

Town of Milton
424 White Mtn Highway
Milton NH, 03851



Planning Board
PO Box 310
(p)603-652-4501
(f)603-652-4120

November 21, 2023
Meeting Minutes
6:00 PM

Present Members: Brian Boyers- Chair, Ryan Thibeault- Vice Chair, Anthony Gagnon, Karen Golab, Paul Steer, Humphrey Williams, Larry Brown, and Robert Graham-Alternate,

Absent Members:

Staff Present: Bruce Woodruff- Town Planner; Jennifer Conti- Land Use Clerk

Public Attendance:

- I. **Call to Order:** B Boyers calls the meeting to order at 6:00 PM.
- II. **Public Comment:** No Public Comment
- III. **Review/Approval of Minutes:** K Golab pointed out that there should be an addition to the minutes specific to the EV charging station article.” EV Charging be moved up into the actual table so that regulation can differ by zoning district. All agreed but would like to move to public hearing to get the town Planners thoughts”. The date also needs to be updated.

P Steer made a motion to accept with the correct date and the addition by K Golab. L Brown seconded. All were in favor.

IV. **Public Hearing on three zoning amendments:**

- 1) **Definitions and wetland conservation article revisions:** The Planner wanted to explain to the members of the board, the folks in the audience, and those who are watching that the changes to the wetland conservation district article are changes that clarify things. They clarify the definition of things, and that’s why you see in the general definitions sections that we have homed in on what wetland setbacks mean and what wetland buffers mean. In addition to defining what they are, we made it clearer what a wetland setback is and what a wetland buffer is. We talked about requirements for wetland buffers and wetland setbacks. There’s now more clarity for those who administer the ordinance and for those who read it. One of the other things we did was add notes that explain what isolated wetlands are. We upgraded the ordinance by spelling out specific procedural requirements so there is no confusion about what steps need to be taken when developing near wetlands.

We also talked about the fact that the Code Enforcement Officer cannot issue a building permit for construction, and the planning board cannot approve a site plan or subdivision plat unless all construction activity conforms to the provisions of this wetlands conservation chapter and there are triggers for that that have been added. We improved the conditional uses section, in which conditional use permits are considered by the planning board and then approved if the applicant meets certain specific conditions that are now laid out here in a very concise and understanding way. We fixed language issues throughout the whole document. This is a great improvement. The planning board worked on this for months. This was made better to read for those who have to administer it and for those who need to adhere to it, and he thinks this is a great piece of work.

A. Gagnon pointed out that on page 1 number 16 (**WETLAND BUFFER – A designated area of undisturbed land with a width of 25-ft. (unless significant wetlands where said width shall be 50-ft.) that is contiguous or adjacent to a wetland**) “significant wetland” hasn’t been voted on yet so that shouldn’t be in there. K Golab stated that we made a motion to exclude it from this. A Gagon adds that we are mentioning it here. The Planner said that he would have to pull out what’s in parenthesis from this warrant article and add it to the significant wetlands warrant article if the board approves it after hearing public comment. H Williams stated that it is also in the priority wetlands paragraph in the other warrant article. K Golab said that was another reference to the significant wetlands on page 7 D4 (**unless significant wetlands where said width shall be 50 ft.**).

The Planner clarified that the definition of wetland buffer that we are proposing to be added to the general definitions of the ordinance isn’t even in this wetland’s conservation portion of the ordinance. The reason behind this definition is to spell out how large and wide the buffer is. What he suggests is that when we get to the significant wetlands before opening the public hearing the board should discuss adding another definition that is titled significant wetland buffer and that takes the issue away because that would be added to the definitions if it is passed by the voters.

R Thibeault stated that he didn’t want to add any more confusion here, but we are saying significant wetlands in here. Still, the other warrant article is priority wetlands so technically the way this reads, the significant wetlands would incorporate all the wetlands, where we are saying that we only want to do that to the priority wetlands. K Golab agrees that it is confusing. R Thibeault said the wording should be changed from significant to priority.

B Boyers opened the public hearing at 6:12 p.m.

No public comment

B Boyers closed the public hearing at 6:13 p.m.

H Williams made a motion to move forward with the current definitions with those two minor changes. K Golab seconded. All were in favor.

R Thibeault asked if we could switch the order of the agenda and discuss the significant wetlands revision to wetland conservation next instead of the EV

charging stations. Everyone agreed.

- 2) Significant wetlands revision to wetland conservation: H Williams stated that the Planner brought up a valid point as did R Thibeault that before we open the public hearing for this article under Priority Wetlands, we change it from saying wetland buffer to a priority wetland buffer. Let's add the words in before we open the public hearing. It would read priority wetland buffer and priority wetland setback.

H Williams made a motion to add the word priority. P Steer seconded. All were in favor.

K Golab asked a point-of-order question if we vote after the public comment whether we as a board accept this. B Boyers answered yes.

B Boyers opens the meeting to public comment at 6:15 p.m.

Virginia Long from the Milton Conservation Commission presented a PowerPoint presentation on the location and benefits of increasing the buffer for the four most important wetland areas identified by the Conservation Commission's Blue Moon study.

The Planner addressed the chair with one additional issue that could be considered an error or a Scribner's error regarding how the four priority wetlands are laid out in the language that we are proposing. He believes that #8 and #13 were transposed. Virginia said yes that she had made that error originally.

R Thibeault made a motion to switch the numbers. H Williams seconded. All were in favor.

H Williams commented that the wording on the wetlands map that shows the 4 priority wetlands needs to be changed from significant to priority.

H Williams made the motion to change significant to priority on the wetlands map. R Thibeault seconded. All were in favor.

B Boyers asked if there were any public comments. There were no public comments.

H Williams made a motion to move forward with a separate warrant article for the priority wetlands and for the Planner to put the warrant article language together. L Brown seconded. The motion passes five (5) in favor, two (2) opposed, and zero (0) abstentions.

- 3) Electric Vehicle charging stations: K Golab stated that the board had tabled this discussion for the public hearing so they could get the town planners' comments.

The Town Planner has two major thoughts on this. First, the notes at the bottom of the principal and accessory use table that talks about what's permitted, what's not permitted, and what's permitted by special exception really don't give you the opportunity to put the specifics of what you're trying to say here for electric charging stations so he notes that of the seven notes at the bottom of this use table, four of them and with the addition of this one, five of them, would be for all lots and parcels of Milton. That's their topic. The only two that are not is note three and that has to do with apartments and dwelling units. Note four, talks about off-street parking for apartments and dwelling units. All the other notes rightfully talk about every lot in Milton, every lot's septic system, every lot one residential structure with

an accessory structure, every lot's seasonal stuff, every lot about RV's and how long they can stay. This one is put here because of the fact that the major reason for adding this to the Zoning Ordinance is so that we know where they can go and what the requirements are and that can't be up on the table. He thinks the underpinning of this has to do with the fact that there is reach down from the federal government and the state government about EV charging stations. Allowing them in as many places as possible while still allowing local jurisdiction over how they're constructed and how they'll be used. He thinks this does this perfectly. First of all, you're all saying that charging stations shall not be allowed in every zoning district. Is the town, the municipal government, or a private entity going to come to you and say, "I want to have 20 charging stations on Winding Hill Road or on Governors Rd". (P Steer) That's why we brought it up last week. (Planner) What's the largest Zone in this town? The low-density residential. It comprises at least 85% of the entire town. You were going to consider saying that you were not going to allow that and then have to send people to the ZBA for a possible variance. It doesn't make any sense to him. What you do retain is if somebody came and said there is a vacant piece of property on Governor's Road, for example, they must come in front of the planning board for a site plan review, and you have wide latitude on lots of things. They must meet the site plan review, regulations, and wetland conservation regulations, the whole gamut plus if it's not right for the neighborhood you make that EV charging station developer mitigate what is heard from the abutters in the public hearing. The board is cutting out way too much of the area of the town by saying it's not allowed in the low-density zone and the high-density zone. He knows where the board is coming from on this but if the zones in Milton were a bit more common sensical he would possibly agree with you. He thinks that there are enough fail-safes are in place here and when you read the language it talks about that the level of municipal review (there's a footnote there) shall depend on the size and location of the neighborhood of the proposed EV charging station construction and shall be determined by the technical review committee which is made up of staff, police chief, fire chief, code enforcement officer, sometimes the assessor and the town planner. They determine what level of review it needs to be and again when you look at the footnote under municipal review it says that that means planning board site plan review, building permit and electric permit alone, or both. I think all the bases are covered and he is going to go back to his argument about your cutting out too much of the town and he doesn't believe that's what this whole impetus to go to EV charging stations whether you agree with them or not I am not going to pine on that but the board could open themselves up for legal liability in the future by just saying no to 85% of the town. There might be places where it is appropriate and the size of these facilities might be appropriate because no one is going to come in and want to put a 25-50 charging station in one place unless it's on the highway and that highway, for the most part, is next to the low-density residential zoning district. He says that's his argument for this about leaving it here. He thinks the language covers everything and it also gets to the decision making that comes down also funding.

K. Golab doesn't think the board's intent of moving this up into the table was to specifically exclude certain zoning districts. She thinks it was more of designating whether they're permitted or whether they need a special exemption because our

concern was leaving it in the comments then there's too much leeway given to a particular board, since board members change every few years. We were looking for a little bit more boundaries and regulations so it didn't fall back on the board to make a decision. P. Steer, so put it under F? K. Golab says yes. The board was just looking to take a little bit more of the ambiguity out of it.

L. Brown- that he doesn't like it for several reasons. Would come down to the same thing. It is spectacularly undefined and when something is undefined then you can never be wrong. In particular his experience with Jerry's junkers across the street from him is a prime place for a 20-station charging station, each one illuminated at night, each one having a 20-foot-high light so that it is safe for people to be there at night and each one destroying the night sky. There is not a single thing here that says anything like that will be under the review of any part of local government and what the standards for implementation are.

The town planner disagrees and says that it does.

L Brown- there isn't anything about noxious vibration, there isn't anything about traffic, there isn't anything about hours of operation, and there's nothing that says someone in low density who happens to be next to a highway cannot put this into the detriment of their neighbors next door. It is undefined plus, let us use the example of the cell towers which may not be prohibited cell towers once the high money has been earned from communication are sold down river to the cheapest operator and what you thought you were going to finally get rid of and the cell tower stays forever because somebody can make if not a buck on it they can make a penny and the towers will still stay. There aren't even the criteria for sighting a wind tower. He doesn't live in Michael Tabory's house, but he has a wonderful Northwest view of a wind tower that could have been sighted somewhere else but was not because it was a right placement he knows neither of those two people and have not had conversations with them but what he's observing, what he sees just going down the highway. Unless there are those safeguards built in with a definition of capacity, definition of how many is appropriate, a requirement for traffic studies, and how they will be mothballed and grandfathered once technology changes. Right now, hybrids are not dead his good friends have introduced a complete Ford Lightning which has a 3.6 gasoline engine which works to charge a whole house generator and if something like that happens where is your electric charging station.

R Thibeault- looking at this a couple different ways to him means that this could not be much different than a fuel station. I understand there's different hazards there but it's a lot less hazardous because you obviously don't have the fuel and the explosives of that but you know an EV charging station can come with all the same traffic and other issues that a fuel station would have so has a hard time making it such an exception that we can put a fueling station so to say anywhere we want, and the other thing is the way he reads this is if it's left as is then there's a lot left up to the Technical Review Committee. It's pretty much letting them determine everything and I don't think there's a defined set of guidelines for the Technical Review Committee to look at when they're looking at something like

this. He's not against doing something to the ordinance for the EV charging stations. I think this is a way that it could be done but I don't think it's the best way for the town of Milton. That's just his personal opinion. As some of Larry's points as well it's just not defined enough and it seems like every time we have an issue in the ordinance, whether it has to do with this or building heights or something like that then it isn't clearly defined. That too much is left up to interpretation and it gets us in trouble.

L Brown asked the planner what he thinks the legal challenge is to not permit this in every zone. If someone comes and says that they have a right to put a charging station. What are the federal regulations or state suggestions that are going to force the town to do this.

Town Planner- he doesn't have a specific answer to that.

L Brown says he is just thinking of the accessory dwelling unit.

The town planner- that's right. The idea of putting this as whatever zoning districts that you want it to either be allowed or not allowed that's fine you can do that, but you cannot say special exception without having additional special exception language. He has argued this point for years. Milton zoning ordinance is very bad. He challenges the board after reading the planning board handbook and looking at the statute about what you have to do to administer special exceptions when you're a zoning board. The Zoning board has to have a list in the zoning ordinance of specific conditions that need to be met and then there's the general ones, but we have no specific ones not for any special exception on this use table. Ryan states that that's what we need. Bruce says so I'm saying that that way to go

is not viable without a lot more work. I'll do a lot more work if you guys want and just need to tell him what zones you want to have it be special exception. You should probably vote not to send this to the voters. You should still let people talk. He disagrees with your comments about it being too vague and not being defined. He disagrees with the comments about the fact that the board has no control. It's spelled out right here. It would go to the site plan review. If it's large it would have to follow the other articles in zoning. You've got plenty of review. You've got plenty of stuff to look at there and it says so right here right in the language very simple. Ryan asked Bruce to define large for him. Bruce said that the TRC committee would determine if this a little thing or a big thing. Is it proposed in a place where there's a lot of abutters. That's it. The TRC would send this on to the planning board every time. Now at the last meeting there was a motion to add the word commercial.

H Williams wanted to address that when the board got into this whole thing it was to make sure not to restrict anything for housing. The aspect of residents wanting this whether they put one or two stations at their home so be it. For instance, he has an open area across from him, a half-acre, but he shouldn't be opening something for 5 to 10 cars in that area. To address Ryan's point an EV charging station itself

may not be, because it looks like it's very harmless, but you are imposing a risk as a commercial type of venture. The more battery vehicles you put into an area the more likely an explosion can occur to take an entire area out because they are known to combust. When he was thinking about it, he thought that it restricts the lot size by area.

The planner- He agrees with that and there may be a way to come at this. He disagrees that people are going to be putting commercial electric vehicle charging stations out in the middle of the low-density area. H Williams replies back that he is probably right. Bruce says unless there's a highway because it is all about people that want to go from point A to point B and they got to stop, and they got to charge their vehicle. If you have an electric vehicle, are you going to go to a commercial thing or you going to go home and charge your vehicle. It just seemed to him when the language was thought about Mr. Brown is exactly right. You try to make things as simple as possible. You try to make it so that this is a good thing that you can make happen, not that they can't happen.

H Williams- coming back to that just to kind of finish the thought because I completely agree with out by the highway would be an ideal thing if you've got some land out in that area. Somebody can pull off the side. Commercial usage is going to take place for tourists because they're out of their area and they're going to be looking for a place to go so those are the types of spaces that are needed. Leaving it up to the TRC, I agree with what you just said, they're going to go okay it's not that big space move on so then who's going to be the expert to turn around and determine what the hazards are around that at that point in time.

Town Planner- I agree with that and there has to be a different way to approach this.

H Williams- I agree and I but I don't know if we've got all of that right now to be able to move forward with this.

Town Planner- right, what that leaves us with is this; if we don't do something if someone wants to come to Milton and put a commercial EV charging station somewhere where they'll make money, you don't put it out in the middle of Nowhere. They have to go to the zoning board and ask for a use variance now. That's the whole reason for doing this.

R Thibeault- So what? If it's really going to be profitable then they have to go to the zoning board. He doesn't see what the big deal with that is.

Town Planner- That's one way to think but the other way to think is to make the zoning ordinance so that you address as many uses as possible. Uses that are allowed, or not allowed or allowed by special exception. That's it. If the use table is not well considered, which it is. Then you send all kinds of people all the time to the zoning board for things that make sense where they're proposing it. Right now, we can't even have one without that extra step.

R Thibeault- He just thinks there's bigger fish to fry or different uses that they could improve in here than the EV charging stations. Just to make a blanket statement I think it's opening up to other issues currently the way it's worded.

L Brown- The ancillary services of a service station are another thing to address more seriously.

P Steer- Rochester and Hanford has those charge stations, eight of them were in use and three cars were waiting. They could look on the map for the next place and that place across from Larry's house. Let's all go there. It's coming to that point as more and more electrical vehicles get built, you're going to see more and more of these.

Town Planner- There's a state initiative to identify corridors where these things could go in almost every community that has something like the Spaulding Turnpike and route 125. There is money to be had either by the municipality or by private developers, grant money to be had but the siting requirements from the state, which I assume comes down from the federal government, says that you have to be within so close to a village area that you propose the electric vehicle charging stations at a place where there are amenities like restrooms, a sub shop and a place to buy convenience items. The perfect place for that would have been the new gas station convenience store at exit 17 right off the highway, but they couldn't do it today without going that extra step, taking that extra time and then not knowing if they would get a variance because a variance requires that the board agree that your argument for getting relief from the ordinance meets five tough criteria... its very tough to get a variance.

B Boyers opens the meeting up to public comment at 7:00 pm.

Steve Panish pointed out that putting in one of the higher level charging stations into a home is actually very expensive and there are people who will in the future have these less expensive electric vehicles, the price is going to come way down, and they actually will want to go somewhere other than their house to charge it because if they charge it at their house they'll be just doing it off of the 50 amp circuit and it'll take a long time and they might not have that. So there will be a place for having charging stations and not many but some that are reachable from the neighborhoods, and I think it'd be a good idea. These things are coming right now the American produced cars are very expensive but they're cheaper ones being made in China. To Humphrey's point about explosion hazards, I'm pretty knowledgeable about some batteries but I'm not terribly knowledgeable about the older generation which is what you're talking about because I've never considered them, but those Lithium Polymer batteries are dangerous, and they are also going to be phased out so that's he doesn't think it's going to be a realistic risk in the future. What's coming in the in terms of lithium in the future is lithium-ion phosphate or lithium titanate which are very safe technologies, not perfect, but they're a lot safer than gasoline so he thinks that's one way to think about it. Gasoline is a really hazardous substance which we are totally inure to the idea of any threat from but it's actually really dangerous. He doesn't think the board should worry too much about

that, but some caution is certainly wise just as for a gas station and he really likes Larry's comment about the lighting tower because he really wouldn't want to see those pretty much anywhere especially in the neighborhood, but this is the future. He thinks that if we make our town more attractive, not that he wants everyone to move here, by having this kind of amenity because it isn't far very far off that there is going to be a lot of these vehicles. Also, lithium is not the only battery technology. Lithium is probably going to be important because it's very well understood now but there are other battery technologies coming online that will have advantages.

K Golab- She doesn't think anyone on this board disagrees that you know we should provide chargers somewhere, it is a matter of where we limit them so they're not popping up in neighborhoods not that they would, but you never know.

Steve Panish thinks that guidelines are warranted.

K Golab- Dollar General would be a great place. The board agrees that there are places in Milton that are very appropriate but there is a lot of places that are totally inappropriate. Steve Panish says the other issue is that the people that make up the TRC or review board are going to change over time. Different people will have very different ideas of what's appropriate and what's inappropriate. He thinks it would be a really good idea to set some guidelines that they can look to.

H Williams- In regards and come back to what Steve said he knows some of the older batteries are more of the problem, but I will also tell you lithium ion in cold environments are a hazard for explosion. He has lithium-ion batteries in his motor home and has been told that he better make sure it's warm or they'll overheat and can explode and that's the current technology of the lithium battery. There's still things that need to be done. I'm not concerned about it turning into a massive area, but the thing is if it does happen you need to make sure it's in an area that's not in a high-density residential area. It really shouldn't have homes completely surrounding it. Same thing as you wouldn't want to do it around a gas station. He is definitely in favor of trying to do it as well, but he thinks the board needs it to be more clearly defined before we move forward with it. We would be opening ourselves up to even bigger issues.

L Brown- Summarize the potential benefits of electrical charging stations for automobiles and the things that they will do in terms of improving the economic vitality of the town and responding to changes in technology. What is also missing is a background and a vision statement of what we want electric charging stations to do for the town. Not who can make a buck out of it but what they can do for the town structure.

B Boyers closed the public comment at 7:06 pm.

P Steer made a motion to not send the EV Charging Station article to the voters. H William seconded. All were in favor.

Town Planner wants to know from the board whether they want him to work on use table designations under the transportation section F and then developing a specific condition for the special exception to go along with it. That seems after listening to all the conversations that it's the only way that this would work within the framework of our zoning ordinance. He will put it under F and then modify number seven accordingly just with regard to home chargers. Also, to come up with that special exception, specific requirements, specific conditions for the special exception because that would make it legal.

H William makes a motion to have our town planner move forward with correcting the table and giving us the exceptions or EV charging stations. L Brown seconded. All were in favor.

V. **Planner/Staff Comment:** He will prepare the warrant language for the two potential zoning changes. He will send it initially to the board members.

VI. **Adjournment:** *R Thibeault made a motion to adjourn at 7:13 pm. K Golab seconded. All were in favor.*