December 20, 2021 Franconia Planning Board 7:00PM

 Meeting Minutes

Members Present: Thad Presby

Board of Selectmen: Jill Brewer, Eric Meth, Dan Walker

A combined public hearing of the Franconia Planning Board and the Board of Selectmen was held at the Franconia Town Hall on Monday, December 20, 2021, at 7:00pm.

Thad called the meeting to order at 7:00pm.

**Approval of Minutes –** Thad made a motion to accept the minutes of the November 1, 2021, combined hearing as written, second by Eric. All were in favor and the motion passed unanimously.

Thad made a motion to accept the minutes of the November 15, 2021, combined hearing as written, second by Eric. All were in favor and the motion passed unanimously.

**Poultry Ordinance –** MeredithPratt requested that an exemption be added into the ordinance that if you have been previously zoned for general farming under RSA 21:34-a and have had an established agricultural operation as defined under RSA 432:32, the farming operation would be allowed. Jill stated that the Board looked at other towns and discussed that to be grandfathered the farming operation had to be registered with the State and exist for two or three years.

Dawn Steele stated that if there is a family farm that has existed for two or three generations and next to that farm is 200 acres that subsequently gets subdivided and the people in the new subdivision do not like the farming operation, that would be an exclusion that the farm has been there and it hasn't changed. It is what came in after that changed. The situation we're talking about is there is an established neighborhood with homes on five acres or less and there was no established farm. The farm is coming in later and changed the neighborhood.

There was a brief discussion about the legal ramifications of enforcing this ordinance on someone who already has chickens, but does not meet the parameters of the ordinance. It was suggested that the Board discuss this issue with the town attorney.

Dawn stated there is also the nuisance ordinance that covers some of this which states, “Any use of property that unreasonably detracts from the health, safety, peace, and enjoyment of the neighborhood and community, so as to constitute a public nuisance is hereby prohibited.”

Gene Young stated that anything the town decides to pass as an ordinance goes forward. The grandfather clause does not go backwards. This ordinance is not going to address something that is currently going on because the grandfather clause does not go backwards. After a brief discussion, it was suggested that the Board discuss this issue with the town attorney as well.

Jill stated that she is not hearing enough support for the potential exemption to be added to the poultry ordinance, so this is the draft that will be presented to the townspeople to be voted on at town meeting.

Larry Plate noted that the sliding scale goes from zero to one acre and then to two acres, but there is nothing from one acre to two acres. He suggested that the sliding scale state zero to less than one acre, one acre to less than two acres, two acres to less than three acres, etc.  The Board was in agreement and the sliding scale will be updated to reflect those changes.

**Noise Ordinance –** Jill stated there have been many changes made to the proposed ordinance over the two previous hearings.  Meredith Pratt stated she would like to have the exemption that was originally in the ordinance regarding noise from agricultural operations as defined in RSA 432:32 put back in.  She stated no one could tell her why or who removed it, so she would like it put back in.

Jill stated her concern as a resident would be that this exemption would mean someone could move into a neighborhood and say they're establishing a farm and then have goats bleating, or whatever else, at any time of the day. If we are going to put in some kind of agricultural exemption it should be for an established farm that has existed for many years. That is the intent of the agricultural exemption, to protect something that has been in existence for a long time.

Thad stated that general farming is still allowed and is still in the zoning, so it is a permitted use. We do not want to take farming out of the zoning and we are not targeting anyone in particular. These issues have come up and people are here and want something to happen so we are trying to address these issues.

Gene Young asked why the ordinance changed from 11:00pm back to 10:00pm. Jill stated that the majority of the people who attended the meeting on November 15th, wanted it to remain at 10:00pm.

Ginny Jeffryes stated the reasoning was that 10:00 to 7:00 gives people a reasonable amount of time to sleep.  When the ordinance originally passed, the time was 10:00pm to 7:00am.  It has respect for the resident’s peace and quiet, and that is the voice of what most people spoke to.

Jill stated that at the last meeting they tried to voice the concerns Gene raised at the first meeting, but the response was that a business like his could apply for an exemption and get a permit. Gene felt that an exemption would not bode well with his neighbors. He stated that the neighbors don’t complain, but they can hear the band when it is playing, which he shuts down at 11:00pm. It was pointed out that that is in violation of the current noise ordinance, but if there is no complaint made, then there is no issue.

There was a brief discussion regarding Airbnb complaints and whether this ordinance would change any of those issues. Jill stated that was the goal of stating specific enforcement details, which Chief Cashin assured the Board at the last meeting could be enforced.

Gene asked if the statewide noise ordinance would supersede this ordinance. Dan stated the State of New Hampshire does not have a regulation that sets community noise exposure. It is up to each individual community to establish the noise regulations, which is what we are doing here.

Eric stated that these ordinances are meant to be obeyed and not necessarily enforced.  Thad stated this is going to be voted on at town meeting. This will be an ordinance, but it is not going in the zoning. The Selectmen opted to take this to a vote at town meeting.

Larry Plate asked what the difference was between an unamplified voice, referred to in the last exemption on page three of the noise ordinance, and screaming. After a brief discussion, the Board agreed there was no reason to have that exemption as part of the ordinance and had it removed.

There were no further suggested changes to the noise ordinance.

**Sign Ordinance –** Kim read the changes made to the permanent sign portion of the ordinance at the last hearing: “No sign will be permitted that has interior or neon lighting. Lighting must be continuous (non-flashing), white/yellow, and directed at the sign and placed in such a way that it will not be a highway hazard. An exception for a single additional sign per business which designates open or closed, or vacancy/no vacancy. This sign type shall not exceed 3 square feet, may display solid non-flashing colors that are internally lighted, shall be attached flush to a building's side or to the freestanding permanent sign, and not be more than 10 feet from the ground.”

Kim stated the ordinance is a little less restrictive but has been more defined so that more businesses are in compliance rather than in non-compliance.

There were no further suggested changes to the sign ordinance.

There being no further business to come before the Boards, the meeting adjourned at 7:55pm.

Respectfully submitted,

Carol Wills