved to place the amendment to Article II & III of the Zoning Ordinance to establish a Floodplain Management Ordinance on the ballot as presented. D. Isleib seconded, motion carried 5-0.

**Article #2 – Update Electrical/Building Codes:** Discussion occurred regarding whether to include the 2005 Electrical Code or just the Appendices. The Board determined that this would be a significant change and that it either needs to be placed on the ballot as presented, or not at all. The following decision was rendered:

**Motion:** D. Hudson moved to place the amendment to adopt the updates to the Building and Electrical Codes on the ballot as presented. E. Regan seconded, motion carried 5-0.

**OTHER BUSINESS**

**Next Meeting:** Lynne reminded everyone that the regular monthly Planning Board meeting is this Thursday 2/8/07.

**ADJOURNMENT**

On a motion made by D. Russell and seconded by E. Regan, vote passed unanimously. Meeting adjourned at 8:55 p.m.

Respectfully submitted,

Lynne R. Brunelle

*The minutes were approved by unanimous vote at the Planning Board’s 3/8/07 meeting.*