



*Committee on Economic Development, Housing and  
Land Use*

*Councilor Paul D. Spector, Chair  
Councilor Owen Freeman-Daniels  
Councilor Pamela C. Schwartz  
Councilor Eugene A. Tacy*

*Kevin Lake, Conservation Commission liaison  
Ann DeWitt Brooks, Planning Board liaison*

**March 5, 2013 Minutes**

**5:00 p.m. – 6:30 p.m.**

**City Council Chambers, 212 Main Street  
Wallace J. Puchalski Municipal Building  
Northampton, MA**

1. Members present/absent: Councilor Spector, Councilor Freeman-Daniels, Councilor Schwartz, Councilor Tacy, Kevin Lake, Ann DeWitt Brooks. Ruth McGrath videotaped the meeting for North Street Association. Carolyn Misch, Senior Planner, was present to explain the Ordinances (see attached).
2. Meeting Called to Order – Councilor Spector called the meeting to order at 5:00 p.m.
3. Announcement of Audio/Video Recording of Meeting – The meeting was audio-recorded.
4. Public Comment - None
5. Ordinance: Amend §350-350a et seq. Increase Height Limits in Office/Industrial, General Industrial, and Central Business District by Five Feet (*Referred by City Council February 7, 2013 to Planning Board, Committee on Economic Development, Housing and Land Use, and to Committee on Elections, Rules, Ordinances, Orders and Claims*)

Carolyn Misch explained the changes come from discussions with builders and designers. City Solicitor reviewed and City must do this change by Ordinance.

**Councilor Schwartz moved to send to City Council with positive recommendation, as amended with Planning Board language; Councilor Tacy seconded. The motion passed unanimously (4-0).**

6. Ordinance: Amend §350-3.4 Rezone Parcels on Easthampton Road from BP and SR to GI to Help Fulfill the Business Park Vision (*Referred by City Council February 7, 2013 to Planning Board, Committee on Economic Development, Housing and Land Use, and to Committee on Elections, Rules, Ordinances, Orders and Claims*)

Ms. Misch explained that three parcels are affected. The vision was to develop as a unified unit, but land constraints and wetlands analysis showed land at middle and back of Pine Grove Golf Course and two vernal (certified) pools are not able to be developed.

**Councilor Tacy moved to send to City Council with positive recommendation; Councilor Schwartz seconded. The motion passed unanimously (4-0).**

7. Ordinance: Amend §350-7.7 General Advertising Signs (Billboards) May Not Be Reconstructed to Contain Electronic Technology (*Referred by City Council February 7, 2013 to Planning Board, Committee on Economic Development, Housing and Land Use, and to Committee on Elections, Rules, Ordinances, Orders and Claims*)

Councilor Spector stated he was glad the City is proactive on this issue.

**Councilor Freeman-Daniels moved to amend to strike “requires reframing to meet safety standards”;**  
**Councilor Schwartz seconded.**

**Councilor Freeman-Daniels withdrew the motion, Councilor Schwartz seconded.**

Councilor Freeman-Daniels stated that a sign could sit in disrepair by not being in compliance with State or Federal regulation changes.

**Councilor Freeman-Daniels moved to amend to strike “requires reframing to meet safety standards”;**  
**Councilor Schwartz seconded. The motion to amend passed unanimously (4-0).**

**Councilor Schwartz moved to send to City Council with positive recommendation, as amended; Councilor Freeman-Daniels seconded. The motion passed unanimously (4-0).**

8. Ordinance: Amend §350-3.4 and attachment 1.1 Rezone Watershed Protection Throughout the City (*Referred by City Council February 7, 2013 to Planning Board, Committee on Economic Development, Housing and Land Use, and to Committee on Elections, Rules, Ordinances, Orders and Claims*)

Ms. Misch noted all perennial streams and mapping from FEMA in 1970's, with stream plus 100' on either side, and some WP zone is broader than FEMA. FEMA has 100 year and 500 year, and WP would be broader than FEMA mapped.

**Councilor Freeman-Daniels moved to send to City Council with positive recommendation; Councilor Schwartz seconded. The motion passed unanimously (4-0).**

9. Ordinance: Amend §350-4.4 Language Regarding Home Occupation be Amended to be Consistent with Current “Home Business” Classification (*Referred by City Council February 21, 2013 to Planning Board, Committee on Economic Development, Housing and Land Use, and Committee on Elections, Rules, Ordinances, Orders and Claims*)

Ms. Misch noted this ordinance is for consistency in classification.

**Councilor Freeman-Daniels moved to send to City Council with positive recommendation; Councilor Tacy seconded. The motion passed unanimously (4-0).**

10. Ordinance: Amend §350j Water Supply Protection: Larger Accessory Structures Allowed, Addressing Mistakes in Attached Garage Setbacks, Relaxing Photovoltaic Structure Standards (*Referred by City Council February 21, 2013 to Planning Board, Committee on Economic Development, Housing and Land Use, and Committee on Elections, Rules, Ordinances, Orders and Claims*)

Ms. Misch noted that this is for cleanup and to incorporate more flexibility.

**Councilor Freeman-Daniels moved to send to City Council with positive recommendation; Councilor Tacy seconded. The motion passed unanimously (4-0).**

11. Ordinance: Amend §350-11.2, 11.3, 11.4, and 11.6b Consistent with Sustainable Northampton Minimize Permit Review Also Add Recording Requirements (*Referred by City Council February 21, 2013 to Planning Board, Committee on Economic Development, Housing and Land Use, and Committee on Elections, Rules, Ordinances, Orders and Claims*)

Ms. Misch noted that decisions are required to be recorded at the Registry of Deeds.

**Councilor Schwartz moved to send to City Council with positive recommendation, as amended by City Solicitor; Councilor Tacy seconded. The motion passed unanimously (4-0).**

12. Ordinance: Amend §350-10.1B Site Plans Approved with Special Permits be Recorded with the Decision (*Referred by City Council February 21, 2013 to Planning Board, Committee on Economic Development, Housing and Land Use, and Committee on Elections, Rules, Ordinances, Orders and Claims*)

Ms. Misch noted that decisions are required to be recorded at the Registry of Deeds.

**Councilor Schwartz moved to send to City Council with positive recommendation, as amended by City Solicitor; Councilor Tacy seconded. The motion passed unanimously (4-0).**

**Councilor Schwartz left the meeting at 6:29 p.m.**

13. Ordinance: Amend §350-9.3A New Non-Conforming Aspects to Already Existing Non-Conforming Single or Two Family Homes be Allowed by Special Permit Consistent with Recent Court Rulings on the Matter (*Referred by City Council February 21, 2013 to Planning Board, Committee on Economic Development, Housing and Land Use, and Committee on Elections, Rules, Ordinances, Orders and Claims*)

Ms. Misch noted a court case of Gloucester, MA in which the court said a variance is not needed, only a finding. The Committee discussed the requirement of super majority vote; the Zoning Board of Appeals has three members only.

**Councilor Freeman-Daniels moved to send to City Council with no recommendation; Councilor Spector seconded. The motion passed unanimously (3-0).**

14. NEW BUSINESS –*Reserved for topics that the Chair did not reasonably anticipate would be discussed.*  
None

**At 6:51 p.m., Councilor Tacy moved to adjourn and was seconded by Councilor Freeman-Daniels. The motion to adjourn passed unanimously (3-0).**

*Respectfully submitted,  
Mary L. Midura  
Executive Secretary*

# ZONING ORDINANCE CHANGES

1. §350-3.4 Rezone Parcels on Easthampton Road BP & SR to GI to Fulfill the BP Vision
2. §350-4.4 Home Occupation to be Consistent with Current "Home Business" Classification
3. §350j Water Supply Protection: Larger Accessory Structures Allowed, Addressing Mistakes in Attached Garage Setbacks, Relaxing Photovoltaic Structures
4. §350-11.2, 11.3, 11.4, and 11.6b Minimize Permit Review Also Add Recording Requirements
5. §350-10.1B Site Plans Approved with Special Permits be Recorded with the Decision
6. §350-9.3A New Non-Conforming Aspects to Already Existing Non-Conforming Single or Two Family Homes be Allowed by Special Permit Consistent with Recent Court Rulings on the Matter
7. §350-350a et seq. Increase Height Limits in Office/Industrial, General Industrial, and Central Business District by Five Feet, eliminate all references to SI remaining in text.
8. §350-7.7 General Advertising Signs (Billboards) May Not Be Reconstructed to Contain Electronic Technology. Clarify when billboards must be removed.

# Rezoning to GI

- Facilitates development on upland
- Development agreement



# Water Supply District Cleanup

- Correct errors relative to detached and attached garage setbacks.
- Expand allowed sizes for detached accessory structures.
- Allow majority of ground mounted PV panels by-right instead of Special Permit.
  - Less than 8KW or 100% of demand = No SP
  - Greater than 8KW or 100% continues to require SP.

# **Changes to Site Plan Review**

- Language Clean up
- Eliminate Site Plan for square foot but not footprint expansions in CB
- Recording of plans with decision
- Modified in committee review

# **Changes to Special Permit**

- Recording of plans with decision
- Modified in committee review

# Changes to 9.3

## Pre-Existing Non-Conforming Uses

- Zoning Board of Appeals Permits:
  1. "Finding" Section 9, Non-Conformities
    - No new violations AND is not substantially more detrimental to the neighborhood than existing conditions
    - *Majority to approve: 2 of 3 members*
  2. "Special Permits" , Table of Use (signs, det. accessory apart.)
    - Board finds something unique about the building/parcel to warrant a permit & it is consistent with the City's Master Plan
    - *Unanimous to approve: 3 of 3 members*
  3. "Variance" section 9, Non-Conformities
    - Rarely requested/granted for new violations
    - Most difficult permit
    - Board can only grant if:
      - No other viable use of the property
      - Affects individual lot differently than others due to topography or geography
      - Hardship not created by the applicant
    - *Unanimous to approve: 3 of 3 Members*



# Changes to 9.3 cont.

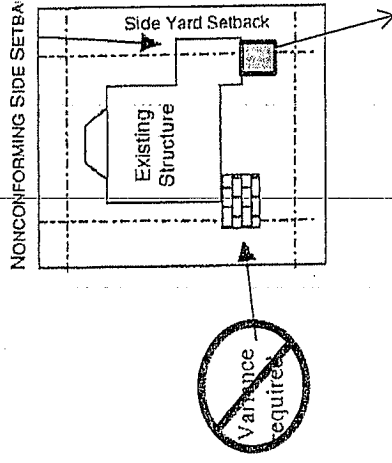
- MA Appeals Ct. case driving change: single/two-family non-conformities
- Variance no longer required for new violations on pre-existing non conforming 1 / 2 Family structures

## Effects:

- If you have a vacant lot, you must build to zoning.
- If your structure conforms to zoning, must always conform.
- If non-conforming structure/lot, do whatever you want after permit from

## Zoning Board of Appeals.

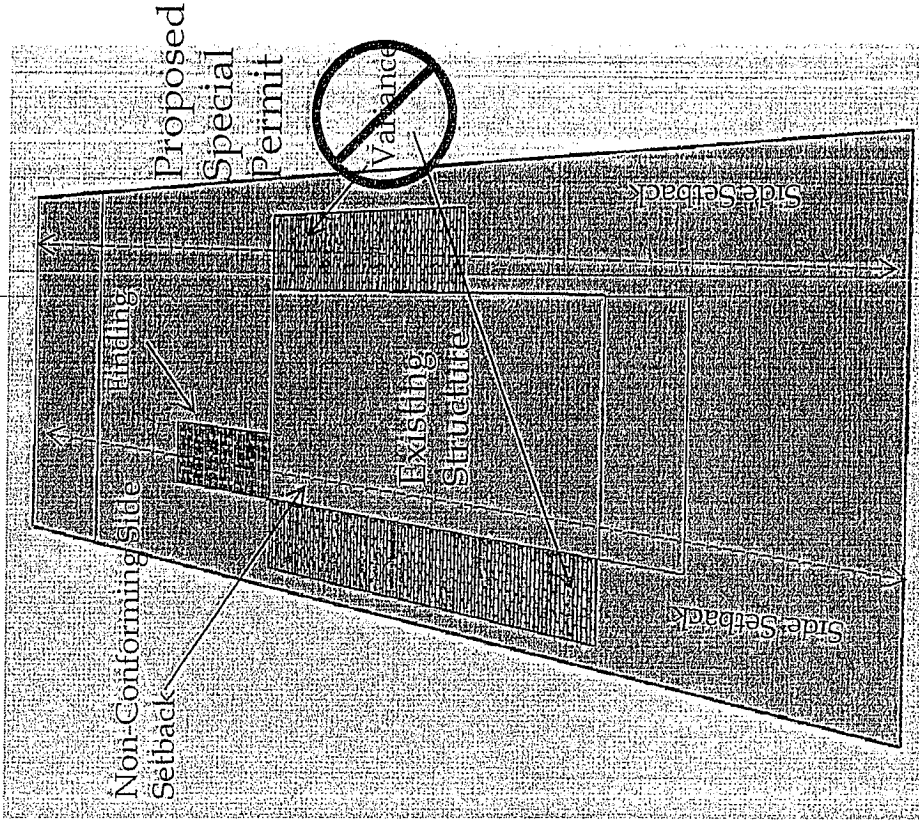
- ZBA must find: The change is not substantially more detrimental to the neighborhood than previous condition.



## Finding

# Changes to 9.3 cont.

- Alters permit from variance to special permit
  - Maintains Super Majority Vote (3 members to approve).
  - Standard for approval easier than Variance. (same as Finding)
- If underlying zoning ordinances change to make more lots conform, then less likely to use new standard to by-pass zoning intentions.



# Increase Heights

- CB: 65' to 70'
- GI/OI: 40' to 45'
  - Allows potential for one additional story-less footprint
- Amended by committees – corrections to OI references throughout code.

# Outdoor Advertising (Billboards)

1. Add prohibition on electronic signs/LED sign
2. Clarify existing interpretations:
  - Ordinary Maintenance Allowed, no structural replacements
  - No reconstruction of grandfathered billboards
3. Amended by committee