



TOWN OF STRATHAM

Incorporated 1716

10 Bunker Hill Avenue · Stratham, NH 03885

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Select Board's Office/ Administration/ Assessing 603-772-7391

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PLANNING BOARD MEETING AGENDA

November 15, 2023, 7:00 pm

Stratham Municipal Center

10 Bunker Hill Avenue, Stratham NH

1. Call to Order/Roll Call

2. New Business:

a. Discussion of Proposed 2024 Zoning Amendments:

1. Housekeeping amendments to Home Occupation Ordinance
2. Revisions to Conditional Use Permit Criteria
3. Revisions to Residential Cluster Open Space Development requirements
4. Revisions to Route 33 Heritage District
5. Revisions to Building Ordinance
6. Housekeeping amendments to Definitions
7. Potential exemption from Planning Board review for small residential ground-mount solar energy systems
8. Potential exemption from some setback requirements for small sheds on residential lots
9. Discussion of Wetlands Conservation District

b. Miscellaneous Community Planning Issues

3. Adjournment

No new agenda items will be heard after 10:00 pm subject to the discretion of the Planning Board Chair. Full text of the agenda and related information can be found on file with the Stratham Planning Department and posted on the Town website at <https://www.strathamnh.gov/planning-board>. All interested persons may be heard. Persons needing special accommodations and/or those interested in viewing the application materials should contact the Stratham Planning Department at (603) 772-7391 ext. 180.

2024 Proposed Zoning Ordinance Amendments
September 18, 2023 Revised November 14, 2023

1. Clarify work that requires a building permit and the definition of ‘structures’ that must meet the Town’s property setback requirements.

a. Relevant Zoning Ordinance Sections:

- i. 2.1.79 Definition of “Structure”
- ii. 16.2.1 “Permit Required”

Discussion: The 2018 International Building Code exempts buildings under 200 square-feet from requiring a building permit. However, the Town has traditionally required building permits for such projects. Many towns exempt small sheds from needing to meet the side/rear setback requirements. Additionally, the Town’s definition of ‘structure’ is quite broad. In order to reduce confusion, staff would recommend the Board clarify what projects require building permits and must meet the Town’s setback requirements.

2.1.79 Structure: Anything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground. Structure including but not limited to, buildings, mobile home, bridges, trestles, towers, framework, hoop houses, tanks or group of tanks exceeding a total of 500 gallons (excluding septic tanks), tunnels, stadiums, platforms, shelters, piers, wharfs, **signs**, fences **over six-feet in height**, and retaining walls over **six-feet (6’)** in height, swimming pools, or the like. Where Stratham Zoning Ordinance is silent, then the most current edition of the State Building Code shall be assumed to apply. (Rev. 3/90, 3/11, 3/20).

Legal Requirements to Consider: Under a new state law, the Town must submit proposed amendments that relate to the Building Code to the State Building Code Review Board to confirm that they are not in conflict with, or less stringent, to the State Building Code. The Town cannot adopt requirements that are less stringent than the state code or in direct conflict with it, however it can make some regulations more stringent.

One necessary amendment to the definition of structure is to require 4-foot retaining walls to file a building permit. This is a requirement of the ICC Code and the Town cannot be more lenient than the State Building Code.

Questions for the Planning Board to consider:

- b. Is the Board amenable to reducing or eliminating the side and rear setback requirements for small accessory structures? *i.e. some towns exempt buildings under 120 square-feet and under 12-feet in height.*
- c. Is the Board amenable to exempting children’s play structures from the side/rear setback requirements? *Note that in 2021, the Zoning Board found that a swingset was not subject to the Town’s setback requirements.*

Potential new zoning section:

5.14 Small Accessory Structures

- i. Small accessory structures or sheds less than or equal to 120 square-

feet in area may be constructed within five (5) feet of a side and/or rear property line if all criteria in 5.14.2 are met.

- ii. Criteria:
 - a. The shed shall not contain a poured concrete foundation or slab.
 - b. The height of the shed shall not exceed 12 feet as measured to the roof peak.
 - c. A maximum of one shed per parcel shall be allowed under this section.
 - d. The shed shall not be constructed within the 50-foot vegetated buffer strip that is required to be maintained along the external perimeter or property line of a Residential Open Space Cluster Development.
 - e. A building permit application shall be submitted and approved by the Building Inspector prior to the start of construction.

Staff would also recommend some modifications to the Shoreland Protection District to allow small accessory structures meeting all of the above criteria within wetland setback areas.

2. Clarify when a property survey/wetland delineation is required for smaller building projects?

Discussion: For smaller residential building projects, the Building Inspector has traditionally permitted an older plan or aerial image with property boundaries to serve as documentation that the application meets the property and wetland setback requirements. However, it is impossible to confirm with certainty that a project meets the setback requirements, including the wetland setback requirements, without a property survey. This is particularly relevant for wetlands as they can change over time. It is not uncommon for information to come to light that past building projects were constructed that encroach into property setbacks.

However, a survey requires a substantial investment and may be a hardship for some homeowners.

Based on the Planning Board discussion at the September 20, 2023 meeting, there appeared to be support on the Board to revise the language to make clear that the Building Official has the authority to require a survey plan to verify that a building permit application does not conflict with the Zoning Ordinance requirements, including the structural setback requirements.

To accomplish this, staff would recommend amending the Building Ordinance as follows

BUILDING ORDINANCE - ARTICLE III: PERMITS

3.5 No building permit shall be issued until the Building Inspector has certified that the proposed building or structure and its intended use comply with the provisions of ~~this~~ the Stratham Zoning and Building Ordinances.

3.10 Before issuance of a Building Permit, the Building Inspector may require that property lines be properly established when not readily apparent, in accordance with the Town's Subdivision Regulations, by a registered surveyor. (Rev. 3/90)

3.10 Prior to the issuance of a building permit, the Building Inspector may require, at his or her sole discretion, that a plan be prepared and stamped by a licensed surveyor to confirm that the application meets the requirements of the Stratham Zoning and Building Ordinances, including all relevant dimensional requirements (4.2 Table of Dimensional Requirements). The Building Inspector may also require that a plan be prepared and stamped by a licensed wetland scientist to confirm that the application meets the requirements of the Stratham Wetlands Conservation District and Shoreland Protection District of the Stratham Zoning Ordinance.

3. Clarify Home Occupation permit approval process including process for renewals.

Discussion: Stratham requires most home occupations to obtain a Special Exception from the Zoning Board of Adjustment and to undergo a renewal process every three years. Staff would recommend that the Ordinance clarify the process to begin operating a home occupation, including that the use meets applicable building/life safety code requirements and meet any required conditions required by the ZBA and obtain a Certificate of Occupancy before beginning operations. Additionally, staff would recommend the Ordinance outline the timeframe necessary for submitting a renewal application and require an inspection at the time of renewal to confirm that the home occupation is operating in accordance with its approvals.

Other proposed modifications: Cap the size of a home occupation at no more than 1,000 square-foot (the Ordinance currently allows any size home occupation so long as it does not exceed 25 percent of the size of the residence), and allow home occupations exempt from the Special Permit requirements to be served by periodic deliveries (the Ordinance currently restricts such home occupations from all vehicle traffic).

Red-lined edits are included below:

5.12.2 (excerpt)

- a. The total area occupied, including storage in accordance with “f” below, by a home occupation shall utilize an area of no more than twenty five percent (25%) of the total floor area of finished floor space of the dwelling, including the basement if finished as habitable space, **or no more than 1,000 square-foot (whichever is less)**, and does not change the residential character of the premises thereof. (Rev. 3/19)

5.12.3 (excerpt)

- b. Before special exception is granted, mandatory building inspections shall be made by the Code Enforcement Officer **for any home occupation regulated under this Section.**~~if the public is to be served at the proposed location or if hazardous materials are to be stored there.~~ **At or immediately subsequent to the inspection, the Code Enforcement Officer will make the applicant aware of any life safety/building code improvements necessary to operate the home occupation.** In addition, a formal site plan review by the Planning Board may be required if deemed necessary by the Zoning Board of Adjustment and/or Code Enforcement Officer.
- c. Upon the granting of the special exception, **the applicant shall be required to address any conditions of the special exception and other necessary improvements required by the Code Enforcement Officer. Prior to the**

start of operation, the applicant shall schedule a final inspection with the Town. If the proposed use meets all requirements of the special exception and those required under life safety/building codes, the Code Enforcement Officer shall issue a Certificate of Occupancy for the home occupation. Only home occupations with a valid Certificate of Occupancy may operate in Stratham. ~~an application for a home occupation permit shall be made to the Building Department on a form provided by the Building Department.~~

- d. All home occupation permits shall be issued for a period of three (3) years and may be renewed provided there is no violation of the provisions of Section 5.12. Requests for renewals shall be submitted to the Building Department **within three years of the date of the original Certificate of Occupancy** accompanied by the renewal fee as approved by the Select Board. The Code Enforcement Officer shall conduct an inspection of the home occupation prior to the approval of a renewal to ensure the use is operating in conformance with its Town approvals. **The Town will mail one notice alerting the applicant of the need to renew the permit. The applicant shall be provided a 90-day grace period to file a renewal application. If no renewal application is filed within this period, the Certificate of Occupancy shall expire, and the home occupation must cease operation.**

5.12.4 Exemptions from Special Exception Application Requirements:

- ~~a. Home occupations in which neither customers nor vehicles, apart from periodic business deliveries, come to the location where the business activity takes place and at which no sign is displayed and no outside person is to be employed and there is no outward appearance of business activity.~~
- b. Home occupations which meet all of the following criteria shall be considered exempt from these requirements and may operate without a special exception:
 1. The business activity does not generate any additional traffic, including no customer and/or supplier traffic, apart from periodic business deliveries. Periodic business deliveries shall be defined as not more than five deliveries a week by vehicles weighing less than 26,000 pounds.
 2. The business activity does not employ anyone who does not have a primary residence at the property.
 3. No sign associated with the business activity is displayed at the property.
 4. There is no outward appearance of a business activity on the property nor any noxious odors or noises produced by the home occupation.
 5. No hazardous materials, including measurable quantities of flammable or combustible materials, associated with the home occupation are maintained at the property.

4. Consider amendments to the Residential Cluster Open Space Development zoning provisions

Four Substantive changes are proposed to the Cluster Open Space Development zoning requirements (Section 8 of the Zoning Ordinance):

- Reduces the minimum lot size for Cluster Developments from 20 acres to 12 acres.
- Establishes minimum lot sizes for parcels with the requirement increasing depending upon the number of utilities sited on the lot. The minimum lot size would start at 15,000 square-foot for parcels with no on-site well or septic facilities and increase to 40,000 square-foot for properties with on-site well and septic facilities.
- Requires the 50-foot vegetated buffer area to be sited wholly on open space and/or conservation land.
- Require that no more than 40 percent of the open space and/or conservation land be wetlands.

Redline edits are included at the end of this document.

5. Conditional Use Permit Revisions and Simplification

The Planning Board has reviewed and largely endorsed proposed changes to the Conditional Use Permit criteria that would simplify the review of the criteria and consolidate the existing number of 11 criteria down to 8 criteria.

A redlined version of the proposed changes is included at the end of this document.

6. Route 33 Heritage District

As part of the implementation of the Route 33 Heritage District, residential densities were revised to stimulate investment in properties that have not seen significant investment. The Ordinance allows up to three units per acre and as properties become available, there is more interest in these allowances. However, some properties stretch many hundreds of feet beyond Route 33 and staff would suggest limiting development to within 800-feet (or some similar distance) of the roadway. Also, staff would suggest the Board consider the density allowances. If the Board would like to maintain the three-unit-per-acre standard, staff would suggest explicitly noting that wetlands, steep slopes, and areas protected by easement cannot be considered in the density calculation. Alternatively, the Board could reduce the standard to two-units-per-acre but provide potential relief for lots that are 1.5 acre or less.

Two proposed language options are offered below depending on the preference of the Board:

3.10.9 Land Uses:

- b. Multi-Family Housing: Multi-Family and Workforce Housing is permitted in the Heritage District by Conditional Use Permit. Multi-Family and Workforce Housing shall be designed such that these uses, as viewed from the Route 33 right-of-way, are indiscernible from the single-family housing and agricultural uses that characterize the Corridor.
 - i. Multi-family housing development density shall not exceed a **maximum** density of three units per acre. **Wetlands, steep slopes, and areas protected from development by conservation easements must be excluded from the lot area in calculating the maximum density potential of a parcel.** In a multi-family development of five or more

units, a minimum of 20 percent of the units must be set aside as workforce housing units. **All multi-family housing structures must be located within 800-feet of the Route 33 frontage.**

ii. Senior housing, or any form of housing that is restricted to specific age demographic, is prohibited in the Heritage District.

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i. Multi-family housing development density shall not exceed a **maximum** density of ~~three~~ **two** units per acre. **On lots smaller than 1.5 acres, the Planning Board may approve the construction of up to three units on a single lot as part of a Conditional Use Permit.** In a multi-family development of five or more units, a minimum of 20 percent of the units must be set aside as workforce housing units. **All multi-family housing structures must be located within 800-feet of the Route 33 frontage.**

ii. Senior housing, or any form of housing that is restricted to specific age demographic, is prohibited in the Heritage District.

7. Sign Illumination

Last year, the Planning Board proposed, and Stratham voters approved, an overhaul of the Town's Sign Ordinance that revised several of the Town's requirements related to commercial signage. One of the most consequential changes of this overhaul involved the prohibition on all internally illuminated signage in favor of fully downcast externally illuminated signage. So far, this has proven to be the most debated of the revisions included in the overhaul. Internally illuminated signage is widespread, particularly in the Gateway District where there are several shopping centers and multi-tenant properties, and several businesses have been averse to adopting this change particularly when neighboring businesses retain internally illuminated signage. Applications for Conditional Use Permit relief from this requirement are pending.

The Planning Board might consider revising the requirement to allow backlit halo-style illumination in a soft white illumination color in the Gateway District only. This would likely largely address the concerns of businesses while still providing restrictions on illumination for aesthetic and safety reasons.

8. Solar Energy Systems

Staff will present some options to allow for small ground-mount solar energy systems by right provided the application meets minimum criteria. This would allow such proposals to move forward without Planning Board approval.

Conditional Use Permit Criteria Consolidation

Commonly confronted in the Gateway Commercial District but these changes would apply to all Conditional Use Permits for Uses in Stratham.

Intent: Streamline the review process for the Planning Board without losing important considerations

There are 11 Conditional Use Permit criteria that make up more than 1.3 pages of text. Many terms and review criteria are identical or very similar and the number of criteria could be reduced.

i. Spirit & Intent of the Ordinance and ii. Conformity to Zoning Ordinance

i. Spirit & Intent of the Zoning Ordinance and Master Plan: The proposed development is located on a site in which there are no existing violations of the Stratham Zoning Ordinance and will be constructed in a manner compatible with the spirit and intent of the Stratham Master Plan and Zoning Ordinance.

iii. Site Suitability

No proposed changes to existing wording.

iv. External impacts:

The external impacts of the proposed use on abutting properties and the neighborhood shall be no greater than the impacts of **adjacent surrounding** existing uses or other uses permitted in the **district zone**. This shall include but not be limited to, traffic, noise, odors, vibrations, dust, fumes, hours of operation, and exterior lighting and glare. ~~In addition, the location, nature, design, and height of the structure and its appurtenances, its scale with reference to its surroundings, and the nature and intensity of the use, shall not have an adverse effect on the surrounding environment nor discourage the appropriate and orderly development and use of land and buildings in the neighborhood.~~

v. Character of Site Development and preservation of natural and historic resources:

The proposed layout and design of the site and new buildings or structures on the site shall not be incompatible with the established character of the neighborhood. This shall include the relationship of the development to the street, the scale, height, and massing of the building, architectural design, buffering from adjacent properties, and provisions for pedestrian and vehicular access. The proposed use and development of the site shall preserve identified natural, cultural, historic, and scenic resources on the site and shall not degrade such identified resources on abutting properties.

vi. Impact on Property Values:

No change to existing language proposed.

vii. Fiscal Impacts:

No proposed change to existing language.

viii. Public Interest:

The permit is in the public interest.