

# **PLANNING BOARD ROLES AND RESPONSIBILITIES**

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# Topics

- **Basics**
- **Duties of Planning Board**
- **Subdivision and Site Plan Regulations**
- **Application and Review Procedures**
- **How to Run a Meeting**
- **Master Plan**
- **Innovative Land Use Controls**
- **Questions/Comments**

# Basics – Planning Boards

## RSA 673

- Members must be residents
- 9 members in cities, 7-9 in towns with town councils, 5-7 in other towns
- Appointed by Selectmen or elected
- 3 year terms
- May have up to 5 alternates
- No more than 2 members on same board (in towns)

# Basics - Planning Boards

## RSA 673 (cont'd.)

- 1 year term for Chair; may be re-elected
- Ex officio member cannot be chair
- Must hold at least 1 meeting per month
- Majority of members is quorum
- Chair designates alternates
- Regular alternates can't fill BOS rep seat

# Basics - Planning Boards

## RSA 673 (cont'd.)

- Members may be removed by BOS after public hearing for inefficiency, neglect of duty, or malfeasance in office
- Need written statement of reasons for removal
- Board may appoint employees, contract with consultants, accept gifts and grants in exercise of functions

**We are the Planning Board, not the Wait  
And-See-What-Happens Board!**

**John Lukens (former Salem Planning Board  
chairman)**

# Disqualification

## RSA 673:14

- Any person who has a direct personal or pecuniary interest in outcome of application which differs from other citizens must disqualify him/herself
- Must step down if unable to act as juror in trial
- Only Board members can request advisory, non-binding vote on whether member should be disqualified
- Request and vote must be made prior to or at start of public hearing

# **Juror Standard**

## **RSA 500-A:12**

**Person may not be a juror if he/she:**

- Expects to gain or lose upon disposition of case**
- Is related to either party**
- Has advised or assisted either party**
- Has given his opinion or formed an opinion**
- Is employed by either party**
- Does not appear to be indifferent**



**You can regulate design, and you can regulate good design to a certain degree. What I don't think you can do is regulate to create excellent design. Excellence occurs because you have a culture of excellence, not because you have laws.**

**Peter Park (Planning Director, Denver, Co.)**

# Duties Of Planning Boards

- **State Laws**
  - RSA 674:1 – Duties of Planning Board
  - RSA 674:36 – Subdivision Regulations
  - RSA 674:44 – Site Plan Review Regulations
  - RSA 676:4 – Procedure on Plats
- **Court Cases**
- **Local regulations and bylaws**

# **Duties of Planning Board**

## **RSA 674:1**

- **Prepare and amend Master Plan**
- **Promote interest in Master Plan**
- **Make recommendations for development of community, public structures, municipal improvements**

**Planners need the agility of an acrobat to balance the community's varied interests, the tact of a diplomat to resolve disputes, the mind of an attorney to interpret codes and ordinances, the thickness of an elephant's skin to take verbal potshots, and the instincts of a survivor to work with the many different personalities found on appointed and elected boards. They also sorely need one more skill: a sense of humor.**

**Joanne Garnett (APA President, 1999)**

# Duties of Planning Board

**RSA 674:1** (cont;d.)

- **Consult with and advise public officials**
- **Attend conferences or meetings**
- **Enter and examine land**
- **Recommend zoning amendments**

# **Subdivision Regulations**

## **RSA 674:36**

- **Provide against scattered or premature subdivision**
- **Provide for harmonious development**
- **Require proper arrangement of streets**
- **Provide for open spaces**
- **Accommodate traffic, access for firefighting**

# Subdivision Regulations

(cont'd.)

- **Require parks and recreation**
- **Require land suitable for building without danger to health**
- **Prescribe minimum lot sizes**
- **Create conditions favorable to health, safety, convenience, prosperity**

# **Site Plan Review Regulations**

## **RSA 674:44**

- **Provide for safe and attractive development**
- **Guard against inadequate drainage, flooding, and pollution**
- **Provide for harmonious and aesthetically pleasing development**
- **Provide for open/green spaces**



# Site Plan Review Regulations

(cont'd.)

- **Require proper arrangement of streets**
- **Require sufficient streets to accommodate traffic and access for firefighting**
- **Require that land is suitable for development**
- **Create conditions favorable for health, safety, convenience, and prosperity**

# Site Plan-Subdivision Regulations

- Enforcement
- Outside reviews and inspections
- As-built plans
- Design Standards – architecture, landscaping, signage, lighting
- Creative plagiarism

**Growth is inevitable and desirable, but destruction of community character is not. The question is not whether your part of the world is going to change. The question is how.**

**Edward T. McMahon, The Conservation Fund**

# Rules of Procedure

## RSA 676:1

- Board must adopt rules of procedure (bylaws) for conducting business
- Should address internal procedures such as swearing in of members, organization of Board, time and place of meetings, order of business, who keeps minutes and records, etc.
- Help applicants and public understand process

# Salem's Rules of Procedure

- Terms of office
- Officers
- Vacancies
- Alternates
- Quorum
- Voting
- Order of Business
- Site Walks
- Standards of Conduct
- Agenda Management

# Salem's Rules of Procedure

(cont'd.)

- The primary obligation of Planning Board members is to serve the public interest, and to conduct himself/herself so as to maintain public confidence in the Planning Board and the conduct of its business.
- All discussions between Planning Board members and applicants or their agents regarding matters to be decided by the Board shall take place at public hearings as part of the public record.

# Salem's Rules of Procedure

(cont'd.)

- To avoid conflict of interest or even the appearance of impropriety, any member who may receive some private benefit from a public Planning Board decision must not participate in that decision. The private benefit may be direct or indirect; create a material personal gain or provide an advantage to relations, friends, groups or associations that hold a significant share of the official's loyalty. An official with a conflict of interest must make that interest public, abstain from voting on the matter, and except as specified below, leave the table or podium area when Board members deliberate and vote on a matter. Further, the Board member may not discuss the matter privately with any other Board member voting on the matter or otherwise communicate directly or indirectly with Board members regarding the matter in question so as to attempt to influence the vote on said question.

**Communities should be planned with an eye to the effect on the human spirit of being continually surrounded by a maximum of beauty.**

**Thomas Jefferson**



# **Application/Review Procedures**

## **RSA 676:4**

- **Must issue written decision**
- **Must provide reasons if disapprove plan**
- **Regulations should specify what constitutes completed application**
- **Board determines if application is complete**
- **Must act within 65 days or get extension or waiver**

# Application/Review Procedures

## RSA 676:4 (cont'd.)

- Need public hearing to approve or deny plan, except minor lot line adjustments
- Can impose reasonable fees for expenses and special studies
- May allow pre-application review of plans
- Preliminary Conceptual Consultation
- Phase and Design Review Phase

# Application/Review Procedures

## RSA 676:4 (cont'd.)

- Opportunities for notice and participation should not be impaired
- Court review limited to compliance with constitution and regulations
- Court may reverse decision only if error of law or unreasonable decision
- Intent is fair and reasonable treatment of all parties

**Communities that set higher standards get higher results, but many local officials are afraid to say "no" to poor quality development. Successful communities know that if they reject poor quality development, they will almost always get better development in its place. This is because most businesses will readily meet higher standards to be in an economically profitable location. On the other hand, communities that set no standards compete to the bottom. In my experience, the single biggest impediment to better development is low expectations.**

**Edward T. McMahon**

# Application/Review Procedures

- **Conceptual discussions**
- **Checklists**
- **Staff review**
- **Outside technical reviews**
- **Site visits**

# How To Run A Meeting

- Follow Rules of Procedure
- Stick to the agenda
- Chair should introduce members, read agenda, explain process, control meeting
- All speakers should be recognized by Chair and should address only Board
- Physical setting should maintain order
- Keep all discussion civil

# How To Run A Meeting (cont'd.)

- Prohibit interruptions
- Hear all testimony before commenting
- Avoid taking sides
- Don't bog down in details/distractions
- Allow all members to speak but none to dominate
- Chair should sum sense of Board and prod motions

# How To Run A Meeting (cont'd.)

- Follow standard order of business: applicant presentation, staff report, Board questions, abutter comments
- Set time limit for end of meeting
- Use extra meetings if agenda is backlogged



**One of the things about city planning that a lot of people don't realize is that an awful lot of the time, it's not what you see that says it's a good job. Often it's what you don't see.**

**Allan Jacobs**

# Dealing With Applicants

According to case law, Planning Boards must:

- Provide assistance and advise applicants
- Apply regulations fairly and reasonably
- Not pre-judge applications
- Not make arbitrary decisions

# What Applicants Want

- Tell them what information is required and what rules must be followed
- Consistency
- Reasonable costs
- Timely decisions
- Fair treatment

**Planning without action is  
futile, action without planning  
is fatal.**

**F. Sherkow**

# Master Plan

- RSA 674:1-4
- Duty of Planning Board to prepare and update
- Purpose is to guide future development, aid in designing ordinances, achieve principles of smart growth, sound planning, and wise resource protection
- Backbone of growth management system
- Not a regulatory document

# Master Plan (cont'd.)

- **Shall include Vision Section and Land Use Section**
- **May include sections on:**
  - Transportation
  - Economic development
  - Natural hazards
  - Utility/public services
  - Regional concerns
  - Community Design
  - Implementation
  - Community facilities
  - Natural resources
  - Recreation
  - Cultural/historic resources
  - Neighborhood plan
  - Housing

# Master Plan Preparation

- **Data collection and inventory**
  - Base maps, statistics, inventories, surveys
- **Data analysis and evaluation**
  - What do the facts mean?
- **Plan preparation**
  - Summarize data and analysis
- **Plan adoption**
  - Public hearing, Planning Board vote

# Master Plans in Salem

- 1986 – Consultant, citizen committee
- 1991 – Staff update, citizen committee
- 2001 – Community forum, consultant, Planning Board served as committee



# 2001 Salem Master Plan Process

- Started with public forum in January 2000 attended by 125 people
- Consultant did most of research and wrote plan
- Regional Planning Commission wrote Transportation Chapter
- Public meetings held on each chapter; meeting notices mailed to members of public and posted on local TV channel
- Opinion survey mailed to 2500 households, 602 responses
- Used newsletters and web page to inform public
- Held public hearing and adopted plan on Nov. 13, 2001

# 2001 Salem Master Plan Buildout Analysis

- Analysis of potential for future residential growth
- Used Town's Geographic Information System (GIS) to create a base map
- Mapped all undeveloped land –excluding publicly owned, surface water, prime wetlands
- Applied zoning district density standards to calculate the potential number of dwelling units that could be built on undeveloped land in each district
- Buildout scenario - 2700 additional housing units (25% increase)

# 2001 Salem Master Plan Recommendations

## Future Land Use Recommendations by Sub-area Pelham Road (I-93 to Commercial Drive)

- Buffer residential areas on Pelham Rd. and Brookdale Rd.
- Tie future development to road improvements
- Allow limited retail uses to serve office/industrial employees
- Extend Stiles Road to Lowell Road
- Preserve wetlands and floodplain along Porcupine Brook
- Preserve visual buffers along roadway and Rt. 93

**It is not the strongest of the species that survive, nor the most intelligent, but the one most responsive to change.**

**Charles Darwin**

# **Innovative Land Use Controls**

## **RSA 674:21**

- **Open space-cluster-conservation subdivisions**
- **Impact fees**
- **Inclusionary zoning/workforce housing**

# Open Space Subdivisions in Salem

- Ordinance adopted 1990 with many revisions
- 15 subdivisions approved and built
- Several hundred acres of open space preserved
- Requires 50% of parcel to be undeveloped
- Allows only single family detached dwellings
- Same # lots as conventional plan
- 20% density bonus for 40 acre+ parcels
- Allows 15,000 sf lots on sewer, 25,000 sf on septic

# Problems With Open Space Subdivisions

- Open space is afterthought – unusable land, not visible from street, unclear boundaries
- Lots poorly configured – awkward building envelopes, no trees left, closer together
- Finished product looks worse than conventional subdivision
- Yield plan overstates # of lots allowed

# How To Get Good Open Space Subdivisions

- Visit other projects
- Make sure your ordinance says what you want (and don't want)
- Educate landowners and engineers/surveyors
- Don't settle for bad projects
- Get outside help



**A good plan executed right now is far better than a perfect plan executed next week.**

**George S. Patton**

# **Impact Fees**

## **RSA 674:21(v)**

- **Purpose is to help meet needs for capital facilities created by development**
- **List of approved facilities**
- **Fee must be proportional share of capital improvement costs reasonably related to capital needs created by and benefits accruing to development**
- **Must have CIP to adopt impact fee ordinance**

# Impact Fees

## RSA 674:21(v) (cont'd.)

- **Must be segregated from general fund**
- **May be spent by governing body**
- **Assessed prior to building permit, collected prior to occupancy permit**
- **Must have time limit – 6 years maximum**

# Impact Fees In Salem

- Road impact fees adopted 1994
- School impact fees adopted 1997
- Recreation and public safety fees adopted 2005
- Fees based on reports by consultants
- Fees sent to Town Treasurer and put in special revenue funds
- Millions of dollars have been received
- Fees aren't fair and don't solve problems

# Affordable Housing in Salem

- Affordable Housing Ordinance – adopted 1989, allows up to 50% density bonus based on # bedrooms
- Senior Housing Overlay District - 10% of total units must be dedicated as affordable
- In-law and accessory apartments allowed by right

# Affordable Housing in Salem

(cont'd.)

- **25,000 sf minimum lot size on sewer in Residential District**
- **Open Space subdivisions allow 15,000 sf min. lot size on sewer and 25,000 sf on septic**
- **Many variances for undersized lots**
- **Single family homes defined to allow manufactured housing**

# Problems With Regulating Affordable Housing

- Requires knowledge of complex issues beyond scope of normal Planning Board expertise
- Difficult to define what is affordable
- Hard to enforce affordability
- Increased density does not increase affordability and presents many other problems

**The most efficient way to cope with change is to help create it.**

**Salada Tea Bag**



# References

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**Make no little plans; they have no magic to stir men's blood and probably will not be realized. Make big plans; aim high in hope and work, remember, that a noble, logical diagram once recorded will never die, but long after we are gone will be a living thing, asserting itself with ever-growing insistency. Remember that our sons and grandsons are going to do things that would stagger us. Let your watchword be order and your beacon beauty.**

**Daniel Burnham**