Town of Randolph

Planning Board Minutes

January 4, 2024 - Draft

**Members Present:** June Hammond Rowan, Robert Ross, Tim Mather, and Kevin Rousseau

**Members Excused:** John Turner and William Demers

**Public Present:** Mark Kelley for Randolph Forest Commission, Paul Cormier, Kristin Neufelder, Nathanial Adams, Yvonne Jenkins, Howard Wemyss, Barbara Arnold, Bill Arnold, Lisa Teczar, Steve Teczar, Christopher Cross, Peter Rowan, Shelli Fortin, Minutes Taker, and Tara Bamford, Planning Consultant (via phone)

1. Call to Order

June Hammond Rowan called the meeting to order at 7:04 pm.

2. Roll Call

3. Review of Minutes

**On a motion by Kevin Rousseau, seconded by Tim Mather, the Board voted unanimously to accept the minutes of the December 7, 2023, meeting as presented**.

4. Communications to the Board

Communications received were relative to the public hearing and will be read at that time.

5. Report of Officers and Committees

a. Selectboard

There was no report from the Selectboard.

b. Randolph Forest Commission

Tim Mather advised that the Planning Board will need to hold a public hearing on the Stewardship Plan and the White Mountain National Forest Agreement when they discuss the management of the glades in April.

6. Applications

No new applications were received.

7. Unfinished Business

There was no unfinished business.

8. Other Business

1. Public Hearings
2. 2024 Randolph Community Forest Budget

Mark Kelly presented a PowerPoint on the Randolph Community Forest and copies of the budget were distributed to those present.

June Hammond Rowan opened the Public Hearing at 7:18 pm.

Yvonne Jenkins asked how the Pond of Safety Road fared during the rainstorm and Mark Kelley advised there was minor damage.

Barbara Arnold thanked Mark Kelley for stepping into the role of Chairman for the Forest Commission.

Steve Teczar asked if there were any other prospects for donations of land to the Town Forest, and Mr. Kelley advised that the Browns donated land this year.

June Hammond Rowan noted the payment in lieu of taxes, of which a small amount is paid to Gorham, some to Jefferson, and the balance to the Town of Randolph. The payment is based on the land being in current use.

June Hammond Rowan closed the public hearing at 7:23 pm.

**On a motion by Robert Ross, seconded by Tim Mather, the Board voted unanimously to approve the proposed 2024 Randolph Forest Commission budget as presented.**

1. Petitioned Warrant Article to Allow Free-Standing Solar Arrays as Permitted Use

June Hammond Rowan reviewed uses in the Land Use Ordinance, that some are permitted, some are permitted by special exception, and those not listed are not allowed. However, a landowner would have the right to apply to the Zoning Board of Adjustment for a variance for a use that is not allowed.

The petitioned warrant article reads: “To see if the town of Randolph will adopt a change to the Land-Use Amendment by removing section 4.03 M, which allows free standing solar arrays by Special Exception only, and to include free standing solar arrays simply as an allowed use under section 4.02 of the Land use ordinance.”

Hammond Rowan advised that she did check with the town attorney to see if the language was adequate, and was advised that it did contain enough specificity. Hammond Rowan advised that the Planning Board did discuss this request previously and decided not to pursue an amendment. Free-standing solar arrays were previously a permitted use, but this was changed to a use by special exception in 2020. Prior to this it was included in the definition of a structure. There have been concerns over aesthetics. Structures are required to meet setback requirements.

June Hammond Rowan opened the public hearing at 7:29 pm.

Christopher Cross asked how many applications have been received for free-standing solar arrays as special exceptions and was advised that as far as the Planning Board is aware there have been three approved, and none were rejected.

Howard Wemyss asked if someone submits an application and the neighbors are opposed, could the neighbors prevent the application from being approved. Paul Cormier stated that the Zoning Board of Adjustment would take the neighbors’ comments into account, but would try to accommodate those concerns with the need for the solar array. Neighbors receive notice of the application and hearing, and the Board of Adjustment looks at the criteria in the Ordinance and tries to mitigate the concerns. Tara Bamford added that they could add to the list of types of conditions that the Board of Adjustment could set, and this would help to find a middle ground.

Howard Wemyss noted that it is ironic that of all things a person could do, we are requiring people to spend money and time filing applications on something that all property owners should consider doing. Mr. Wemyss also noted that state laws say that zoning is supposed to encourage the installation of alternative energy sources, however Randolph is putting up a barrier.

Peter Rowan noted that there is no requirement for a special exception for roof mounted solar panels.

Yvonne Jenkins stated that since free-standing solar arrays are a structure, they would have to meet setback and height requirements, so there is no point to requiring an application for a special exception.

Howard Wemyss stated that he would like to see the Planning Board’s approval on the petitioned warrant article on the ballot.

Barbara Arnold asked what happens with the petition, and was advised that if it passes at Town Meeting the Land Use Ordinance will be amended.

Christopher Cross noted concerns about aesthetics and scale, and asked what would happen if someone would want to install a commercial size solar array. June Hammond Rowan advised that the Land Use Ordinance as it is now reads allows “on-site use”. Yvonne Jenkins stated that Clean Energy NH has a good document that could provide wording and guidance for the town. Hammond Rowan stated that they do have examples from other communities, and could require a special exception for arrays over a certain amount of power. Hammond Rowan advised that the Planning Board could look at this next year. For now, if it was a commercial use, they would need a site plan review.

Peter Rowan noted that allowing free-standing solar arrays would save the cost of sending notices and remove the hearing where neighbors act as jurors weighing in on the application.

Christopher Cross questioned the need to make changes, as the Zoning Board of Adjustment has a functioning system in place that works.

Paul Cormier noted that for those who understand the system, the application is not a big thing to do, however for some it can be intimidating and might discourage people.

Tim Mather stated that the Durand Road array brought this to the Board’s attention, however it is their property and their choice to install a solar array, regardless of how others think it looks.

June Hammond Rowan closed the Public Hearing at 7:47 pm.

1. Land Use Ordinance Amendment to Remove Kennels as a Special Exception

June Hammond Rowan advised that the Planning Board is considering an amendment to the Land Use Ordinance to amend Article IV, Section 4.03 to remove kennels as a use by special exception and to eliminate the associated conditions for kennels in Article IV, Section 4.04.F.

June Hammond Rowan read four emails and two letters written to the Board, from Chris Burns, Laura Archambault, Doyle, the Crary Family, William Parlett, and John Brown; which were all in support of removing kennels as use by special exception.

Christopher Cross asked why they are considering the change to the law, and June Hammond Rowan advised that the Board received a request to consider it. Hammond Rowan advised that since the Land Use Ordinance was adopted in 1988 kennels have always been an allowed use by special exception, but last year they added a definition and some specific criteria.

Yvonne Jenkins asked about the definition and Hammond Rowan read the definition and noted that a kennel is more than five dogs.

Barbara Arnold noted that there is not a problem, as the definition is there, and the Board of Adjustment can set conditions. Ms. Arnold noted that she does not see why the use should be eliminated, as people should be able to use their land and they already have regulations and can add restrictions.

Yvonne Jenkins stated that the State of NH has rules about dogs. Discussion ensued about leash laws, and Kevin Rousseau advised that these rules are at the discretion of the town. Tara Bamford noted that these rules and the enforcement are for the municipality to decide. June Hammond Rowan noted that there is also the issue of police coverage for the Town. Hammond Rowan reminded those in attendance that the Planning Board deals with land use issues, not police issues.

Bill Arnold asked what would happen if they voted to not allow kennels. June Hammond Rowan advised that this is not a petitioned warrant article, so the Planning Board will decide whether to include it on the ballot. If the voters pass it, the use as a special exception would be removed, but the definition of a kennel would stay. If the voters did not pass it, it would stay as it is.

Howard Wemyss noted that if the use was removed, a property owner could still request a variance.

Steve Teczar noted that this was an emotional issue last summer and stated he believes the definition is inadequate. There is still the issue of a puppy mill, and many unanswered questions.

Peter Rowan noted that all of the comments received by the Board are from those within arm’s reach of the kennel. Mr. Rowan noted that he hoped those that wrote the letters understand that the current kennel will not go away if the use is removed, and that this should be considered on a broad base for the whole town.

June Hammond Rowan noted that she likes to look as the issues as if she was the neighbor.

Nathanial Adams noted that a variance is more highly scrutinized, rather than a special exception which is permitted as long as the criteria are met. It was noted that his kennel is not a business, and that the Randolph Master Plan encourages the use of the land for dogsledding and outdoor use. Mr. Adams encouraged the Town to keep the criteria, as there are bad dog owners out there. Mr. Adams noted that removing kennels as a special exception would discourage boarding facilities, doggy day cares, and veterinarians from coming to the Town.

Tara Bamford advised that the Planning Board had discussed the issue of a commercial kennel, but were mostly concerned with the impact based on the number of dogs whether a commercial operation or not.

Christopher Cross noted that everyone who volunteers for Boards does so in their spare time, and take a lot of grief, and sometimes are not prepared for the issues raised. A large number of people do not want to live next to a kennel, and the process is complicated, and it is not fair to expect the Board of Adjustment to hear special exceptions again and again.

June Hammond Rowan closed the Public Hearing at 8:17.

1. Decisions on Land Use Ordinance Amendments

Tim Mather stated that after considering the petitioned article for free-standing solar arrays, he believes the original requirement for a special exception was a knee-jerk reaction, and that it is just a structure on someone’s property. June Hammond Rowan advised that the Board could look at addressing the concerns of a commercial solar array next year with input from the Energy Committee.

**On a motion by Tim Mather, seconded by Robert Ross, the Board voted unanimously to approve the petitioned warrant article to remove free-standing solar arrays as a special exception, and include them as an allowed use, in the Land Use Ordinance.**

Tim Mather noted the downside of removing kennels as a special exception in that someone with six dogs could not move to town. Kevin Rousseau shared concerns about a kennel like the one in Jefferson being in town.

**On a motion by Tim Mather, seconded by Kevin Rousseau, the Board voted unanimously to move ahead with an amendment to the Land Use Ordinance removing kennels as a use by special exception and eliminating the associated conditions for kennels.**

c. Planning Board 2024 Budget

June Hammond Rowan advised that she received updated numbers from Linda Dupont. There were no changes to the proposed 2024 budget she had given to the Board. They will have some revenue with the new application procedure.

d. 2023 Town Report

June Hammond Rowan provided a draft report to the Board, and members agreed it looked good to submit for the Town Report.

e. Other

9. Public Comments

There were no additional public comments.

10. Adjournment

**On a motion by Kevin Rousseau, seconded by Tim Mather, the Board voted to adjourn the meeting at 8:27 pm.**

Respectfully submitted,

Shelli Fortin

January 6, 2024