

TOWN OF CONCORD PLANNING BOARD
Town Hall

May 20, 2025
6:00 p.m.

ITEM # 1:

The meeting was called to order by Planning Board Chairman Edbauer, at 6:00 p.m.

ITEM #2: Roll Call

Present:

Jospeh Edbauer, Chairman
James Jozwiak
Michael Cochran (arrived @ end of mtg)
Guy Marlette
James Miller
Ryan Ploetz

Also Present:

Darlene Schweikert
Clyde M. Drake, Town Council Liaison
Thomas Roberts, CEO
Kevin Manchester, CEO

Not Present:

Julie Zybert

ITEM #3: Code Update

Chairman Edbauer called this special meeting to finalize the last sections of the Code Update before Secretary Schweikert sends the upload to General Code.

- **Chapter 93 Manufactured Homes** – At the last meeting the members agreed to have this section be changed to Modular Homes. Since Modular Homes are allowed in our Town, there is no reason for that change. This was being discussed because the members did not want to have manufactured homes in any location but Mobile Home Parks. Chairman Edbauer found research on this that were controversial like you could have a Special Use Permit application; he also found the same NYS brochure that G. Marlette found, that said that if the manufactured home meets all the requirements of a standard stick-built house, it is allowed; NYS considers it the same or equal to a stick-built house. While modular homes and manufactured homes are different, NYS is saying manufactured homes are allowed if it meets the same standards (including general aesthetic and architectural standards, applicable to conventional site-built single-family dwellings in the residential district in which the manufactured home is to be sited). Chairman Edbauer continued that the Code Enforcement Officer will need to do their due diligence as is done with stick-built home permits. CEO Roberts said that certified manufactured home installer has to install the home; he needs to make sure the home is on a proper foundation and receives the final HUD certificate. Chairman Edbauer advised that these manufactured homes are going to be allowed in the town; on a permanent foundation and meeting all the HUD requirements. G. Marlette questioned if

the property owner had to go through a site plan review to erect the manufactured home; CEO Roberts will review the building permit application as he does with all permits; these building permits do not go through a formal site plan review. All the steps for a single-family home are required. Secretary Schweikert advised that what she wanted to review with the Members is that Manufactured Homes are already allowed in some districts within the Town as noted in the zoning district permitted uses section; this Chapter 93 appears to be unnecessary/obsolete; could be repealed. If Manufactured Homes are allowed, then why does the Code have this Chapter? Chairman Edbauer agreed; it can be repealed. G. Marlette said that NYS says a Town can, through zoning, indicate where manufactured and/or modular homes could be put. Secretary Schweikert referred the Members to Page 4 of the NYS brochure that says: "Section 616 of Title 2 expressly provides that a manufactured home that is affixed to a permanent foundation and conforms with the identical development specification and standards, including general aesthetic and architectural standards, applicable to conventional, site-built single family dwellings in the residential district in which the manufactured home is to be sited, shall be deemed to be a conforming single family dwelling for purposes of the applicable local zoning law or ordinance." G. Marlette referred to Page 8 that said that "Local governments could also, through zoning, limit manufactured homes and manufactured home parks to certain zones, consistent with a comprehensive plan." Further down on Page 8 it states "The full array of other regulatory authorities-zoning, special use permits, site plan review and free-standing authority, when utilized to address the development of manufactured home parks (or manufactured homes) in local governments with zoning, must now be exercised in accordance with applicable provisions of Title 2." Title 2 says that manufactured homes are allowed. G. Marlette noted that the Town has to let them come in based on the need for affordable housing. CEO Roberts stated to G. Marlette that this is something the Town needs to argue in two years from now; the next redo of the Code; let's get past this and if the Town wants to regulate this and state regulating neighborhoods, let's work on that two years from now. G. Marlette said he didn't say regulate. CEO Roberts said he is correct that the Town has the right to do it. G. Marlette referred to Page 6 where it specifically talks about zoning: "Zoning is one land use tool of a city, town or village seeking to implement its comprehensive plan" so they all have to match; you can use zoning to regulate where a manufactured or modular home go and you can do that based on requiring a person to put manufactured homes based on lot size, five acres or 10 acres, or more. CEO Roberts said that's talking comprehensive plan. G. Marlette said no, that this was zoning. The zoning should match whatever the comprehensive plan is; the comprehensive plan doesn't necessarily dictate zoning because when the comprehensive plan was developed, things change so if CEO Roberts thinks this is a zoning change, such as this, and you're saying it is in conflict with the comprehensive plan, the zoning change can be implemented based on amending the comprehensive plan. CEO Roberts agreed; but what he is saying now is that if the Planning Board wants to do that, and implement that, let's do that two years from now; we're here tonight to just get past this. CEO Manchester said affordable housing was mentioned. Chairman Edbauer wondered how the Town would regulate it; where would the Town put it? G. Marlette said that when you talk about affordable housing, it's based on a town or village saying we only want one or we want none but if the community at large has a need for affordable housing, they say that manufactured homes or mobile

homes are the best alternatives for affordable housing. J. Jozwiak said his parents have a home in Delaware on the water and in an area where the land is leased. Only manufactured homes are allowed; \$400,000 and even \$750,000; basically, glorified double-wides but they are nice homes; no basement, one story, on piers. G. Marlette noted that the big trend right now is manufactured home districts; someone could buy a big piece of land, like 50 acres and make parcels and these parcels can be owned or rented or leased; these are considered manufactured home parks. Chairman Edbauer said the Town is not set up for districts; CEO Roberts said that would not be under subdivisions. There's a whole section in our Code that references anytime you branch off more than four, it broadens the whole process to include engineering, so it self-regulates itself a little bit. J. Jozwiak feels that the way they look now, in his opinion, they can pretty much go anywhere. They are not like they used to be; they don't look like the ones from the 80s. CEO Roberts said he believes this Chapter in the Code was created because our Code goes back so far and has been patchworked to fit this new style. Chairman Edbauer does not believe the Town is ready to set up a district at this time. Chairman Edbauer asked Council Member Drake for his thoughts. Council Member Drake noted that he doesn't have a vote on this Board but he does not think the Town is set up for it either. Chairman Edbauer agreed with CEO Roberts that maybe down the road the Town will be. G. Marlette said that with a mobile home park there are certain restrictions specifically for a mobile home park. Towns that envision large swaths of land becoming these mobile type parks where there is partial ownership, some own their lots and so don't, they create districts specifically for those types of mobile home parks. There's land ownership, lease ownership and rental ownerships. Chairman Edbauer noted that the infrastructure would need to be put in as well. G. Marlette said with regard to the mobile home type parks, there's usually a minimum number of lots that are necessary. Council Member Drake advised that Erie County is working on something in draft form right now, that where, if it is prime farmland, you will be limited on what you can do.

Chairman Edbauer stated that he is in favor of eliminating Chapter 93. J. Jozwiak agreed. Chairman Edbauer noted that it makes the Code cleaner. J. Jozwiak made the motion, seconded by J. Miller, to repeal Chapter 93. Members Jozwiak, Miller & Ploetz; Chairman Edbauer, aye. G. Marlette, opposed. M. Cochran & J. Zybert, excused. Carried.

Our Code calls these mobile home parks; it does not yet say there are manufactured home parks in our Town. There is at least one manufactured home in the Perkins Mobile Home Park. CEO Roberts informed G. Marlette that before 1976 there were mobile homes. G. Marlette noted that he was aware of that; before that there were mobile homes and after that they are considered manufactured homes. CEO Roberts said correct, so anything with a tire on it, there can't be anything that came in on a chassis and kept the tires. After that point in time, the Town has pre-existing conditions. North Street and Perkins Mobile Home Parks both have pre-existing conditions. Anything past 1990, to the present, there are no more coming in because there are no more produced. What the Town is doing here is allowing the pre-existing condition of a mobile home court because they are pre-existing. Those stay; but no other ones can generally come in.

G. Marlette agreed but he was simply saying that the verbiage should be manufactured home parks not mobile home parks. They are one in the same. The State treats mobile homes and manufactured homes as the same terminology. CEO Roberts said pre-1976. G. Marlette said based on the dates of manufacturing. That is his opinion. Secretary Schweikert advised that according to the definition that the Board agreed on previously, the last sentence says that the term manufactured home does not include a mobile home or recreational vehicle. This is saying that there is a distinction. J. Jozwiak said that there are some mobile homes in our Parks that are old. North Street has several. CEO Roberts advised that once they go out, another mobile home cannot go back in.

R. Ploetz questioned single-wide mobile home last time. If he is correct, under NYS Ag & Markets, he can put one in. CEO Roberts advised that Ag & Markets can override things but he does not think they can override zoning. The NYS Brochure at Page 10 states: "Manufactured Homes as Farm Worker Housing-The New York Department of Agriculture & Markets has expressed concern that restrictions on manufactured homes may adversely impact agricultural operations in the State because manufactured homes are often the only housing available for farm workers." R. Ploetz said that it would go in the same spot as the prior one was located; separate septic. J. Miller asked if he'd be finding one from the 1970s that was usable and R. Ploetz agreed. CEO Roberts advised R. Ploetz that he cannot bring in a trailer; he could bring in a HUD house from after year 1976. CEO Roberts told R. Ploetz he will review this and reach out to R. Ploetz afterwards.

Note: Secretary Schweikert had been speaking with CEO Roberts outside of this meeting on this matter. It would appear that the Federal regulations on manufactured homes allow for these types of homes and he feels that these homes should be allowed in all the R zones (except Bridgetop R-12 and Craneridge R-CDRG) and in all the C zones (except M General Industrial, M-R Mining Reclamation and PID). CEO Roberts also said that there are probably about three of these homes built in the Town every year for the last few years.

- **Chapter 94 Mobile Homes.** Secretary Schweikert made changes with regard to the definition of Mobile Home, added "code" to "Code Enforcement Officer." At **Section 94-7:** changed the number of copies of documents needed for any new license for Mobile Home Courts. At **Section 94-8:** changed the dates for the renewal of the licenses to coordinate with the Spring Trash Pickup. No further discussion; Members approved these changes.

- **Zoning Article III Word Usage and Definitions.** Changed definitions as discussed at previous meetings:
 - Definitions for "campground" and "crypto mining" as defined at previous meetings were added to the list.
 - Change "modular home" definition to – Prefabricated homes built in sections, or modules, in a factory and then transported to the building site and then assembled on a permanent foundation. Modular homes shall be built to adhere to local

and state building codes and regulations and are considered, like traditional site-built homes, and are considered permanent residences.”

-Included the definitions for: Use, Accessory; Use, Change of; Use, Principal; Use, Prohibited; Use, Temporary; Variance; Variance, Area; Variance, Use.”
Manufactured Home Parks.

No further discussion; Members approved these changes.

- **Zoning Article XXXI Nonconforming Lot Size etc.** The verbiage previously discussed was:

Article XXXI Nonconforming Lot Size

Repeal Section 184 Lots, Grandfathered and merge this at Section 150-162. Discussion at previous meeting Change title from “Continuation” to “Nonconforming Lots” and add “(1) The Code Enforcement Officer of the Town of Concord may permit the construction of a building on a lot which does not meet the minimum area size or frontage requirements of Chapter 150: Zoning, provided that the lot is owned by the applicant, and provided further that the ownership was of record prior to the adoption of Chapter 150: Zoning on _____ 2025, and provided further that the lot meets Erie County Health Department applications. No such permit shall be granted if the applicant is the owner of adjoining vacant property so that the owner could easily comply with the requirements of Chapter 150: Zoning.”

Secretary Schweikert advised that her concern is that the term "grandfathered lot" would just be renamed to "nonconforming". If a parcel does not meet the zoning requirement, there is an avenue for a property owner to proceed through a Zoning Board of Appeals Area Variance. There are 2,681 parcels in the Town; at most there are 263 parcels that are less than 3 acres. This number is not broken down by zoning district (Craneridge lots, or each R district whether new acreage is 2 acres or 3 acres minimum). J. Jozwiak noted that the Code still has the 200 feet requirement. CEO Roberts wanted it in the Minutes that the 200 feet was at the building face. Chairman Edbauer agreed, then there can be flag lots. No further discussion; Members agreed to these changes; take out the paragraph about CEO permitting on grandfathered lot and go to ZBA. J. Miller wondered what would happen if someone wanted to buy a house in the town a smaller parcel? If the home is already there, it is not a problem. If the owner wants to build on a vacant lot, then they would need to go before ZBA. CEO Roberts asked about modification to an existing home; Chairman Edbauer said the home is already there as long as they can meet all the other setbacks.

- **Zoning Article XIX M-R Mining Reclamation District Regulations.**

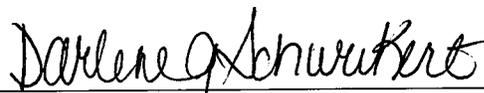
Chairman Edbauer noted that this was discussed previously with regard to the McCarthy Pit. The DEC accepted his Reclamation and the pit is closed; DEC file is closed. The question was the parcel is now zoned M-R and it's not being used as M-R. Secretary Schweikert discussed this with Town Attorney Attea who thought that the parcel should automatically revert to the prior zoning in the absence of an application and approval by the property owner to have it rezoned to a different zoning district. Secretary Schweikert noted that in her research it appears that most Towns have overlay districts for these

types of activities and the Towns do not rezone. Overlay districts may be a way for the Town to proceed moving forward with the next Code update. Secretary Schweikert drafted some language that could be added to this Section: **Section 150-105. Final Reclamation Process.** After the New York State Department of Environmental Conservation accepts the Final Reclamation and releases the property owner from any further obligations imposed by the NYS Mining Permit, the subject property will automatically revert back to the prior zoning district. The Town will file the necessary application to rezone. If the property owner does not want the property to revert back to the prior zoning, and have the property rezoned to a different zoning district, the property owner shall apply to the Town of Concord for the rezone. J. Jozwiak agreed with this; Chairman Edbauer agreed too because the DEC permit is closed. The automatic rezone has to be initiated by someone; because a rezone needs to be done by Local Law. In this draft, Secretary Schweikert indicated the Town will file the necessary application to rezone. CEO Roberts questioned what happens if the pit has been in existence for years and the Town does not know what the original zoning district was because our oldest Code used different zones. J. Jozwiak said that it could go to neighboring zoning. Town Attorney Attea thought it could be the zoning district in the same character of the neighborhood. G. Marlette said at previous meetings that Towns can initiate these proceedings.

G. Marlette commented on an earlier discussion with R. Ploetz with regard to a farm house. He believes R. Ploetz can't just put one there and be in compliance; he thinks a Special Use Permit for the season should be obtained. CEO Roberts will research. Chairman Edbauer agreed that R. Ploetz can't just put one there; G. Marlette said that he would need permission and the Special Use Permit would give him that permission. There was general discussion about the number of workers, dorm bedrooms, septic, etc. Chairman Edbauer will reach out to Erie County for any input as well.

ITEM 4: Motion of Adjourn

J. Jozwiak made the motion, seconded by J. Miller, to adjourn the meeting at approximately 6:42 p.m. All in favor. Carried. The next meeting will be Tuesday, July 1st, 2025. Chairman Edbauer thanked everyone for their efforts in this process.



Darlene G. Schweikert
Planning Board Secretary