

PLANNING COMMISSION

PRELIMINARY MINUTES

REGULAR MEETING

July 21, 2015

MEMBERS PRESENT:

Alan Couch, Chair
Terry Carter

Alan Isaacson
Norm Vanasse

Logan Nicoll

STAFF PRESENT:

Rose Goings

OTHERS PRESENT:

Mary Rita Batesole
Marty Fino
Gary McIntyre

Jason Rasmussen
Frank Wingate

Vincent Guerrero - LPC-TV
Lisha Klaiber, Recorder

1. CALL TO ORDER

A. Alan Couch called the meeting to order at 6:03 p.m.

2. ROLL CALL BY RECORDING SECRETARY

A. All Planning Commission members present.

3. APPROVE MINUTES

A. The minutes to be approved are from the meeting of June 23, 2015.

B. **MOTION by Terry Carter and seconded by Alan Isaacson to approve the minutes June 23, 2015 as presented. Motion passed unanimously.**

4. COMMENTS FROM CITIZENS

A. There were none

NOTE: Alan Isaacson maintains the files on his computer and notates suggestions and possible changes as they are discussed.

5. ZONING BYLAW AMENDMENTS

A. Lakes (Final Review)

- i. Alan Isaacson advised that there is only one question remaining and that is lakefront setback. He said that Jason Rasmussen sent an analysis.
- ii. Rose Goings said that Misha Cetner from Vermont DEC also sent an email and she received an email response from Chris Callahan. She had asked Chris Callahan for information regarding cases where this has been the issue; unfortunately, he did not provide this information.
- iii. Alan Isaacson suggested taking the waterfront setback out of the town regulations and putting in verbiage to say that people would have to make agreements with ANR, letting them negotiate with ANR, not us.
- iv. Jason Rasmussen said that in his email, he listed options.
 - a) No. 1 - leave the town zoning as it is, at 50 feet. Property owners would have to go to both the state and the DRB. The state regulations are more flexible and the town restrictions are more restrictive and would apply.
 - b) No. 2 - eliminate the town setback. People would have to get a state permit. This would streamline the process for the land owner
 - c) No. 3 - Alter the town wide non-conforming structure standards, making them less restrictive
 - d) No. 4 – add a provision in the Lakes District to modify standards for non-conforming structures, specific to lake front setback. No increase to degree of non-conformity. Expansion subject to DRB conditional use approval.
 - e) No. 5 – adopt local shoreland protection local delegation.
- v. Alan Isaacson said that the 50 foot setback was put in the regulations a long time ago. He said that every lakefront property has to deal with the state, so he suggested the town drop the 50 foot lakefront setback.
- vi. Gary McIntyre said that the 50 foot lakefront setback was mandated by the federal government in 1990. He suggested leaving it at 50 feet for existing and making it 100 feet for new development.
- vii. Rose Goings said that Jason Rasmussen recommended option #4 and it was modified by VLCT. It is a little less restrictive. People would still have to go to the DRB for a degree of non-conformance. She said that she prefers #4. She added that people would also still have to comply with Ludlow Flood Hazard Regulations.
- viii. Marty Fino asked which would stand.
- ix. Rose Goings said the local regulations. We allow expansion, but not to increase the degree of non-conformity.
- x. Alan Isaacson said you can't build within 50 feet of the lake, but you can expand outside of the 50 feet.
- xi. Rose Goings said people would still have to meet side setbacks, but you can expand, just not toward the lake. We do not want to take on state provisions and have to measure trees.
- xii. Logan Nicoll said the measuring of trees is daunting, as well as the points. We don't want to take that on. He likes #4.
- xiii. Alan Isaacson asked the other members if they want him to include the language in #4 in the regulations.
- xiv. Terry Carter said she likes the idea.
- xv. Gary McIntyre said he does not like part 2 of #4, referring to not increasing degree of non-conformity. He said that a 50 foot setback would satisfy federal regulations.

- xvi. Jason Rasmussen said that the current 50 waterfront setback says that any structure built within the 50 feet is non-conforming; part 2 of option No. 4 says you can't build forward toward the lake.
- xvii. Mary Rita Batesole agreed. She said that No. 4 would not streamline the process for the landowner. Now, you would have to go to the DRB.
- xviii. Terry Carter said the current process includes the DRB.
- xix. Rose Goings said that unless you tear down and rebuild in the same place. There have been court cases, but Chris Callahan did not explain this.
- xx. Logan Nicoll said No. 4 allows for what the state allows, but people would have to go to the DRB.
- xxi. Rose Goings said this provision, having people go to the DRB is better than a flat out, NO. She added that the VLCT model is a good one and she is pleased that Jason Rasmussen found it.
- xxii. Alan Couch said it seems to be the general consensus of the board to include No. 4 with the 50 foot setback. He said it promotes responsible growth and allows some people to develop their properties.
- xxiii. Rose Goings said that Misha Cetner's letter gives an explanation of what can or cannot be built. It is possible that we may be able to get him to come to a future meeting.
- xxiv. Gary McIntyre suggested they leave the current regulations as they are. He said the 2nd part of No. 4 is confusing.
- xxv. Alan Couch said we should check case law.
- xxvi. Rose Goings said there have been 2 cases in Ludlow and one person had to remove part of their house. She said that VLCT has legal counsel and they know what the laws are.
- xxvii. Frank Wingate said that it is hard to meet the 5 criteria for the DRB.
- xxviii. Rose Goings said that is for a variance. This would be a conditional use permit. The DRB would check items such as the character of the area and the site plan.
- xxix. Marty Fino said with No. 4, if it goes to the DRB and does not encroach closer to the water and meets other state conditions, would people get their permits.
- xxx. Rose Goings said that Ludlow is not doing shoreland provisions, and she cannot say that everyone would get a permit. It depends on each case separately, site plans, character, standards and Flood Hazard regulations.
- xxxi. Mary Rita Batesole said that adding No. 4 is not really changing much.
- xxxii. Gary McIntyre asked about the 20% impervious surfaces.
- xxxiii. Mary Rita Batesole said that would go back to state enforcement.
- xxxiv. Gary McIntyre asked about tree cutting.
- xxxv. Rose Goings said that would be for the state to enforce, but if people go to the DRB, that may be a condition. People have to check with our office and the state. If it is an administrative permit, people would have to go to the state first.
- xxxvi. Alan Isaacson said if we put that in our regulations, we would have to enforce it. He said let the state enforce it.
- xxxvii. Mary Rita Batesole said people are going to do, what they are going to do. We try to educate them.

B. Town Ridgelines Map

- i. Jason Rasmussen brought a Ridgeline Map and said that the idea is to markup areas that they want to protect. He said that the map shows elevations of 1500 feet in blue, and 1800 feet in red. He recalled that this board had looked at going by elevation, measuring from the top down, and looking at the view shed analysis and that individually, none of them were quite right. We need to define what are the ridgelines they want to identify in Ludlow.

- ii. Alan Isaacson said we also have to be careful not to tell people they can't build on their property.
- iii. The board reviewed the map and identified 15 locations that they want to mark for the Ridgeline Protection Areas of the map.
- iv. Jason Rasmussen said he would create, for the next meeting, a map that includes these areas.

C. Definitions

- i. Alan Isaacson said they had discussed definitions at the last meeting. He noted that "new construction" and "structure" were already in the definitions. He showed the board these definitions and the board approved them. He said that he also added "addition" and "setback" and the board approved those definitions.

D. Final Review of Remaining Text

- i. Alan Isaacson said he would send board members the final text, including changes from tonight within one to two days and asked the board to review text for the next meeting.
- ii. **MOTION by Alan Isaacson and seconded by Logan Nicoll to accept the Zoning Regulations as presented, except to also include Ridgeline Map when completed. Motion passed unanimously.**
- iii. Logan Nicoll said they could also review the Ridgeline map at the next meeting.

6. **OTHER BUSINESS**

A. Benson's Chevrolet

- i. Terry Carter said that she has received many comments from people asking why Benson's was allowed to build a big box. We should limit the size of buildings.
- ii. Rose Goings said the building is in the village and there is no design review there. It is currently allowed as it is.
- iii. Terry Carter said we should put in language to prevent this.
- iv. Alan Isaacson said it does not fit the character of the area and he would rather see design review, but we always said we did not want to get into design review.
- v. Logan Nicoll said he has also heard similar comments.
- vi. Rose Goings said people did not want design review because it is so much control over building. We end up doing reactionary zoning – after the fact. She added that people did not come to the DRB hearing on Benson's.
- vii. Terry Carter said there is a lot of talk about it.
- viii. Jason Rasmussen said there are some towns that limit the size of the buildings and there are options, but also hoops to go through.
- ix. Alan Isaacson said that with Design Review, we would need an additional Design Review Committee, in addition to the DRB.
- x. Terry Carter said just limit the size of the box.
- xi. Jason Rasmussen said that, he is not sure, but Bennington may have something like that.
- xii. Rose Goings said that the board could apply for a grant to have Jason Rasmussen look into it and work with the board on it.
- xiii. Jason Rasmussen said now is grant application time.
- xiv. Rose Goings said they would also have to open up the town plan, again.

B. Flood Resiliency Map

- i. Rose Goings advised that she and Alan Isaacson had met with John Broker Campbell and Gretchen Alexander of ANR to go over the ANR Flood Resiliency Map. They said they will change it in places where there are cement walls and roads, but will not change other areas that we questioned, unless we adopt the map into our regulations.
- ii. Alan Isaacson said if we want them to walk or canoe the river, we must include their map into our regulations.
- iii. Rose Goings said that Logan Nicoll's house should not be included in the flood resiliency area or the church.
- iv. Alan Isaacson said he is not sure he wants to include their map, at this time. He said we should go back over their map and mark up changes we would like to see.
- v. Jason Rasmussen said ANR staff would canoe the river if Ludlow adopts their map.
- vi. Terry Carter said the river is confined in Ludlow by walls, buildings and roads. She added that it is too bad that more people don't take advantage of the river and use it. She asked if Mr. Campbell and Ms. Alexander could come to a meeting.
- vii. Rose Goings said possibly Mr. Campbell, but Ms. Alexander lives quite a distance away.

C. Grant Brook

- i. Rose Goings said she had distributed information on the Grant Brook and asked board members to review it for the next meeting.
- ii. Alan Isaacson said he had read the packet and it looks like definition and classification and there is no real information here. We need to know what they are thinking and what they want us to do.
- iii. Rose Goings asked if we change the classification, what does that mean.
- iv. Alan Isaacson said it looks like the higher classes are for the lakes and lower classes working down to the streams. He would like more information from them for next month.

D. Select Board and Trustees Meetings

- i. Rose Goings advised that she and Alan Isaacson had attended the June meetings for both boards. The Select Board will hold a Public Hearing on August 3rd at 7:00 p.m. for the Town Plan and the Trustees will hold a Public Hearing of August 4th at 6:00 p.m. for the Village Zoning and Town Plan. Hearings have all been warned.
- ii. Logan Nicoll said he thinks the Select Board will be okay with the changes to the town plan, but added that he was disappointed with their response to the suggestion we made for a Vacant Building ordinance.
- iii. Alan Isaacson said he was also surprised at their opposition.
- iv. Alan Isaacson said that he has written cover letters to both boards for their public hearings and will email copies to Planning Commission members.
- v. Logan Nicoll said he would like to re-discuss the Vacant Building ordinance with them.

E. Next meeting – August 18, 2015.

- i. Lisha Klaiber advised that she will not be able to be at the August meeting.
- ii. Terry Carter said she would take notes.

7. **ADJOURN**

- A. **MOTION by Logan Nicoll and seconded by Terry Carter to adjourn this meeting.
Motion passed unanimously.**
- B. Meeting adjourned at 7:22 p.m.

Respectfully submitted,

Lisha Klaiber

Alan Couch, Chairman

Logan Nicoll

Terry Carter

Norman Vanasse

Alan Isaacson