

**Town of Seven Devils
Planning Board Minutes
January 17, 2023
5:30pm**

The Seven Devils Planning Board met on Tuesday, January 17, 2023, at 5:30pm.

Planning Board members in attendance included: Richard Blonshine, Jim Jones, Stu Ryan, John Wells IV & Mark Williams. A quorum was met.

Absent members – Walt Hogan & Joan Streightiff – *Clerks Note – Member Streightiff viewed remotely, but without participation and not counted towards quorum.*

Staff in attendance: Eddie Barnes-Zoning Administrator, Jonathan Harris-Town Manager. The minutes were recorded by Hillary Gropp-Town Clerk.

Call to Order

Zoning Administrator Barnes called the meeting to order at 5:35pm.

Oath of Office

Town Clerk Gropp administered the oath to new/reappointed board members.

Election of Chairperson

Zoning Administrator Barnes opened the floor for nominations of Chairperson.

Member Blonshine made a motion to nominate Jim Jones as Chairperson; Member Ryan seconded the motion. All members agreed. The gavel was turned over to Chairperson Jones.

Election of Vice Chairperson

Chairperson Jones opened the floor for nominations of Vice Chairperson.

Member Williams made a motion to nominate Joan Streightiff as Vice Chairperson; Member Wells seconded the motion. All members agreed.

Approve minutes – September 20, 2022

Member Wells made a motion to approve the Planning Board minutes; Member Williams seconded the motion. All members agreed.

Old Business

A. Update of Rezoning Applications – Cottom

Chairperson Jones and Zoning Administrator Barnes provided the following update.

Town Council held a public hearing on the three (3) rezoning applications on Tuesday, December 13, 2022. After discussion held at the Town Council meeting on December 13, 2022, Town Council requested a revised map better reflecting visually the proposed changes. Town Council tabled the items.

At the January 10, 2023 Town Council meeting Zoning Administrator Barnes supplied the embedded map below to Town Council indicating better representation of the parcels, acreage, and rezoning requests, as well as current zoning.

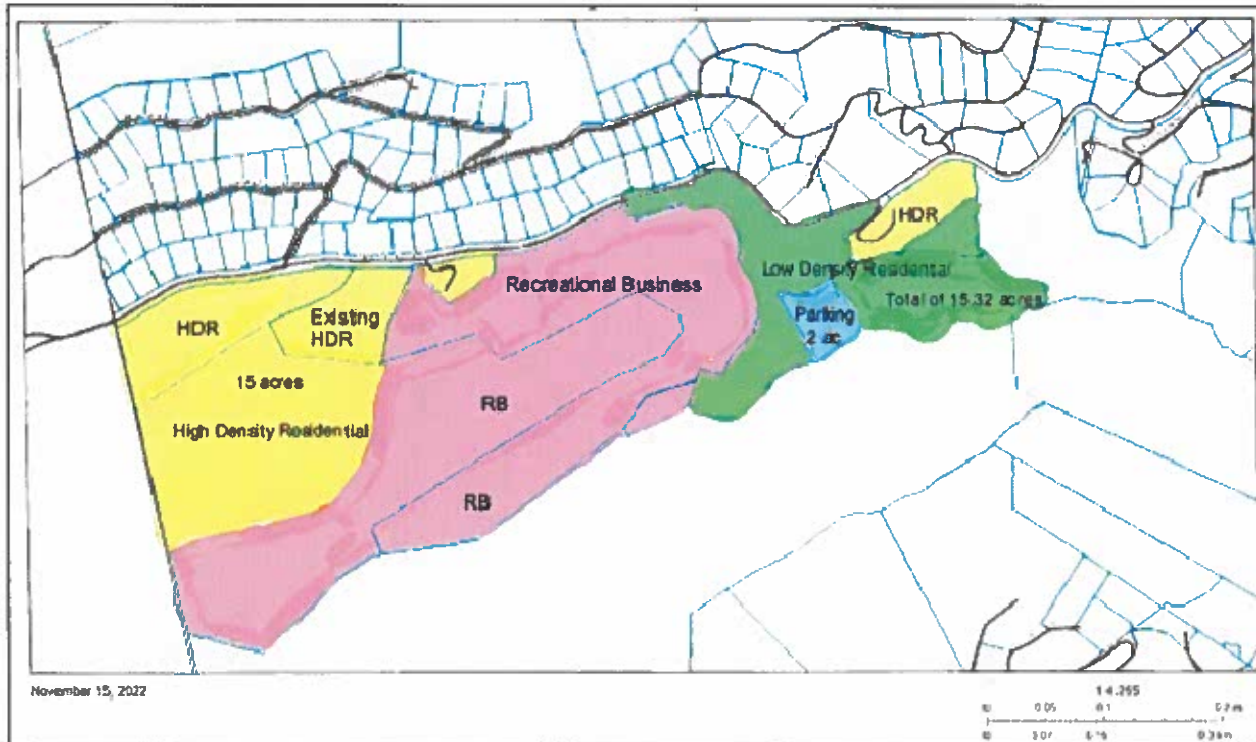
A recap of the increase dwellings for each rezoning request was discussed.

(1) HDR to LDR – 17.32 acres, less the 2 acre parcel, will cause an increase of 15 dwellings.

(2) RD to MDR – 25.5 acres is N/A as Applicant has withdrawn this request.

(3) RB to HDR – 21.23 acres reduced to PB Alpha of 15 acres abuts current zoning of HDR 4.5 acres with total of 19.50 acres and allows for 117 dwellings.

The action of the Town Council on January 10, 2023 reverts the map back to Planning Board with request of Planning Board approval of map and reflecting the previously forwarded action by Planning Board meeting held on September 20, 2022 and thus recommendation to the Town Council.



Planning Board Member Williams inquired about the two (2) acre parcel for the Otter Falls parking, as he understood all three (3) applications would need approval for donation of the 2 acres. Chairperson Jones stated the Applicant Cottom amended the 3 application requests to be in accordance with the recommendation and approval by the Planning Board.

Chairperson Jones replied the 2 acres parcel for Otter Falls parking is a separate discussion item for the Town Council, not the Planning Board. Zoning Administrator Barnes agreed, this discussion is for rezoning map.

Chairperson Jones asked if the Planning Board needs to make a motion for this tonight. Zoning Administrator Barnes replied in the affirmative.

Chairperson Jones opened the floor for a motion.

Member Wells made a motion to deny the request.

Town Clerk Gropp asked for clarification of the motion, to deny review of the map?

Member Wells stated that upon his personal reflection in the past four months of the Planning Board's decision, of which he was a participant as a member, he does not think the Cottom's 3 applications uphold the value or vision statement of the Town.

Town Clerk Gropp inquired again for specifics of the motion. What is the motion of denial for?

Chairperson Jones stated the motion should be for the acceptance of the map.

Chairperson Jones then inquired with Zoning Administrator is it possible for the Planning Board to reverse the prior decision made by the Planning Board on September 20, 2022.

Member Wells stated that in his opinion the Town Council sent this back to the Planning Board for review again. He also stated the applicant changed the requests with the amended applications on December 13, 2022. Wells stated he thinks the Planning Board made a mistake and this should be discussed again, not just a map approval.

Chairperson Jones asked Zoning Administrator Barnes if the Planning Board could proceed with another review of the applications, not just a map review.

Zoning Administrator offered that he did not have a decisive answer, and this might be more of a legal question. He stated the Town Council values the opinion and recommendation of the Planning Board, and ultimately the final decision will be with the Town Council to approve or deny the applicant's rezoning request.

Member Blonshine asked that if the Planning Board reopens this for review, would another public hearing be held to inform the citizens. Town Manager Harris stated yes.

Member Williams stated he understands the request presented to the Planning Board tonight is for map review only? Chairperson Jones replied yes, as a map with this detail was not available earlier for presentation and review.

Member Wells reiterated that he does not believe the Town Council is in agreement with the applicant's 3 rezoning requests, even amended, and this has been sent back to the Planning Board to review again, not just rubber stamp a map.

Chairperson Jones explained it is his understanding the Town Council wants a map review and approval.

Member Williams asked the Town Council members in attendance as audience tonight for clarification.

Mayor Fontaine provided a recap of the Town Council proceedings, as well as the parcel swaps with zoning and density. He stated any future development of the land would meet the requirements of the Town's UDO – Subdivision.

Discussion occurred among the Planning Board members with a focus on density. Member Blonshine stated HDR zoning already exists.

Member Ryan acknowledged that he was not involved in the Planning Board decision and wants the Town to preserve the natural environment and find agreement with the applicant. He stated the applicant should be at the Planning Board meeting.

Member Blonshine offered that many of the discussion items tonight are not rezoning, but development items. Member Williams understands that, and surmised that applicant's amended rezoning applications that align with the previous Planning Board's decision might be the most agreeable scenario.

Member Ryan made a motion to approve the map as presented.

No member seconded the motion. Motion failed.

Member Wells made a motion to table this item until the next Planning Board meeting to obtain further site information. Member Williams seconded the motion.

Motion passed 5 yeas - 0 nays

Stu Ryan – yea John Wells IV – yea Jim Jones – yea

Mark Williams – yea Rick Blonshine - yea

New Business

A. Nuisance Ordinance – RV Ordinance

Member Ryan brought this topic to the board for discussion, as the current ordinance does not allow RV parking in Town limits, most specifically Residential zoning. Member Ryan stated to make the Town more family friendly, this restriction limits the ability of owners to have recreational vehicles, including boats, or other trailers parked within a garage. It also limits the ability to use other methods of enclosure, whether a fence, screen, or tarp.

Member Ryan provided suggested changes to the Nuisance Ordinance – Article 13 as detailed below:

highlight = add strikethrough—remove consider elimination/strike

13.1 Purpose

Due to the limited size, ~~and~~ width, and grade of the Town roads, all Recreational Vehicles are prohibited ~~in~~ within the Town of Seven Devils town limits.

13.2 Definitions

Recreational Vehicle means a motorhome, bus, semi-trailers, travel trailer, truck camper, camping trailer, ~~boat trailer~~, van camper, van conversion, horse trailers, with or without motive power for recreational, emergency, or other human occupancy.

13.3 Parking Prohibited

~~It is unlawful for a person to park or leave standing any recreation vehicle on any public street, park, square, avenue, alley or public way in the city, or parked on any vacant lot, or parked in any private yard or driveway.~~

Member Ryan suggested striking the entire 13.3 Parking Prohibited, due to redundancy and conflict with other language within this Nuisance Ordinance.

13.4 Exceptions

Commercial work trailers operated by contractors, (e.g., landscapers, tree arborists, handyman, etc.) are allowed within town limits during normal work hours. Buses or RV's visiting Commercially Zoned (GB Zone) and Recreational Business (RB Zone) ~~businesses-zones~~ are allowed during normal business hours. Small personal recreation vehicles including utility trailers (e.g., ATV's, dirt bikes, small boats, jet skis) are allowed. Riding personal recreation vehicles within Seven Devils town limits is prohibited.

13.5 Violations

Unless otherwise specified, all violations of this chapter shall be an infraction and such persons shall be subject to citation, towing or both. First violation shall be a \$500 fine, and each subsequent day shall be an additional \$500 fine. Violations may be issued by the Town Manager, Zoning Administrator, Police Chief, Police Officer on Duty, or Public Works Director.

Discussion occurred among board members about the pros and cons of altering this existing ordinance.

~NO ACTION TAKEN~

B. Alternative Energy Ordinance

Zoning Administrator Barnes explained a recent Board of Adjustment matter required this existing Town ordinance be applied to the strict language as written, most specifically for a Special Use Permit for accessory solar energy collection systems, small scale. Zoning Administrator Barnes suggested edits as detailed below to be consistent with more updated exceptions or standards to be applied. ~NO ACTION TAKEN~

ALTERNATIVE ENERGY RESOURCES ORDINANCE

Intent

The Town of Seven Devils recognizes the progressive and changing needs for alternative energy sources and wishes to illustrate a desire to be proactive in addressing these new sources. The goal is to preserve the health, safety, and welfare of Seven Devils citizens by promoting the safe, effective and efficient use of active solar energy and wind energy systems. Inherent in this goal is the desire to reduce the on-site consumption of fossil fuels or utility-supplied electric energy. The Town's goal of protecting its natural beauty is an important consideration in the substance of this section.

Applicability

This Ordinance shall apply to the use of all alternate energy resources except "temporary energy systems" as herein defined.

Application Requirements: Submittal of a conditional use permit Special Use Permit application as well as a site specific development plan for all systems shall include the following requirements that will be considered by the Board of Adjustment:

- (a). A plan denoting the dimensions of the subject property, proposed location of solar panel(s), the arrangement of solar panels, distance from the roof, pitch of the finished roof, and distance from the proposed site improvements to all property lines. Not Required for Roof mount solar or wind system on existing structure / house
- (b). The site plan should also show the required buffering as outlined in UDO, Article VIII, Section 8.04 (e) and (f); while consideration should be made for reasonable solar access. Not required for Roof mount solar or wind system on existing structure / house
- (c). Submit horizontal and vertical elevation drawings to scale with dimensions.

- (d). Approved solar components: Solar energy system components must have a UL listing and must be designed with anti-reflective glare coating(s) to minimize solar glare.
- (e). Written authorization, when applicable, from the public utility company acknowledging that it has been informed of the applicant's intent to install an interconnected customer-owned generator and that it also approves of such connection(s).
- (f). Compliance with North Carolina Building Code: All active solar energy systems shall meet all requirements of the North Carolina State Building Code and shall be inspected by a building inspector with whom the Town of Seven Devils contracts.
- (g). Compliance with National Electrical Code: All systems shall comply with the National Electrical Code, current edition and any other applicable codes.
- (h). All solar collection devices shall be registered with the Fire Department and registration shall include a map of the solar collection devices and panel disconnect.
- (i). Posting of a performance bond is required on the completed project and must be done within 10 days of approval. The amount, which shall be enough to meet the requirements of (j) immediately below this paragraph shall be determined by an Engineer licensed in the State of North Carolina. **Not Required for small scale roof mount solar or wind systems**
- (j). If the applicant ceases operation of the energy project or begins, but does not complete, construction of the project, the applicant shall restore the site to its previous appearance. It shall be the responsibility of the property owner to maintain any installed solar system. If failure to restore or maintain, the Town of Seven Devils shall have the authority to cash in the performance bond and perform the necessary work to restore the site.

Accessory Solar Energy Collection Systems, Small Scale

Shall be permitted as accessory uses in the Limited Density – LDR, Medium Density – MDR, and Snowcloud – SC Residential Zoning Districts, and Recreational Business - RB District as roof mounted systems to existing structures or facilities provided they comply with minimum design standards outlined below. Ground mounted systems are prohibited. Compliance with applicable standards shall be documented and shown on a site plan and submitted to the Zoning Administrator along with a **Conditional Use Permit** Application for the appropriate review and approval. **Change to Special Use Permit**

(1). Residential Solar Collection. An application for a proposed Small Scale Solar Collector/Energy System located at a residence must meet the following standards as an accessory use:

(a). Roof-mounted solar collector systems shall meet the following location standards:

(i). Roof-mounted accessory solar collectors shall not extend above the ridge-cap or exceed the 35 feet height restrictions for houses in the LDR and MDR zoning districts of the UDO.

(ii). The collector surface and mounting devices for roof-mounted systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built.

(iii). Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.

(iv). Roof mounted systems shall be located so as not to impede the ability of emergency personnel to access the roof for fire-fighting purposes.

(v). Roof mounted systems on pitched roofs shall be mounted parallel to the roof at the same pitch or no greater than 5% steeper than the roof.

(vi). Solar panels shall be placed such that concentrated solar radiation or glare shall not be directed onto other properties or public access areas.

(d). System's solar panels shall be placed such that the concentrated solar radiation or glare shall not be directed onto other properties or public access areas.

(e). Systems shall not cover more than 65% of a flat roof. This allows for the addition of other roof top mechanical or electrical equipment and solar access.

Accessory Wind Energy Conversion Systems, Small Scale shall be conditional as an accessory use in the Limited Density Residential – LDR, Medium Density Residential – MDR, Snowcloud – SC, and Rereational Business - RB as a single system whose main purpose is to supply electricity for on-site consumption. It is essential that a site plan must first be submitted in order to determine if a property is eligible for a wind energy conversion system. Roof mounted systems to existing structures or facilities are easier to regulate provided they comply with minimum design standards outlined below. Compliance with applicable standards shall be documented and shown on a site plan and submitted to the Zoning Administrator along with a **Conditional Use Permit** Application for review and approval by the Planning Board and the Board of Adjustment.

(1). Residential Wind Energy Conversion Systems: **Special Use Permit** A **conditional use permit** application, as well as a site plan, denoting the dimensions of the subject property for a proposed Small Scale Wind Energy Conversion System located at a residence must meet the following standards as an accessory use:

(a). Roof-mounted wind energy conversion systems shall meet the following location standards:

(i). Roof-mounted accessory wind energy conversion systems shall not extend above the ridge-cap of the roof or exceed the 35 feet height restrictions of this ordinance.

- (ii). The wind energy conversion system and mounting devices for roof-mounted systems shall not extend beyond the exterior perimeter of the roof of the building on which the system is mounted or built.
- (iii). Roof mounted systems shall be located so as not to impede the ability of emergency personnel to access the roof for fire-fighting purposes.

Accessory Wind Energy Conversion Systems, Utility Scale shall be conditional as an accessory use in the General Business – GB, for the purpose of on-site consumption in addition to the resale of energy back to the grid. These systems require an environmental assessment by a professional Engineer, licensed in the State of North Carolina. The environmental assessment shall be submitted along with a **Conditional Use Permit Application** to the Zoning Administrator. **special use**

- (a). All wind energy conversion systems shall be located within a protected "fall zone." Towers cannot exceed 100 feet in height. The tower shall be designed in such a manner as to be fully contained within a "fall zone" (distance within fifty (50) feet in any direction from the center point) that will not exceed fifty (50) feet, should it collapse. There shall be no other structures located within the site plan defined area. Distances from the proposed site improvements to all property lines shall be clearly indicated. The setbacks in the zoning ordinance are in addition to the fall zone calculation.
- (b). Acceptable decibels (at the property line) should be no greater than (40dB.)
- (c). Clear cutting of property in order to install an accessory wind energy conversion system shall not be allowed without special permission from the Board of Adjustment.
- (d). If approved, a performance bond, with value determined by a NC licensed engineer, shall be posted on the project and must be done within 10 days of approval. The amount, shall be enough to meet the

Zoning Administrator Barnes provided suggestions to other inconsistencies or outdated language upon reviewing the Town's UDO to be discussed as future Planning Board business. Any updates to the Town's UDO will require a Public Hearing at a future date TBD. **~NO ACTION TAKEN~**

C. Utility Ordinance (proposed)

Zoning Administrator Barnes stated research is being conducted on the ability of the Town to have an enforceable ordinance outlining requirements to designate emergency contacts for dwellings connected to the water supply/absentee owners. This will be discussed at a future Planning Board meeting. **~NO ACTION TAKEN~**

Citizens Comments

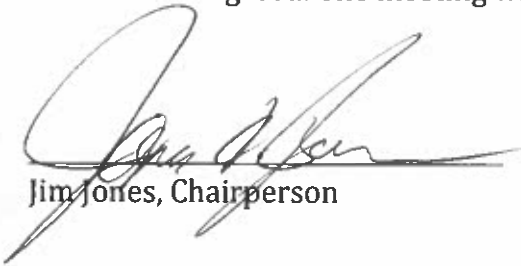
Bob Bridges serves on the Board of Adjustment and explained the role of this board is to apply the Town's ordinances during a quasi-judicial proceeding. The ordinances are applied to both residential and commercial properties. He expressed the importance to the Planning Board that upon considering edits to the Town's ordinances, the results will be reviewed and applied by the Board of Adjustment.

Planning Board Comments

Member Blonshine stated the work of the Planning Board is serious, requires thought, discussion, and tough decisions.

Adjourn

Member Wells made a motion to adjourn the meeting. Member Ryan seconded the motion. All members agreed. The meeting was adjourned at 7:20pm.



Jim Jones, Chairperson



Hillary Gropp, Town Clerk

