

**PLANNING COMMISSION  
PRELIMINARY MINUTES**

**REGULAR MEETING**

April 19, 2011

MEMBERS PRESENT:

Fred Glover, Chairman  
Terry Carter  
Alan Couch

Christine Fuller  
Ethan Gilmour

Steve Stengel  
Norman Vanasse

OTHERS PRESENT:

Christian Avard  
Mike Doran  
Jim Fuller

Andrea Lehtonen  
Mary Jane O'Hara  
Linda Petty

Jason Rasmussen  
KP Whaley – LPC-TV  
Lisha Klaiber, Recorder

1. **CALL TO ORDER**

A. Fred Glover called the meeting to order at 5:30 p.m.

2. **ROLL CALL BY RECORDING SECRETARY**

A. All members present. Fred Glover welcomed new board member, Ethan Gilmour.

3. **APPROVE MINUTES**

A. The minutes to be approved are from the meeting of March 15, 2011.

B. It was noted via email that item 5E should read “funeral supplies and coffins.” And 5F should be deleted.

C. **MOTION by Norman Vanasse and seconded by Christine Fuller to approve the minutes from March 15, 2011 as corrected. Motion passed unanimously.**

4. **COMMENTS FROM CITIZENS**

A. There were none.

5. **DISCUSS POSSIBLE CHANGES TO THE PRESERVATION DISTRICT IN THE VILLAGE OF LUDLOW**

- A. Fred Glover said that he had reviewed the minutes from the last meeting and Mark Kenney has proposed changes, but are they in proposal format.
- B. Rose Goings said that Mr. Kenney was at the last meeting and did present the changes. He would like to have Funeral Home added as a Professional Service. She added that there is no definition for Professional Service in the zoning regulations and the DRB did not allow the use of funeral home at 70 Main Street.
- C. Fred Glover said that by state statutes, the Planning Commission must make a report to the Trustees with its recommendations.
- D. Rose Goings said that although Mr. Kenney did not write a definition for Professional Service, and did not write a new district description, the letter of March 15, 2011 did give the understanding of his intentions.
- E. Fred Glover said that in the past, people have presented a written document and this board commented on it.
- F. Andrea Lehtonen said that she is opposed to the inclusion of funeral home as a professional service in the Preservation District. She asked if the board had read her original written objection that she presented at the first meeting. She said that she owns property diagonally across the street (75 Main Street) from the proposed location for the funeral home and that she is also representing her cousins, the Panards, who own 73 Main Street.
- G. Fred Glover asked if her first appearance was at the DRB hearing.
- H. Andrea Lehtonen said that it was at the DRB hearing and she presented a lengthy brief.
- I. Fred Glover asked if she had attacked the use of funeral home under the current regulations.
- J. Andrea Lehtonen said yes. It is not allowed as a use under the current regulations. She said that other districts do have it specifically listed as a conditional use. She said that when the Preservation District was originally being discussed, there were discussions about funeral homes, but the use was not included in this district. She agrees that Mr. Kenney is definitely a professional; this use does not fit under home based business and is not similar to other conditional uses for the Preservation district. She added that this use would cause extreme parking issues and if Mr. Kenney includes an upstairs apartment that would decrease the number of available spaces for the business. Parking on the street would be horrendous. She said the Mr. Kenney tried, unsuccessfully, to negotiate for the use of Sikorsky Ski Club or Odyssey Ski Shop for additional parking. She said that this would be an accident waiting to happen. She is concerned that the Select Board or Village Trustees can change regulations that have been voted on by residents. She said this is a slippery slope that anyone who wants to change the district can just go before the board and change the regulations. She does not like the guilt trip argument that if this is denied, there will be no funeral home in Ludlow and feels that they should not prey upon peoples' feelings in order to change the district uses. She said that she is very opposed to this change and although she was planning on retiring in Ludlow, she will not do it if this change is made. She said that Mr. Kenney could have appealed the DRB decision, but instead chose to try to change the regulations.
- K. Fred Glover asked Andrea Lehtonen if she had submitted her documents to the Planning Commission.
- L. Rose Goings said it was submitted to the DRB and is part of the evidence for that hearing.
- M. Steve Stengel asked Ms. Lehtonen if she has spoken to other people in the district or if this has been in the newspapers.
- N. Andrea Lehtonen said that she has not spoken to others and that she does not live here and has not seen anything in the papers.
- O. Steve Stengel asked if Mr. Kenney would appeal this to the DRB.

- P. Andrea Lehtonen said that he had 30 days to appeal it to the Environmental Court. He said that he considers Funeral Home as a professional service. She added that if he had signed a Purchase and Sales Agreement or lease agreement, he would not suffer hardship because the use would have been found against the law and the contract would be voidable.
- Q. Christine Fuller said there was an article in THE RUTLAND HERALD and Mary Jane O'Hara was quoted in that article. She added that she has an email from Linda Petty opposing the additional of Funeral Home in the district. She is against the traffic and other situations that would be against the residential mood of the area.
- R. Alan Couch said that he lives on Meadow Street across from the funeral home and he is affected by this business 2 or 3 times per year when there were large funerals. Mr. Kenney is a good neighbor and he has no other issues with the funeral home. When there are large funerals, it is inconvenient to get in and out of his driveway. On a few occasions, he has had to call Chief Billings as he was concerned that EMS vehicles may not have been able to get through the street with parking on both sides. The chief said it would not be an issue. He would recommend Mr. Kenney as a neighbor. However, knowing that there were discussions regarding funeral homes as a use in the Preservation District and that it was intentionally omitted, he would not change the regulations. It is not allowed now and he is reluctant to change the district. There were reasons it was omitted. He said that when Springfield Hospital was trying to obtain permission to use the OMS building for the health center, he was opposed to that and is reluctant to change
- Andrea Lehtonen said that she presented an 8 1/2" x 11" document to the DRB that was originally prepared by Richard Harrison when the Preservation District was being established. This document was Mr. Harrison's suggestions for allowed uses and he had included funeral homes. The use was not included. Meadow Street is different from Main Street and she thinks there is more parking there. She also added that Mr. Kenney had said that in Chester, the funeral home is on Route 103. It is not on Route 103, but on Depot Street. And there is no comparison of traffic levels with the proposed Ludlow location.
- S. Christine Fuller said that she agrees with Alan Couch. Our Planning Commission predecessors gave the use consideration and omitted it. The district was approved by the voters and we should not change it.
- T. Terry Carter said that some of Mr. Kenney's evidence was not based on actual data and he had no real plan for the parking.
- U. Rose Goings said that he did have some ideas for parking off site, but with a commercial business, the parking needs to be within a certain distance of the facility. He considered a shuttle bus, but that is also not allowed. The best thing for the Planning Commission to do is to decide first, if the use fits the district or not. What is the idea for the district and what are the best uses. She added that when the zoning regulations for the Village Residential Commercial were written, the funeral home has already there so it was included in the regulations
- V. Fred Glover said that Mr. Kenney went to the DRB and considered funeral home as a "similar use." Now he is here and we should look at the DRB decision.
- W. Rose Goings said that Mr. Kenney said it was a professional service, but that his argument was not strong enough for the DRB. She said that she told him that he had the option to appeal to the DRB for a Motion to Reconsider, appeal to Environmental Court or go to the Planning Commission to change the regulations. He chose to come to the Planning Commission because he feels that he is a professional service.
- X. Steve Stengel said that changing the regulations would not be preserving the district.
- Y. Alan Couch asked if there is a specific proposal.

- Z. Fred Glover said that Mr. Kenney's letter of March 15, 2011 asks to include this as a professional service. Fred Glover added that the board needs to discuss the history behind this district.
- AA. Jim Fuller said that he was involved in the original Preservation District discussions and funeral homes were discussed. He said that he went to property owners – about 42 at that time – and 75% of them were in favor of the Preservation District regulations as they were written and that did not include funeral homes. When the Springfield Hospital tried to get permission to use the OMS property for the health center, the people asked the hospital to change its plans and the hospital complied. The people were against changing the district.
- BB. Fred Glover said that the board has a reasonable amount of time to respond to the Trustees and he would like to discuss this again next month.
- CC. Rose Goings suggested that they define professional service because there is no definition in the regulations. There are examples listed under Conditional Uses.
- DD. Fred Glover suggested removing “similar uses.”
- EE. Rose Goings said that is possible or just give a clear definition of professional service.
- FF. Christine Fuller agreed with deleting “similar uses” and giving specific uses.
- GG. Terry Carter agreed with deleting “similar uses” and leaving the current examples as they are.
- HH. Fred Glover said they may want to consider if there are any other uses that would fit.
- II. Rose Goings asked how they would determine whose interpretation to use. What if you had an accountant with 10 employees? She said that parking should be considered. She said they still need to add a definition.
- JJ. Christine Fuller asked Rose Goings if she had worked on a definition.
- KK. Rose Goings said no.
- LL. Andrea Lehtonen said the intent seems to be a small scale operation.
- MM. Terry Carter asked if there is a time line.
- NN. Rose Goings said there is a limitation with petitions, but not specifically when there is no petition. She added that she thinks the sooner the better as there are people that are concerned about this in addition to Mr. Kenney.
- OO. Mary Jane O'Hara said that she thinks that he is planning on renting the building for 3 years. He would like to have 2 viewing rooms and a chapel. She said that she thinks the intent of the district is home occupations.
- PP. Fred Glover said he would like to put this on the agenda for the next meeting and include a definition of professional service.
- QQ. Andrea Lehtonen asked if this board has made a discussion of whether or not to allow funeral homes in the Preservation District.
- RR. Fred Glover read Vermont Statutes Chapter 24 §4441b describing the procedure for petitions and requests for changes to zoning regulations. Since this is not supported by a petition, the Planning Commission is not limited by time to take action. He said that his plan is to discuss this at next month's meeting.
- SS. Andrea Lehtonen asked for clarification – if this board is not in favor of the change, do they still have to send it to the Trustees?
- TT. Fred Glover said that this board has decided to look at a definition for professional services and will discuss it at next month's meeting. If they decide to change the regulations, there will be a public hearing to discuss it. They will also look at “similar uses.”
- UU. Andrea Lehtonen said that she is concerned that the Select Board or Trustees can change regulations that haven't been voted on.
- VV. Terry Carter said that the Select Board and Trustees hold public hearing on any controversial issues.

- WW. Rose Goings said that if this had been a petition, this board would have had to hold public hearings, but this is less formal and gives the Planning Commission more time to work on it. Other issues have come up and this is not just about the funeral home. The Planning Commission will discuss this and report to the Trustees.
- XX. Steve Stengel said that he thinks that Ms. Lehtonen has the majority opinion.
- YY. Fred Glover said that Rose Goings described this well and no time lines have been triggered tonight.

## 6. TOWN PLAN UPDATING

### A. Energy - Chapter 8

- i. Jason Rasmussen said that they had the text for Chapter 8 at the last meeting, but had not gone over Goals, Policies and Implementation. He had emailed these to board members, but there were some problems with the email. He put these sections on the screen and the board read through them together. Jason Rasmussen made changes as discussed by the board. He said that he looked at the existing goals and noted that they needed to be more specific.
- ii. The board decided to read through the rough draft and make comments or changes as they went along. Jason Rasmussen will make the changes to the master on his computer.
- iii. Steve Stengel asked Rose Goings if she gets involved with this when people coming in for permits.
- iv. Rose Goings said that the Town Plan is part of the DRB review process.
- v. Jason Rasmussen said that he tried to include items that would be addressed in Act 248 review hearings.
- vi. Rose Goings said that any words in Policies should be stringer that “promote or encourage.”
- vii. The board agreed. They continued going through goals, policies and implementation and approved them with changes made tonight.

### B. Future Meetings

- i. Jason Rasmussen asked the board how they would like to proceed. They have completed everything through Chapter 8. Remaining sections are the Introduction, Land Use, Relationships with Surrounding Areas, Critical Issues and the Summary.
- ii. Christine Fuller said that includes Chapters 9, 10 and 11.
- iii. Terry Carter said that they also need to go over definitions.
- iv. Fred Glover asked if the maps are integral to Land Use.
- v. Jason Rasmussen said yes. He said that they have one map for Land Use now. They need current Land Use and Future Land Use. The map they have may be used for Current Land Use. They need to discuss how to do the Future Land Use map.
- vi. Fred Glover asked if the Regional Planning Commission had been working on maps.
- vii. Jason Rasmussen said some maps. He said that this board should look at development since the last town plan had been published. They also need to look at wildlife habitats. He said that he would set up a link to maps that may be useful. The board could go over them at the next meeting and create a Future Land Use Map from them. It is basically a vision.

## 7. OTHER BUSINESS

- A. Next Meeting
  - i. Next meeting will be on May 17, 2011 at 5:30p.m.

8. **ADJOURN**

- A. **MOTION by Christine Fuller and seconded by Norman Vanasse to adjourn the meeting. Motion passed unanimously.**
- B. Meeting adjourned at 7:22 p.m.

Respectfully submitted,

Lisha Klaiber

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Fred Glover, Chairman

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Ethan Gilmour

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Terry Carter

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Steve Stengel

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Alan Couch

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Norman Vanasse

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Christine Fuller