

PLANNING COMMISSION

PRELIMINARY MINUTES PUBLIC HEARINGS AND REGULAR MEETING

June 23, 2015

MEMBERS PRESENT:

Alan Couch, Chair
Terry Carter

Alan Isaacson
Norm Vanasse

Logan Nicoll

STAFF PRESENT:

Rose Goings

OTHERS PRESENT:

Mary Rita Batesole
Angie Ciufu
Marty Fino

Gary McIntyre
Allen Thomas
Jason Rasmussen

Frank Wingate
Ed McEaney - LPC-TV
Lisha Klaiber, Recorder

PUBLIC HEARING MUNICIPAL DEVELOPMENT PLAN AMENDMENT

1. Alan Couch opened the public hearing at 6:00 p.m. He explained that the Municipal Plan is for where we want development in Ludlow in the future and how we want it to grow.
2. Alan Isaacson advised that the plan was approved by the Trustees in 2013 and be the Select Board in 2012. There has been a request to expand the Downtown Designation area which currently runs from Walker Bridge to LaMere Square. Businesses in that area are eligible for tax breaks and incentives to renovate and improve their buildings. The request is to expand it to run to the brook behind the Chamber of Commerce. Another change in the plan is to comply with the new state requirement for inclusion of a chapter for Flood Resiliency Plans.
3. Jason Rasmussen advised that the legislature created a new required element for town plans to address where the flood hazards are and how to reduce risks. This is as a result of Irene.
4. Marty Fino asked if this would limit development in those areas.
5. Jason Rasmussen said it looks at the flood hazard areas designated by FEMA and also the River erosion areas designated by the ANR River Corridor map and what parts of the town are at risk. Generally, Ludlow has requirements in the flood hazard zones. The town is working with ANR to review its map.
6. Alan Isaacson said the town plan is not regulatory, but is used by Act 250. It is a structure for development. Zoning Regulations come in in cases like Benson's. He said that the town plan is not zoning regulations. He advised that copies may be obtained from Rose Goings and asked that if people find anything further that they wish to comment on, the Select Board and Trustees will also hold public hearings on the town plan changes.
7. Terry Carter said that the town must include state requirements.
8. Alan Couch said the board has worked hard and this is a long term vision for the town in years to come. We adjust zoning regulations to fit the town plan.
9. Alan Isaacson said the board has not changed the village boundaries; they have just made a larger portion available for incentives.
10. **MOTION by Alan Isaacson and seconded by Terry Carter to approve the Municipal Plan as presented and forward it to the Select Board and Trustees. Motion passed unanimously.**

11. Public hearing for the Municipal Plan closed at 6:10 p.m.

**PUBLIC HEARING
VILLAGE OF LUDLOW ZONING REGULATIONS**

1. Alan Couch called the hearing to order at 6:10 p.m. He advised that there are different zoning regulations for the town and the village. We have finished the village regulations and sent them to the Trustees. We are working on the town regulations.
2. Alan Isaacson advised that the Trustees had approved the changes in April. Subsequently, Rose Goings found some typos and also we had inadvertently left out information in standards for non-residential properties. We have corrected this and now must send it back to the Trustees. Conceptually, there are no major changes. People may get a copy from Rose Goings and the trustees will hold another public hearing for this. Additionally, variance wording was changed and we added a diagram explained building height criteria.
3. **MOTION by Alan Isaacson and seconded by Terry Carter to approve the revisions to the Village Zoning Regulations are presented and to forward them on to the Village Trustees. Motion passed unanimously.**
4. Public hearing for the Village Zoning Regulations closed at 6:14 p.m.

REGULAR MEETING OF THE LUDLOW PLANNING COMMISSION

1. **CALL TO ORDER**

- A. Alan Couch called the meeting to order at 6:15 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 May 19, 2015.
- B. **MOTION by Logan Nicoll and seconded by Terry Carter to approve the minutes May 19, 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. Zoning Changes for Pleasant Street Extension (from Residential Commercial to Residential)

- i. Allen Thomas said that he and his brother used to have businesses down there. He noted that the kids and businesses have left. He said Ludlow needs to turn around and they need to do something about the roads. He said that Dug Road should be made two-way. There is too much on Okemo. He doesn't think they should change Pleasant Street Extension to Residential. He said you can't even sell apples there.
- ii. Terry Carter noted that they would be able to sell apples because it is agricultural.
- iii. Norman Vanasse said the town had tried to make Dug Road two-way, but the people who lived there petitioned against it and it went back to one-way.
- iv. Allen Thomas said it should be two-way. The people can move if they don't like it two-way.
- v. Alan Isaacson said the section of Pleasant Street in discussion was Residential Commercial and the board is looking to change it to Residential. It still allows for home occupations.
- vi. Logan Nicoll said that the board is concerned about someone opening up a gas station or large business there. They want to keep traffic down. The board does not want to keep people from making a living. The area is mostly residential now and the board does not want high traffic businesses to move in there.
- vii. Allen Thomas said there are no children down there.
- viii. Terry Carter asked where his property is.
- ix. Allen Thomas said he owns an acre on Soapstone Road, but lives somewhere else. He said the taxes are too high. He said they should leave things alone and the people who live there wouldn't object even to a McDonald's. He said Okemo doesn't care about the schools because it has its own school.
- x. Alan Isaacson referred to the zoning map and indicated the area in discussion.
- xi. Allen Thomas said he does not want it changed.
- xii. Rose Goings said that everyone who lives there was invited to this meeting.
- xiii. Alan Couch said what about the people who live there. He said this board tries to be fair and the area is mostly residential now. He added that home occupations are still allowed.
- xiv. Alan Isaacson said people would just need to get a permit from Rose Goings.
- xv. Alan Couch added that the property would have to be their primary residence.
- xvi. Logan Nicoll said the home occupation uses make sense. If the area is RC, more large businesses and even gas stations could move in. The street will attract more kids if it is residential only.
- xvii. Terry Carter said that the people, who live there and received the letter, may be fine with it changing and didn't think they needed to come tonight.
- xviii. Alan Couch said the board would take Mr. Thomas' comments into consideration.

B. Lakes (Final Review)

- i. Alan Isaacson advised that the district changes were made to comply with the new state regulations. He said that the board had discussed this with the lake residents. He said that administration by the state is going well and we think we should leave it that way. It also makes it easier for Rose Goings.
- ii. Marty Fino noted that Group homes are not listed as a permitted use.
- iii. Logan Nicoll explained that is because the state requires that they be allowed and are administered by the state.

- iv. Alan Isaacson read the definition of Group Home and said the town cannot restrict them.
- v. Marty Fino also noted that Upgrading was removed.
- vi. Alan Isaacson said it should not have been there. People should not need a permit to change doors or windows or paint as long as there is no change in the square footage.
- vii. Rose Goings said as long as it is not a structural alteration.
- viii. Logan Nicoll said the board changed setbacks to comply with the state law.
- ix. Marty Fino said if someone wants to add to the backside of an existing structure, it would be permitted if it did not increase impervious surfaces by 20%.
- x. Mary Rita Batesole said if it does, exceed 20%, the state allows for mitigation with a lawn or such.
- xi. Rose Goings said that is purely structural additions to the back of existing. New structures must comply with the setbacks in the zoning regulations.
- xii. Angie Ciufu said they can't increase within 100 feet of the waterline, but the state says that if it is an existing structure, it is allowed.
- xiii. Rose Goings said that is not what the Ludlow regulations say. Any new structure must be outside the 100 feet setback.
- xiv. Mary Rita Batesole said that the state says it is allowed as long as there is mitigation.
- xv. Marty Fino said the Ludlow regulations are stricter than the state regulations.
- xvi. Rose Goings said to build within that 100 foot setback would require a variance.
- xvii. Frank Wingate said that a person could apply to the state and be given a permit, then come to the DRB and may not get the permit. It may be hard for people.
- xviii. Alan Isaacson said that the regulations say you can't apply the setback to an existing house.
- xix. Rose Goings differed, saying every new structure.
- xx. Gary McIntyre said if you did allow it, it would be adding to the non-conformity and you would need a variance. When asked what the hardship is, you could say the change in state laws allows for mitigation for additions and the change of procedure for non-confirming.
- xxi. Rose Goings suggested going back to 50 foot setbacks for the town.
- xxii. Alan Isaacson said then you would be in violation of state law.
- xxiii. Frank Wingate said additions to the backside are allowed for existing buildings.
- xxiv. Angie Ciufu said the board can turn it all over to the state.
- xxv. Logan Nicoll said that was our intent.
- xxvi. Rose Goings said that state and town have been working together on the permits.
- xxvii. Alan Isaacson said the side yard, lot depth and building heights are local, not state. He said it doesn't make sense to measure from the waterline to mid house.
- xxviii. Rose Goings said what if the existing structure is only 10 feet from the waterline.
- xxix. Alan Couch said the board will have to research this.
- xxx. Logan Nicoll said they could add language to the lakes and throw out the setbacks if the structure is existing.
- xxxi. Rose Goings said if the structure is nonconforming; it has to go to the DRB.
- xxxii. Alan Couch said the board would have to hash this out, outside of this forum.
- xxxiii. Jason Rasmussen said there are 2 sets of rules, the state and local. The change in the town setbacks if to meet state regulations for new structures. The town zoning does not allow increases to non-conformity. The state looks at it differently and the state and local regulations will probably not be consistent. Other towns also do not allow for increases in non-conformity.
- xxxiv. Rose Goings said that additions also have to meet required setbacks in Ludlow.

- xxxv. Marty Fino said it would be nice to have one set of rules and there still would be restrictions.
- xxxvi. Rose Goings said Ludlow still has road and side setbacks.
- xxxvii. Alan Isaacson said that is why we need local regulations because there are some things that the state does not regulate.
- xxxviii. Marty Fino said that the state says back expansions are allowed, with mitigation.
- xxxix. Gary McIntyre said the state said there can't be changes to the footprint and it is up to the town to come up with regulations consistent with the state.
 - xl. Alan Isaacson said we also need to add language referencing the State Shoreland regulations and permit process.
 - xli. Rose Goings said we need to discuss this. We do not allow increases to the degree of noncompliance. She said she would discuss this with the town attorney.
 - xlii. Jason Rasmussen said the Shoreland law, as he understands it, looks at the footprint and allows people to build up. He agreed that Chris Callahan should be consulted. He added that the state is more concerned with new construction on undeveloped lots.
 - xliii. Logan Nicoll asked if we should get rid of waterfront setbacks. He added what is considered new structures and what is the definition of addition.
 - xliv. Rose Goings said there have been 3 Shoreland permits in the last year.
 - xlv. Gary McIntyre said that state wants no more than a 20% slope for building and that is hard to do.
 - xlvi. Logan Nicoll said that he likes not having too much in the lakes zoning and does like setbacks.
 - xlvii. Gary McIntyre said they could refer to the state regulations in addition to the town.
 - xlviii. Jason Rasmussen said it would be good to get input from Chris Callahan in how to deal with non-conformity and setbacks. You need to get clarification.
 - xliv. Alan Isaacson said asked if someone buys a lot with an existing house and tears it down, is that considered existing.
 - 1. Mary Rita Batesole said according to Misha Stettner, it okay if they rebuild in the same footprint or mitigate if over 20% increase in impervious surfaces.
 - li. Rose Goings said that she suggests not making any changes until we consult with Chris Callahan.
 - lii. Logan Nicoll said he is fine with that and asked how this has been handled in the past.
 - liii. Rose Goings said people always had to meet the 50 foot setback. She said that tear-downs always added in height if beyond the original setback.
 - liv. Angie Ciufu said most properties would not be able to meet a 100 foot setback.
 - lv. Logan Nicoll said if we go back to 50 feet, people could make additions if they meet other setbacks.
 - lvi. Terry Carter said we should include language about the state regulations.
 - lvii. Mary Rita Batesole said the state impervious surface rules are a major defining factor for non-conformance.
 - lviii. Alan Isaacson suggested they remove waterfront setback and let the state decide about that.
 - lix. Logan Nicoll said he is not comfortable with that.
 - lx. Angie Ciufu suggested they add "per state regulations" to the Ludlow regulations.
 - lxi. Alan Isaacson said the state requires waterfront setbacks. We could take our out and add "must comply with state regulations."
 - lxii. Gary McIntyre said that will make it harder here. Leave in hardship criteria for a variance and the hardship will be the state setback requirement.

- lxiii. Rose Goings suggested going back to 50 feet for the town.
- lxiv. Alan Isaacson said we should have a setback.
- lxv. Logan Nicoll said he would like to have a setback. If 50 feet is okay, leave it. The 100 foot setback doesn't allow nonconforming structures to add. Maybe we should change it back to 50 feet.
- lxvi. Gary McIntyre said it would not be enforceable.
- lxvii. Frank Wingate said keep it at 50 feet.
- lxviii. Logan Nicoll said they would still have to go by the state regulations.
- lxix. Jason Rasmussen said fundamentally, the local interpretation of nonconforming is different from the state's. The board needs to get clarification from the town attorney.
- lxx. Angie Ciufu said to turn it over to the state.
- lxxi. Alan Couch said that the state does not have other requirements like height and side setback.
- lxxii. Marty Fino said the 100 foot setback is from the waterline to the front of the non-conforming structure.
- lxxiii. Rose Goings said it is the high watermark to the start of the new structure.
- lxxiv. Marty Fino said the intent was to conform with the state.
- lxxv. Rose Goings said that is the way the zoning office has always interpreted it.
- lxxvi. Marty Fino said the attorney needs to comment on that, also.
- lxxvii. Gary McIntyre said the waterfront setback should be per state regulations.
- lxxviii. Jason Rasmussen said that would be more local delegation and do you want to be responsible for enforcing state laws. Don't adopt state standards.
- lxxix. Gary McIntyre asked where people would go to first, the town or state.
- lxxx. Jason Rasmussen said you have to go to both and the more restrictive law would apply.
- lxxxi. Frank Wingate said that years ago, there was a court case and the outcome was it must be the same volume.
- lxxxii. Rose Goings said that is regarding the degree of increase to nonconformity. You must rebuild within the original setback. You may add to the height. That's case law.
- lxxxiii. Alan Isaacson read the state regulation.
- lxxxiv. Gary McIntyre said that the state says you must mitigate if there is more than a 20% increase to impervious surfaces.
- lxxxv. Marty Fino suggested that they ask the town attorney to come up with some language to allow Shoreland to set the standard for expansion to nonconforming structures.
- lxxxvi. Terry Carter said leave it until they have spoken with Chris Callahan.
- lxxxvii. Alan Isaacson asked Jason Rasmussen to email him the state reference VSA information.
- lxxxviii. Jason Rasmussen said that some other towns have language like, all development subject to state approval by Shoreland rules.
- lxxxix. Logan Nicoll said we don't want to adopt state rules. If we did, then we would have to police it.
 - xc. Jason Rasmussen said ask Chris Callahan how to deal with nonconforming and setbacks.
 - xci. Alan Isaacson asked if he should add changes to the language.
 - xcii. Alan Couch said pending direction from Chris Callahan.
 - xciii. Logan Nicoll said he is not comfortable with the language changes.
 - xciv. Angie Ciufu asked if this board would hold another hearing.

- xcv. Alan Isaacson said they board must complete ridgelines, the rest of zoning districts and the zoning map before holding another hearing. Then it will be sent to the Select Board. He added that he would get definitions for additions and new construction.
- xcvi. Rose Goings said they would discuss this again at the next meeting.

C. Town Ridgelines Map

- i. Alan Couch said this would be on the agenda for the next meeting.

D. Zoning Map

- i. Terry Carter referred back to comments from Allen Thomas and said that everything he wants to do, he would still be able to do.
- ii. Alan Isaacson said only one person came and that does not mean you should discount it, the fact is that people do not show up at town meeting or these hearings.
- iii. Alan Couch said we don't want big businesses or gas stations there. He doesn't want to change it back to RC. Mr., Thomas can still do home occupations there.
- iv. Logan Nicoll said he is still comfortable with changing it to Residential. The Select Board will review it.
- v. Terry Carter said if people really disagreed, they would come to the Select Board.
- vi. **MOTION by Terry Carter and seconded by Logan Nicoll to change Pleasant Street Extension from Residential Commercial to Residential.**
- vii. Alan Isaacson suggested they include all changes to the zoning map.
- viii. **MOTION by Terry Carter and seconded by Norman Vanasse to adopt the Zoning Map Draft dated 5/29/15 as the final zoning map for the Town and Village of Ludlow. Motion passed unanimously.**
- ix. Alan Isaacson asked Jason Rasmussen if the map could include an inset for the Village as previous versions had had.
- x. Jason Rasmussen said he thought Cartographics would do it, but yes, he thinks they can do it.
- xi. Logan Nicoll noted the previous map also had an inset for the Lakes.
- xii. Alan Isaacson said we don't need it. He asked board members to read and review the final draft and send him any comments and be able to discuss it at the next meeting.

6. **OTHER BUSINESS**

A. Grant Brook

- i. Rose Goings referred to a packet she had distributed and asked board members to review it for the next meeting. It concerns the water supply, Aquifer District and a request to reclassify the Aquifer District.
- ii. Alan Isaacson said they want us to re-categorize Grant Brook to one level more restrictive. It is part of the town water supply. Frank Heald suggested we go to the next more restrictive level.
- iii. Logan Nicoll asked if this is part of the new Water Quality Bill
- iv. Jason Rasmussen said he is not sure.
- v. Alan Isaacson said he is not sure how much more we can do in the Aquifer District.
- vi. Terry Carter noted that we did change the boundaries of the Aquifer District to coincide with where it actually is.

- B. Grant Request Time
 - i. Rose Goings advised that it is now grant request period and asked board members for suggestions of grants that they may want to request.
- C. Next meeting – July 21, 2015.

7. **ADJOURN**

- A. **MOTION by Alan Isaacson and seconded by Logan Nicoll to adjourn this meeting. Motion passed unanimously.**
- B. Meeting adjourned at 7:40 p.m.

Respectfully submitted,

Lisha Klaiber

Alan Couch, Chairman

Logan Nicoll

Terry Carter

Norman Vanasse

Alan Isaacson