

**PLANNING COMMISSION
MINUTES**

REGULAR MEETING

February 19, 2013

MEMBERS PRESENT:

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| Alan Couch, Chair | Logan Nicoll |
| Terry Carter | Norman Vanasse |

DRB MEMBERS PRESENT:

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| Phil Carter, Chairman | Julie Nicoll |
| Richard Harrison | Linda Petty |

OTHERS PRESENT:

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| Rose Goings | Sasha Pealer | Lisha Klaiber, Recorder |
| John Broker-Campbell | Ned Swanberg | KP Whaley – LPC-TV |
| Jason Rasmussen | | |

1. CALL TO ORDER

A. Alan Couch called the meeting to order at 6:02 p.m.

2. ROLL CALL BY RECORDING SECRETARY

A. All members Planning Commission members present. DRB members Phil Carter, Julie Nicoll, Linda Petty and Richard Harrison present.

3. APPROVE MINUTES

- A. The minutes to be approved are from the meeting of January 22, 2013.
B. **MOTION by Logan Nicoll and seconded by Norman Vanasse to approve the minutes from January 22, 2013 as presented. Motion passed unanimously.**

4. COMMENTS FROM CITIZENS

A. There were none.

5. MEETING WITH THE AGENCY OF NATURAL RESOURCES (ANR) FLOOD MANAGEMENT TO DISCUSS NEW FLOOD REGULATIONS

A. Jason Rasmussen introduced Sasha Pealer and Ned Swanberg from the ANR.

- B. Ned Swanberg advised that there is data available to Ludlow from ANR. Towns have to consider inundation and erosion when creating Flood Regulations. He explained that in 1968, the National Flood Insurance Program (NFIP) was enacted to transfer the cost of policies from taxpayers to property owners. It provides people in the flood plains with financial assistance. It guides development away from flood hazard areas and requires new or improved buildings be brought up to safer standards. In 1974, Vermont enrolled in the program. He referred to a map showing Ludlow's Special Flood Hazard Areas (SFHA), River Corridors and recommended new River Corridors. In order to participate in NFIP, communities are required to assume responsibility for SFHA. He indicated Base Flood Elevations (BFE) on a map. Structures must be built over BFE and the higher over it, the lower the insurance premiums. There are 140 homes in Ludlow in the SFHA. You also need to consider probable maximum floods, dam breaches, ice and debris jams, infrastructure failure, dynamic adjustments of the stream channels and waste water. In July 2009, the ANR did a Stream Geomorphic Assessment of the Black River Watershed. This information is available to Ludlow. Regarding channel adjustments, he explained that the cycle includes equilibrium, incision, widening, narrowing and back to equilibrium. The river modifies itself during this cycle. The Functions/Values of the Flood Plains include water storage and energy dissipation, agriculture, forestry and reliable water power, ground water recharge, water quality protection, soil development, habitats, ecological process and biodiversity, and community recreation. There is a vicious cycle of escalating costs, risks and losses. If someone fills in, creates berms, dredges or armor an area, it will cause damage downstream. Planning Considerations include assessment of hazards, avoidance or aggravating existing exposure, reduction of current risk, preparedness for emergencies and insurance of residual risk. In order to avoid damages due to flooding, families should consider having, updating and reviewing an emergency plan, have an emergency kit including flashlights, water, batteries, first aid kit, etc., flood insurance, elevation of structures or relocating. The Community should be aware of known hazards and create regulations that will not aggravate these hazards. The state provides maps, data, models regulations and incentives for communities. Towns need to have a town plan that addresses SFHZ. They also need corridor studies, Hazards regulations, pre-disaster hazard mitigation plans, emergency operations plans and may apply for hazard mitigation grants. He said the ANR recommends setback requirements from the top of the banks. He said that Ludlow needs to have an assessment of the Jewel Brook and unnamed tributary.
- C. Phil Carter asked about the setbacks.
- D. Ned Swanberg said that typically, when you do not have any corridor information, it would be a set distance from the top of the bank. The ANR recommends that language be included in the bylaws that have verbiage to prohibit no new structures in the river corridors or SFHA, no fill in the SFHA, any substantial improvements be a minimum of 1 foot above BFE, requirements for Project review sheets and Certificates of Occupancy. In 2012, the state set up the Emergency Relief and Assistance Fund that provides public assistance for at varying percentages in addition to federal assistance. He explained that flood insurance rates are based on basement levels and nothing is to be below grade. They also need to have ways built in for the water to flow through and out. There is extra special protection afforded to floodways (part of SFHA). There are very specific engineering standards that may be turned over to FEMA.
- E. Phil Carter asked, regarding the permit process in the flood plain, what does the DRB have to do and how does it fit in with the state and FEMA.

- F. Ned Swanberg said the town has the responsibility to comply with state regulations. The applicant fills out an application to the town, with a copy to the state for comments and review. There are now 3 people at the state level reviewing applications. They have 30 days to respond. The DRB can choose to extend the hearings.
- G. Sasha Pealer said the state does a review and the feedback helps the town to see if the application complies with NFIP. The state provides technical assistance and may suggest conditions for the permits.
- H. Phil Carter said that over time, the input from FEMA has been as late as 1 year after the permits have been issued. There have been skewed engineering studies. The DRB tries to get the permits out within the 45 day time limit. How do we close the gap between the state and town?
- I. Ned Swanberg said that if the town issues a permit and the structure is below BFE, it becomes a negative policy (NFIP.)
- J. Phil Carter asked if the DRB needs to keep the hearing open until it hears from the state.
- K. Ned Swanberg said they may keep the lines of communication open. Let the applicant know upfront that the state piece exists.
- L. Sasha Pealer advised that there is a check list available from the state.
- M. Terry Carter asked if they should put this in the Zoning Regulations.
- N. Jason Rasmussen said it should be part of the application form,
- O. Sasha Pealer said they could put a note on the application that all permit applications must go through the ANR.
- P. Phil Carter asked what the DRB needs to do to satisfy the ANR and FEMA.
- Q. Ned Swanberg said that FEMA works with the state on most things and if there is a problem, the regional FEMA office gets involved.
- R. Jason Rasmussen said that the current Ludlow Flood Regulations (2007) are complicated. The town is now looking at state Model #5. It is clearer and should help the DRB. It also refers to the ANR.
- S. Richard Harrison said that the businesses in the town that were damaged during Irene wanted to reopen and the DRB worked with them.
- T. Ned Swanberg said that the proposals for rebuilding should have no adverse impact to the area.
- U. Phil Carter said that many of those buildings predated zoning.
- V. Jason Rasmussen said that FEMA did training involving the Timber Inn. He added that the Planning Commission is interested in setbacks or buffers in the corridors.
- W. Sasha Pealer said that smaller streams can be covered with simple setbacks. Bigger streams need more careful study. The Jewel Brook does not have the 1% annual flood chance map and has dams that are now rated higher risk. That stream may be subject to flash floods. They can create a river corridor and also include the part of the Branch Brook that is in Ludlow. They need a river corridor map for this. The setbacks could apply to streams that are not even identified. She added that ice or debris can cause events.
- X. Terry Carter asked about the snow making ponds.
- Y. Logan Nicoll said there was no issue with them.
- Z. Jason Rasmussen asked Sasha Pealer that if the town was interested, what would be the time line for a river corridor for the Jewel Brook.
- AA. Sasha Pealer said the town would have to express an interest to the ANR and she can't say for sure, but probably within one year.
- BB. Jason Rasmussen said that when the town updates the Flood Regulations, the state must approve them. Ludlow's draft is based on a state model.
- CC. Sasha Pealer said to include a Conditional Letter of Map Revision as part of proposals to FEMA.

- DD. Rose Goings asked if the draft language is strong enough.
- EE. Ned Swanberg said that the state models are a little more robust than FEMA requires.
- FF. Jason Rasmussen referred to Act 138 and state exempt activities, asking if they are exempt in the floodway and should the town require a permit.
- GG. Ned Swanberg said that there is a commitment on the part of the town under NFIP, but it gets complicated. He suggested having the applicant come in and try to talk to them and explain the requirements.
- HH. Terry Carter referred to page 3 of the model and references to Statutory Exemptions.
- II. Jason Rasmussen said that is not complete, he has to flush it out.
- JJ. Sasha Pealer noted that the PSB has Act 248 review.
- KK. Ned Swanberg said that there is an agricultural exemption and it is complex, but they are not obliged to get permits, but the structures must comply.
- LL. Jason Rasmussen asked the board members if they had reviewed the draft.
- MM. Phil Carter asked if any other towns prohibit new building development in the floodway.
- NN. Ned Swanberg said that some towns do say no new structures.
- OO. Jason Rasmussen said that is in the draft.
- PP. Sasha Pealer said in the flood plain it would require a conditional use permit.
- QQ. Julie Nicoll asked about mobile homes in the floodway. If one washes away, can they replace it?
- RR. Ned Swanberg said they may replace the structure, in the exact location, but it must be elevated on posts and comply.
- SS. Jason Rasmussen said that there are also buyout programs for situations like that.
- TT. Alan Couch thanked Ned Swanberg and Sasha Pealer for their presentation.

6. **OTHER BUSINESS**

- A. Terry Carter suggested that the board try to finalize the draft at the next meeting.
- B. Alan Couch said to look at Section 8, Administration and definitions.
- C. Terry Carter suggested Section 11.
- D. Rose Goings said that she downloaded FEMA definitions and they can review them, adding that there are a lot of them.
- E. Ned Swanberg suggested making reference in the Ludlow regulations to the FEMA definition site.
- F. Next meeting March 19, 2013.

7. **ADJOURN**

- A. **MOTION by Terry Carter and seconded by Logan Nicoll to adjourn this meeting. Motion passed unanimously.**
- B. Meeting adjourned at 7:53 p.m.

Respectfully submitted,

Lisha Klaiber

Alan Couch, Chairman

Logan Nicoll

Terry Carter

Norman Vanasse
