



Canaan Planning Board  
Public Hearing - January 11, 2021  
Virtual Meeting via Zoom  
Minutes

**Call to Order:**

6:30 John Bergeron called the meeting to order. The meeting was opened with attendees attending via the Zoom app.

**Members Present:**

John Bergeron, Claude Lemoi, David McAlister, Thomas Oppel, Chuck Townsend, Christopher Wadsworth, Andy van Abs, Richard Clancy (PB Alternate).

**Others Attending:**

Elizabeth Jutila, Susan and Robert Nero, Tom Milligan, George Foley, Bill Vanzandt, Cameron Patria, Jerry Brightman, Bill Stone, Mike Roy, Kevin Schwamb, Tony Arsenal, Mike Samson, Gus Means, Joanne Whalen, Rita Forbush, Sandra Hayden, Chris Wolcott, Joe Frazier

**Public Hearing to Receive Testimony and Comments on Proposed Zoning Ordinance**

John Bergeron opened the meeting for discussion of the proposed Zoning Ordinance. It would create a single zoning district that would be coterminous with the already existing Canaan Historic District. The proposed zoning would regulate, within that single zoning district, permissible uses, dimensional requirements, nonconforming uses and structures, signage, and special exceptions. It would also include a new definition of Accessory Dwelling Units. The proposed ordinance can be viewed at the town office or at this link: <https://tinyurl.com/ADU-HDC>.

6:32 John Bergeron opened the public hearing and used PowerPoint slides to introduce the draft Zoning Ordinance.

Kevin Schwamb wanted to know if there would be changes in Historic District procedures. John Bergeron said that the procedures for aesthetic changes would be unchanged, but that dimensional and use changes would go through the Zoning Board of Adjustment (ZBA), only when they don't meet requirements.

Gus Means questioned the 100' lot frontage requirement specified for the Historic District. John Bergeron noted that the frontage requirement and minimum lot size are for new lots, and that existing lots would not be affected.

Chris Wolcott asked about appealing a non-conforming use. John Bergeron explained that under the zoning ordinance a finding of a non-conforming use could be appealed to the ZBA.

Joanne Whalen said the one-year time limit on replacement of existing non-conforming structures was so short that in some situations landowners would be unable to comply. Mike Samson said that the time limit would only apply to the replacement of legally non-conforming structures existing at the adoption of the ordinance and destroyed by fire or another natural disaster. Planning Board members acknowledged that they could foresee cases where a one year limit would cause difficulties, and suggested

alternatives of two years, the possibility of petitioning the ZBA for renewal of the time limit, or a five-year time limit.

Bill Vanzandt asked why any change to the existing ordinance was necessary. Mike Samson pointed out that regulation of changes to property is legally a 'taking of property' and that Canaan's Town Counsel has said that there has to be a process for appeal of such changes after Historic District decisions. The Historic District Commission (HDC) resisted making this change. Finding no alternatives that could preclude the changes for which the lawyer presented a need, the HDC brought the changes to the Planning Board. The Planning Board brought the proposed changes to the ordinance to the Town Legal Counsel. The attorney then modified them and affirmed that the changes would have to entail a zoning ordinance, not just changes to the Historic District Regulations.

Bill Vanzandt asked why the change is needed now. Mike Samson said that the Town does not need the change, but pointed to the danger of having regulations that can be complicated to enforce. The ordinance provides a methodology for enforcement of dimensional and use requirements that are customarily enforced throughout NH under zoning authority..

Bill Vanzandt asked if the ordinance was creating an opening to enact town-wide zoning. John Bergeron replied that the intention of the ordinance was only to do what the attorney said was necessary, and that was to move certain Historic District Regulations into zoning for the Historic District and impose no rules elsewhere in town. (I don't recall the following, but edited it to be factual. Samson may have discussed this topic.)

Tony Arsenal asked whether the issue is not only about enforcement of regulations but also about the procedure for appeals. John Bergeron said that appeals already can go to the ZBA. The courts will not accept an appeal, unless it has been first presented to the ZBA.

There being no further comments or questions, John Bergeron declared that the public hearing would be continued to Jan. 25, 2021.

### **Planning Board Discussion of Changes to the Proposed Zoning Ordinance**

It was pointed out that "property boundary" should be inserted in the document in section III. C. iii. of the proposal, and Mike Samson made the change in the controlling document.

The Planning Board discussed the one-year limit on replacement of non-conforming structures specified in VI. B. ii. John Bergeron moved that the limit be changed to 5 years, with the caveat that the attorney may not approve of the change. Claude Lemoi seconded the motion and those voting for the motion were; John Bergeron, David McAlister, Claude Lemoi, Andy Van Abs, Chuck Townsend and Tom Oppel. Chris Wadsworth was recorded as abstaining.

Section III. B. v. includes "Home Businesses" as a permitted use within the Historic District. After discussion of changing that to include commercial use, no motion was made and the proposed ordinance was unchanged.

The Planning Board discussed the proposal to have the proposal define three districts; the Historic District, a village district and a rural area district. There was no support for making the change.

Chuck Townsend had asked whether it made sense to delay presenting the zoning ordinance until the floodplain had been updated. Mike Samson showed that existing land

use ordinances are only described as being incorporated into the zoning ordinance if it is enacted. Chuck Townsend withdrew the suggestion.

John Bergeron noted that the State uses the term 'manufactured home' in its laws rather than 'mobile home', and the Board agreed that the ordinance should be changed to use that language.

In the definition of lot frontage, the Board agreed that the inclusion of 'Class V' roads was redundant and should be removed.

Because the term 'Municipal Right of Way' is not used elsewhere in the proposed ordinance, the Board agreed that its definition should be removed from section X.

#### DEFINITIONS.

Claude Lemoi moved that the continued session be scheduled via Zoom for 10:00 A.M. on January 25. Chuck Townsend seconded the motion and all Planning Board members voted in favor of the motion.

#### **Adjournment**

8:50 Chuck Townsend moved and Tom Oppel seconded the motion to adjourn the meeting. All Planning Board members voted to accept the motion.

#### **Respectfully submitted:**

Chuck Townsend, Secretary