



THE GRANITE STATE PLANNER

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PRESIDENT'S MESSAGE

Dear Colleagues:

The Spring Conference was a huge success! Thank you to all who attended and for the many words of encouragement. I'd like to again reiterate my thanks to Sarah Marchant and Becky Hebert, our conference organizing group (COG) co-chairs, for all their time and dedication to creating a wonderful conference. An additional thank you to the COG members for organizing sessions, fundraising, and all around hard work. If you left the conference thinking, hey, this was a lot of fun, I'd like to join in –we are always looking for volunteers to help organize and run the conference!

Now that the spring conference is behind us, we are preparing for the fall annual meeting. Keep an eye out later this summer for a save the date card. As part of the meeting we'll have our annual elections. If you or someone you know of is interested in serving on the executive committee please contact me soon. We are always looking for new members and will have a few possible openings on this fall's ballot to fill.

Please remember to visit the NHPA website to download conference materials and handouts, view up-to-date job openings and RFPs, and learn about upcoming professional development opportunities.

Sincerely,

Jennifer Czysz
NHPA President

DISTINCTION BETWEEN USE AND AREA VARIANCES ELIMINATED!

Get ready to change your ZBA applications again, because as of January 1, 2010 there will no longer be a distinction between use and area variances and "unnecessary hardship" has been defined with the adoption of SB147. For those who have followed this important NHPA initiative this year you will recall that this legislation was originally introduced as HB446 which passed the House easily, but hit some roadblocks in the Senate and was ultimately re-referred (killing it for this term). But in a last ditch effort Representative Neal Kurk amended SB147 on the floor of the House adding the variance language to this health insurance database bill and ultimately the Conference Committee agreed on the language that was then passed by both houses. At the time of writing this article the Governor has not signed SB147, however there is no expectation that he won't.

In literal terms this amendment eliminates the separate "unnecessary hardship" standard for "area" variances, that was established by the New Hampshire supreme court in the case of *Boccia v. City of Portsmouth*, 155 N.H. 84 (2004), and provides that the unnecessary hardship standard shall be deemed satisfied,

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USE AND AREA VARIANCES *(continued from front page)*

in both use and area variance cases, if the applicant meets the standards established in *Simplex Technologies v. Town of Newington*, 145 N.H. 727 (2001), as those standards have been interpreted by subsequent decisions of the supreme court. If the applicant fails to meet those standards, an unnecessary hardship shall be deemed to exist only if the applicant meets the standards prevailing prior to the *Simplex* decision, as exemplified by cases such as *Governor's Island Club, Inc. v. Town of Gilford*, 124 N.H. 126 (1983).

Now when ZBA's are considering the hardship criterion for a variance, *Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship*, they will consider the language used in the following two paragraphs.

(A) For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:

(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and

(ii) The proposed use is a reasonable one.

(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

Many thanks go out to Representative Kirk, attorney Cordell Johnston of NHMA and NHPA Executive Committee member Ben Frost, Esq., AICP for their countless hours spent on this legislation this year.

Rick Sawyer, AICP
Legislative Liaison

OF PLANS AND PLANNERS

Sylvia VonAulock was recently named a "visionary" by the Workforce Housing Coalition of the Greater Seacoast for her work related to creating incentives for developers to create workforce housing in Exeter. To learn more about what's going on in Exeter. Check out the Coalition's website at http://www.seacoastwhc.org/planner_info.htm for more information about local ordinances, resources and educational forums.

News from Derry...the Derry Planning Department has added a new staff person to our department, Elizabeth Robidoux. We stole Liz from the Town of Auburn! She has been a great addition and asset to the department. Also, George Sioras celebrated 25 years as the Planning Director for the Town in June, 2009! I think I'm the second longest serving Planner in the same community after Ross Moldoff in Salem!! Submitted by George Sioras, Planning Director, Town of Derry.

News from Salem...Construction began this month on a Lowe's Home Improvement store on Rt. 28 in Salem. The project is somewhat unique because the building is located entirely in Salem but most of the parking lot is in Methuen, Ma. The site plan approval process was more complex than normal due to reviews by Planning Boards in both communities, as well as outside consultants and

state agencies in both states. The groundbreaking ceremony was attended by elected officials from both Methuen and Salem, which hasn't happened before and will probably never happen again! Submitted by Ross A. Moldoff, AICP, Planning Director, Town of Salem, NH.

Kudos to Jennifer Gilbert, State Coordinator, of OEP's Floodplain Management Program. Jen was recently quoted in the June 2009 issue of *Planning* for its feature article on "How Good Are Your Flood Maps?"

*Visit the NHPA website for
new job listings and RFPs!*

www.nhplanners.org

NHPA ANNUAL AWARDS

The NHPA executive committee solicited applications this spring for its annual awards – Professional and Citizen Planners, Plan, and Project of the Year. This year a record number of nominations were received, a true testament to the quality of planning work across New Hampshire. The winners were announced at the Annual Conference’s Thursday lunch on June 4, 2009.

CITIZEN PLANNER OF THE YEAR

R. Mark Adams, Chair
Lempster Planning Board

R. Mark Adams has served for 31 years on the Lempster Planning Board and the most recent ten years of his tenure he has served as the Board’s chair. Quoting Mark’s nomination “It is safe to say that he has done more to advocate for and advance community planning in Lempster than any other person in the town’s 240 year history.” Mark has lead the community’s efforts to develop a Capital Improvement Plan and Subdivision Regulations. His dedication to public participation led to an 85% response rate on the community MP survey. Notably, he has let the town through many recent “crises” including the development of an automotive race track and the Lempster Mountain wind energy facility. The Town’s divided response to the wind towers led to a call for reactionary emergency zoning. Mark channeled this energy to develop a well-researched and conscientious Zoning Ordinance proposal over the last two years that the town is now considering.



Neighborhood Development.” He has been able to effectively engage the development community and achieve positive results on the City’s behalf. One developer, that had the opportunity to meet with Michael, stated “[he] was unlike any...he engaged me in a meaningful conversation on how to arrive at my vision of land design and to merge it with the City of Rochester’s vision of quality design...I left my initial meeting with the realization that this city planner truly cared about quality and that any development of my parcel must reflect this.” Michael’s dedication to planning in New Hampshire does not end at his tireless devotion to the City. He has published numerous articles in Town and City, The Granite State Planner, Rochester Times, and for the Congress for New Urbanism.

PROJECT OF THE YEAR

10% Challenge
City of Keene, NH

The City of Keene’s 10% Challenge project one of many items identified in the City’s 2004 Climate Change Action Plan, part of the City’s Master Plan, that was also supported by 2008 community vision and 2007 Climate Change Adaptation Plan. The project encourages local small businesses to reduce their energy use and green house gas emissions by 10%. Businesses register on the community volunteer created website and utilize a calculator developed in partnership with ICLEI. Beyond using the website for calculating energy use and emissions, the site serves as a portal to more information on energy efficiency and other programs of interest. The only funding received and utilized to create this program was a \$1,000 donation received from two local business that were provided to create a brochure and window decal that participating business can display. At the time of nomination the City had 15 businesses signed up and some have already realized greater than 10% reductions.

PROFESSIONAL PLANNER OF THE YEAR

Michael Behrendt, Chief Planner
Rochester, NH



There is a saying (attributed to a variety of sources) that “Truth passes through three stages. First it is ridiculed. Second it is violently opposed. Third it is accepted as being self evident.” Michael has had the fortitude and courage to consistently promulgate the “truths” of Planning and has been a fervent advocate of “New Urbanism” and to “Traditional



PLAN OF THE YEAR
Moving Forward Together:
Keene Community Vision 2008
City of Keene, NH

The Keene City Council and Planning Board began its comprehensive Master Plan update through a community-wide visioning process devised by the people that know Keene
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NHPA ANNUAL AWARDS *(continued from previous page)*

best – its citizens. The result was a community-owned, city-supported initiative, with extensive community participation. A diverse group of over 100 participants engaged in the planning process gathered in a series of 16 small group discussions, called “Visioning Conversations,” comprised generally of eight to ten people and based upon the study circles method. Ultimately the process engaged over 1,200 members of the greater Keene community (about 5% of the population) and generated nearly 1,000 pages of notes and information, indicating common ideas, themes, and concepts shared by participants, were reviewed and summarized in the creation of the vision. The draft vision underwent extensive public review by both the steering committee and the general public, several open houses and public hearings were scheduled,

and people were able to directly submit comments through a variety of means. The development of the comprehensive master plan, based upon this vision, is currently underway.



ARTICLES FROM SUMMER 2009 ISSUE OF FLOOD LINES NEWSLETTER

Community Spotlight – Town of Raymond

The Town of Raymond is located in the southeastern portion of the state in Rockingham County. Raymond’s estimated 2007 population was 10,786.

Several waterbodies are located in Raymond and include the Lamprey River, which runs through the center of the town, Exeter River, Dudley Brook, Onway Lake, and Governors Lake. Approximately 13% of the town’s acreage is located in the 100-year floodplain.

Raymond joined the NFIP on April 15, 1982. Currently, there are 168 flood insurance policies in Raymond, which is the ninth highest total in the state. There have been 77 paid losses (8th highest in the state) totaling approximately \$1.3 million.

During the 2006 and 2007 flood events, Raymond experienced severe flooding which damaged many houses and businesses, damaged and closed several town and state roads, and disabled a telephone substation, which caused a widespread phone outage. The total number of paid flood insurance losses in Raymond more than doubled and the



Main Street bridge near downtown Raymond during the April 2007 flood event.

amount of flood insurance claims totaled \$1.2 million as a result of the 2006 and 2007 flood events. These numbers do not account for many other property owners that did not have flood insurance and experienced damage and loss.

To help prevent this large amount of damage from occurring again, town planning officials worked diligently in the Fall of 2008 on developing two additional regulations to help reduce the impact of development in the town’s floodplain areas. The two additional floodplain regulations were successfully adopted at the 2009 Town Meeting. Raymond is being recognized for its adoption of floodplain management regulations that go beyond the NFIP’s minimum

requirements, which will help protect the town and its residents from future flood damage.

The following is a summary of the two additional regulations that were adopted in Raymond.

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FLOODLINES, TOWN OF RAYMOND *(continued from previous page)*

- **Freeboard** - A regulation whose purpose is to address increased flood levels by adding a factor of safety called freeboard. Raymond's regulations now require that the lowest floor of new construction of residential and non-residential structures and manufactured homes be elevated 1.5 feet above the base flood elevation. It is recommended that the lowest floor of existing residential structures and manufactured homes, when substantially improved, be elevated 1.5 feet above the base flood elevation.
- **Compensatory Storage** - A regulation whose purpose is to address the loss of flood storage is called compensatory storage. Raymond's compensatory storage requirements were developed following the City of Keene's requirements. The regulations require that development within a special flood hazard area shall require compensatory storage to equal to the amount of the encroachment, and to indicate that development shall not result in a reduction in the net flood storage capacity of the floodplain, and to regulate to meet the no net loss of flood storage objective.

To view a copy of Raymond's floodplain regulations, please contact Raymond's Planning and Community Development Department at (603) 895-4735.

Revised Elevation and Floodproofing Certificates

On April 1, 2009, FEMA revised its Elevation Certificate (FEMA Form 81-31) and Floodproofing Certificate (FEMA Form 81-65). The new expiration date for both forms is March 31, 2012. FEMA will permit a "phase-in" of the revised Elevation Certificate on a voluntary basis. During a 12-month transition period, FEMA will accept either the new form or the old form until March 31, 2010.

The purpose of both of these certificates is to ensure that structures built in the 100-year floodplain comply with a community's floodplain regulations. Communities that participate in the NFIP are required to keep elevation data of structures built in the 100-year floodplain on file. The elevation data is needed to ensure that structures built in the 100-year floodplain comply with the community's floodplain regulations, which require the lowest enclosed floor of a structure (including areas with a floor below ground on all sides) is at or above the base flood elevation. Communities are encouraged to require applicants to complete a FEMA Elevation Certificate when building in the 100-year floodplain because it can serve two purposes:

- First, it already provides the space needed to record the elevation data that a community is required to keep on file.
- Second, it assists residents because the FEMA Elevation Certificate is one of the required forms that a homeowner must provide to their insurance agent to obtain a flood insurance policy.

As for the Floodproofing Certificate, this is the required certificate that an applicant needs to complete and submit to the community when a non-residential structure built in the 100-year floodplain is floodproofed. As detailed in the community's floodplain ordinance, the floodproofing option is only allowed for non-residential structures built in the 100-year floodplain. The Floodproofing Certificate assures that appropriate floodproofing materials/techniques have been applied to the structure to make it watertight below the base flood elevation.

The Elevation Certificate can be found on-line at: <http://www.fema.gov/business/nfip/elvinst.shtm> and the Floodproofing Certificate can be at: http://www.fema.gov/plan/prevent/fhm/dl_fpc.shtm.



2008 Population Estimates now available on the OEP website!
www.nh.gov/oep/

NEW HAMPSHIRE ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM FUNDING DISTRIBUTION PROPOSAL – JULY 8, 2009

Under the American Recovery and Reinvestment Act of 2009, \$3.2 billion has been appropriated nationally to the Energy Efficiency and Conservation Block Grant Program (EECBG). Of the \$12.5 million that New Hampshire will receive, \$2.9 million will be allocated directly to the State's 10 largest municipalities. The remaining \$9.6 million will be conferred to the New Hampshire Office of Energy and Planning (OEP) in phased increments to fund the implementation of strategies relating to:

- Reduction of fossil fuel emissions;
- Reduction of total energy use, and
- Improved energy efficiency in transportation, buildings and other areas.

NEW HAMPSHIRE'S EECBG PROGRAM

OEP proposes to distribute approximately 70% of New Hampshire's EECBG money in the form of subgrants. Municipalities and counties will be able to apply for any project that falls within activity areas established by the US Department of Energy (DOE). For evaluation and award distribution purposes, however, applications will be categorized as follows:

- Building Retrofits
- Energy Audits
- Transportation
- Solid Waste/Wastewater
- Financial Incentive Programs
- Other innovative projects that fall within DOE's EECBG eligible activities (see www.nh.gov/oep/recovery/eccbg.htm)

OEP plans to develop an RFP to hire a Grant Manager. In collaboration with OEP, the Grant Manager will:

- Develop an application, application scoring criteria and related guidance materials;
- Conduct program workshops;
- Collect and evaluate applications and select awardees, and
- Facilitate reporting and ensure subgrantee compliance with all state and federal requirements.

OEP also proposes to set aside \$2 million to hire one or more partners to assist each participating New Hampshire municipality or county in inventorying its energy use and creating a road map toward increased energy efficiency and decreased energy use and fossil fuel emissions. While the inventories will give communities a snapshot of their recent energy use, the roadmaps will provide enduring guidance that

will continue to pay dividends long after ARRA has passed. The road mapping process will apply generally accepted methods for increasing energy efficiency to the individual needs and characteristics of each community.

The road mapping process will involve:

- Education of energy planning principles and processes;
- Community forums to evaluate perceived needs and priorities;
- Assessment of community capacity and ability to implement selected actions;
- Financial planning for future grants, projects and initiatives, and
- Publication of a Community Energy Efficiency and Conservation Strategy that sets priorities and makes recommendations for implementation.

For more information, please contact Dari Sassan at 271-1765 or dari.sassan@nh.gov, or go to: www.nh.gov/oep/recovery/eccbg.htm

