

PLANNING COMMISSION

PRELIMINARY MINUTES

REGULAR MEETING

May 15, 2018

MEMBERS PRESENT:

Alan Couch, Chairman
Terry Carter

Alan Isaacson
Logan Nicoll

Norm Vanasse

STAFF PRESENT:

Rose Goings

OTHERS PRESENT:

Phil Carter
Aaron Galley

Jason Rasmussen

Patrick Cody-Okemo Valley 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. Consideration of any Changes, Additions or Removals to the Agenda

- A. Alan Isaacson asked Phil Carter if there were changes, other than Drive Up/Drive Thru windows, to the zoning regulations.
- B. Phil Carter said he would also like to discuss parking.
- C. Alan Isaacson suggested that Agenda Item #6 be amended to be titled Potential Changes to Town & Village Zoning Regulations.
- D. **MOTION by Logan Nicoll and seconded by Alan Isaacson to change Agenda Item #6 as amended. Motion passed unanimously.**

4. APPROVE MINUTES

- A. The minutes to be approved are from the meeting of April 17, 2018.
- B. **MOTION by Terry Carter and seconded by Logan Nicoll to approve the minutes April 17, 2018 as amended. Motion passed unanimously.**

5. COMMENTS FROM CITIZENS

- A. There were none.

6. **TOWN & VILLAGE ZONING REGULATIONS**

- A. Phil Carter said that he is speaking tonight as Chairman of the DRB and not as a private citizen. The DRB interprets the regulations and statutes with regard to permit applications. If the zoning regulations are ambiguous, the DRB has to come to a conclusion and these decisions are sometimes appealed.
- B. PARKING
- i. Phil Carter noted that Section 530.1 of the Village Zoning Regulations says that For every building hereafter erected, extended or changed in use, there shall be provided off- street parking spaces at least as set forth below. Each type of use is listed with its respective requirement. He said that when 5-Spot wanted to move from the Mill, they did not have sufficient parking. He said that if Mama’s had been a change of use, they would not be there, nor would the Hatchery or Mary Jane O Hara’s property if it was a change of use, because there would not be enough off-street parking. Technically, these properties would not be able to change their use.
 - ii. Phil Carter continued, saying that Section 530.3 says The Development Review Board may require additional off-street parking and loading spaces for any use, if they find that minimum spaces are not sufficient. He said that this statement contradicts Section 530.1.
 - iii. Phil Carter asked the board to consider reviewing these. They are the same in the Town zoning regulations.
- C. DRIVE UP/DRIVE THROUGH WINDOWS
- i. Phil Carter said that in October, Ludlow Pharmacy came to the DRB to put a drive-through window in their store. Our zoning regulations have a definition for Retail Use, but not for Retail Service. Conditional Use permits in the Village do not include Retail Use, just Retail Service, but that is not defined. This case is being appealed and a 26 page brief has been submitted to the court from their attorney. They are saying that the Village of Ludlow Zoning Regulations are ambiguous. Included in our zoning regulations, are definitions for Drive in and Drive Through, but not Drive Up. It is confusing. The DRB denied the application based on Retail use and excluding Drive Up service. There is no definition for Retail use. There was recently a case in Ferrisburg, whose zoning regulations have language similar to ours, and the case was lost (by the town) at court. By state law, if the language in the regulations is ambiguous, the court will find in favor of the land owner. We have a definition for Professional Service. They said that Professional Service allows drive-ups. They claim that a Pharmacy is a professional service. We say it is also retail and how can we delineate professional and retail. The application a few years ago by the Funeral Home also argued that Funeral Homes are a professional service. Our definition of professional service says: An office of a member of a recognized profession maintained for the conduct of that profession, including, but not limited to, that of an architect, accountant/ financial services, dentist, doctor of medicine, lawyer, land surveyor, real estate or insurance broker. Phil Carter said the “but not limited to...” leaves the door wide open to interpretation. You need to list what you want and what you don’t want. Our attorney has not written our brief yet and most of their argument is malarkey. The banks have drive throughs and are they professional services. Our attorney has said that allowing a bank and not a pharmacy is discriminating and may be a violation of equal protection under the law. We need legitimate reasons to exclude occupations. We must provide a basis for our rationalization. He is asking the Planning Commission to make the zoning regulations clearer and clean up the definitions and make them simpler to understand. If you exclude drive ups for fast food, tell why. He suggested they get legal advice on this. He noted that with Adult Book stores, they are allowed, but only in the Industrial District. If we lose this case at court, we will be wide open to opportunities for drive through restaurants in Ludlow. He added that we will

- probably end up settling this case and not go to court. Our decision may be considered unconstitutional because the definitions do not exist.
- ii. Phil Carter said that Rose Goings suggested that the town adopt Interim Zoning and it does exist in Vermont. The purpose is to protect towns while they are working on their zoning regulations. Once enacted, development may not occur until the town adopts if final zoning regulations. The Planning Commission can propose Interim Zoning to the Select Board and Trustees in which drive up windows will be disallowed until the Planning Commission figures out what they want to put in the zoning regulations. Some of our projects are huge, with multiple lawyers and looking for anything they can use.
 - iii. Rose Goings said that this board must go to the Select Board and the Village Trustees. We only need 15 days for zoning.
 - iv. Jason Rasmussen said these are not easy to define, but the board can just put, “No Drive Throughs, Drive Ins or Drive Ups” in the Interim Zoning.
 - v. Alan Isaacson said this board will have to make the changes, and then propose them to the Select Board and Trustees.
 - vi. Phil Carter said, yes, to the Select Board and Trustees.
 - vii. Jason Rasmussen said the language must be crafted.
 - viii. Alan Isaacson asked if Phil Carter also wants changes to Off-street parking.
 - ix. Phil Carter said not for the Interim Zoning.
 - x. Jason Rasmussen said that Windsor has flexible parking requirements.
 - xi. Rose Goings said they need to look up definitions for Drive Up, Drive In and Drive Through.
 - xii. Phil Carter said also for Retail Use and Retail Service.
 - xiii. Alan Isaacson said he would make the changes to the districts.
 - xiv. Terry Carter asked if they could make the June meetings for the Select Board and Trustees.
 - xv. Jason Rasmussen said they could also add something to the General Requirements sections. Also to add a spot for reasons for not allowing.
 - xvi. Aaron Galley said that in the Energy Chapter, a reason could be that cars would be using more fuel while idling.
 - xvii. Rose Goings said they could add “Strictly Prohibited in Every District.”
 - xviii. Jason Rasmussen said that they could add that in the General Standards section 260.3 and give reasons.
 - xix. Rose Goings said under Miscellaneous Requirements, Section 520, in both the Town and Village Zoning Regulations, they could add item 520.14 that Drive Ups, Drive throughs and Drives ins are Strictly Prohibited in all districts.
 - xx. **MOTION by Alan Isaacson and seconded by Logan Nicoll to add “Drive Ups, Drive throughs and Drives ins are Strictly Prohibited in all districts” and to submit this to the Select Board and Trustees as Interim Zoning. Motion passed unanimously.**
 - xxi. Alan Isaacson said the original intent was to keep out McDonald’s and Wendy’s. He said he will also change the definitions. He thinks of a retail service as something like a spa.
 - xxii. Rose Goings said a spa is listed as a “personal service.”
 - xxiii. Alan Isaacson suggested using Retail Use and Personal Service, with places like Blue Sky and Shaw’s being retail use and a spa as personal service because they sell services.

7. TOWN PLAN

A. 1996 Guide

- i. Rose Goings said that she sent copies of the two pages that Marji Graf read from the 1996 guide to board members. She said the historic information comes from Joseph Harris’ HISTORY OF LUDLOW book.

- ii. Alan Isaacson said that Ludlow 2000 has a focus to the future. We need to focus where we see Ludlow going from now on.
- iii. Terry Carter said we need a plan for how to implement ideas and who is responsible for implementing them,
- iv. Rose Goings said people still bring up the bike path and we were not able to get a permit and it was too expensive. Some of it would be in the flood plain. It is a done deal.
- v. Terry Carter said the sidewalks are good for walking.
- vi. Rose Goings said the cemetery is also a great place to walk.
- vii. Logan Nicoll said that a bike lane on Route 103 would be the most expensive.
- viii. Alan Isaacson said that the paving has started and from Fletcher Farm to the town line, they are not making the shoulders any wider, but from Fletcher Farm to Route 10, they are wider.
- ix. Jason Rasmussen said even to add to the shoulder width is very expensive. There may be cheaper options for a bike path, but they are not great.

B. Grants

- i. Jason Rasmussen said he sent board members a list of possible grants.
- ii. Alan Isaacson asked what the process for applying is and which ones would be most likely.
- iii. Jason Rasmussen referred to the Bike and Pedestrian grant and said that the town plan does not have to be complete in order to apply. The “match” part is more of an issue.
- iv. Rose Goings said she contacted The Orton Foundation, but has not heard back.
- v. Jason Rasmussen said that there is not a lot of money, statewide, for bike paths, but there is a grant in July for sidewalks.
- vi. Alan Isaacson said that the board has a broad idea for the Vision, but how do we design it to apply for grants.
- vii. Jason Rasmussen suggested that they may want to hire a consultant.
- viii. Alan Isaacson said he has thought about hiring an Architect/Town Planner.
- ix. Jason Rasmussen said there may be a grant for that.
- x. Alan Isaacson said he likes the idea of a master plan and more public meetings. After the town plan is complete, then redo the zoning to fit with the town plan. We need direction and without a master plan, we do not have direction.
- xi. Alan Couch said that he agrees with hiring a consultant to help with a master plan and goals, then fine tuning the zoning regulations to the master plan.
- xii. Alan Isaacson asked Jason Rasmussen which grant would he suggest applying for to help with this. It should incorporate the whole town.
- xiii. Jason Rasmussen suggested Better Connections. He said there is an economic evaluation part of it for roads and sidewalks. It provides more of an illustrated vision and is helpful and easier to follow.
- xiv. Alan Isaacson asked Jason Rasmussen if it is on the web, if there is an application and if Jason Rasmussen can assist with it.
- xv. Jason Rasmussen said yes to all 3. He said you would need about a \$70,000 grant in order to hire an outside expert.

C. Vision

- i. Jason Rasmussen said he had sent a new format to board members.
- ii. Alan Isaacson said it looks good, but asked if it really needs to include every time it has been re-adopted.
- iii. Jason Rasmussen said no, they are not all necessary. They should list the most recent full revision and subsequent amendments. It will be hard to track all of the changes.
- iv. Terry Carter said that the Select Board likes to see the tracking relative to the changes in the document.
- v. Alan Isaacson said if we are just moving a section, they would not care, but if we are changing the wording, the changes should be shown.
- vi. Jason Rasmussen said he will track the changes.

- vii. Alan Isaacson said he also uses the tracking when he writes the Executive Summary. He said if paragraphs are deleted, it should be shown. He asked will there be an appendix.
- viii. Jason Rasmussen said yes and a table of contents.
- ix. Alan Isaacson said the appendix should also include data, state requirements, and inventory data.
- x. Jason Rasmussen said he tried to incorporate the changes discussed at the last meeting. He asked about key terms.
- xi. Alan Isaacson said he has mixed feelings about that. He would rather see bullet points. He also said that they need to change the wording regarding “stagnant” growth and make a new heading.
- xii. Jason Rasmussen said he would re-format it to a few bullet points.
- xiii. Terry Carter said that maximizing this as a great tourist destination does not go well with strong and diversified economy.
- xiv. Jason Rasmussen said he will work on it.
- xv. Alan Isaacson said he would help.
- xvi.

D. Goals

- i. Terry Carter said that she prefers “protect and preserve” and not enhance
- ii. Alan Isaacson said that numbers 4, 5, 6, and 7 are somewhat redundant – possibly combine 4, 5 and 6.
- iii. Jason Rasmussen said he will work on it.
- iv. Logan Nicoll said number 3 is good and we may not need 4 and 6. He added that #5 is different.
- v. Alan Isaacson suggested combining 1 and 5 and that 7 and 8 are okay.
- vi. Jason Rasmussen said he will review them.

8. **OTHER BUSINESS**

A. Traffic Problems

- i. Aaron Galley said there needs to be something done about the intersection of Bixby Road, Cross Road and Commonwealth Avenue.
- ii. Alan Isaacson said that he should go to the town manager with that.
- iii. Rose Goings suggested Ron Tarbell first.
- iv. Aaron Galley would like a Slow- Child Play sign put up by his house.
- v. Logan Nicoll said to go to the town manager

B. Parking Comments

- i. Logan Nicoll said that at the recent public meeting, he heard comments about changing parking on Main Street in the Village to one side of the street. He added that at the Select Board meeting, Bruce Schmidt suggested trying to have Main Street in the Village paved as the state is not planning on paving when the rest of Route 103 is done.
- ii. Alan Isaacson said that at that meeting, people mentioned head-in angle parking on one side of the street.
- iii. Terry Carter added that people also wanted the speed limit lowered on Main Street in the Village.
- iv. Logan Nicoll asked board members if they want to support these, as a board.
- v. Alan Couch said he is in favor of having Main Street paved. He said that regarding changing the parking pattern would involve other considerations and concerns.
- vi. Alan Isaacson said he also supports the paving and lower speed limit, but thinks we should hold off on parking.
- vii. Logan Nicoll said that some years ago, there was a study done and results were positive.

- viii. Norman Vanasse said that changing the parking could be dangerous, with people backing out into traffic.
 - ix. Rose Goings suggested writing a letter to the Select Board, listing these suggestions and noting that they were from comments made at the recent Planning Commission public meeting.
 - x. Alan Couch said he would write the letter.
 - xi. Terry Carter said to include reduced speed on Main Street in the Village, paving on Main Street in the Village and angle parking.
 - xii. Alan Isaacson said that they should leave out the parking until after the paving is done.
 - xiii. Rose Goings said that they probably would not change the parking without a new study.
 - xiv. Alan Isaacson said if we do hire a consultant that is something that might be suggested.
- C. Complaint about Police Cars
- i. Aaron Galley said that he does not like the black on black police cars as they do not give a friendly impression, such as unmarked cars do.
 - ii. Rose Goings said it may be the detective's car.
- D. Next meeting, June 19, 2018

9. **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