

# Excerpt from Draft Joint Public Hearing Minutes

## January 18, 2024

### **Item 6A. Text amendment to various UDO sections on riparian buffers and variance procedures (staff-initiated)**

Stormwater and Environmental Services Manager Terry Hackett provided background on the proposed amendment. The town has delegated authority from the state to enforce the Neuse riparian buffer rules. In 2020 the state revised its buffer rules. Recently, two or three residents who have lots that would be encumbered with stream buffers prompted staff to study the new state rules more closely. The proposed changes have mostly to do with the table of uses. The uses are largely the same but are more specific, which will make them more enforceable.

Member Christian Schmidt asked about differences between the new town requirements with the state requirements. Hackett said the town's rules were in some cases more stringent. He cited as an example the town's rule that the use of herbicides in removing vegetation require written authorization, whereas the state rules do not.

Hughes asked how would the "kick in" provision work for an unmapped stream. Hackett explained that because the new state rules had dropped an earlier provision about identifying streams using field evidence, town staff added that provision because there are streams in the town that are unmapped, especially in the historic district. If planning staff see evidence of a stream on a topographical map, they will direct the applicant to contact stormwater staff to request a field determination.

Hackett also explained changes to the variance process. He said town staff determined that if a use is not on the table of uses, then it's prohibited and an applicant seeking a variance would have to appeal to the state.

Hughes asked Town Attorney Bob Hornik if this is an area where the state allows a municipality to impose more stringent rules than the state. Hornik explained that when the issue arose a few years ago, the state at first said local governments could not, but then began issuing waivers, so he thought the town's stricter rules would be permitted.

Casadonte asked Hackett what the process is once the changes are passed. Hackett explained the town must next submit changes to the state. Once reviewed by the Department of Environmental Quality staff, the proposed changes will be sent to the Environmental Management Commission. He expects a decision by May. Hornik added that this amendment was the only one on the agenda that would need approval from the state.

### **Planning Board recommendation(s)**

Boyle explained the board was not required to make recommendations that evening but could recommend any amendments it was ready to recommend. Casadonte asked if there were any text amendments the board wanted to discuss further. Several members said the applicant-initiated public street amendment needed more discussion.

Motion: Schultz moved to recommend approval of the text amendments in sections 6 A, C, D, and E on the agenda as written. Schmidt seconded.

Vote: 8-0. Motion passed.

DRAFT