PLANNING COMMISSION

MINUTES

REGULAR MEETING

September 16, 2014

MEMBERS PRESENT:

Alan Couch, Chair	Alan Isaacson	Norm Vanasse
Terry Carter	Logan Nicoll	

STAFF PRESENT:

Rose Goings

OTHERS PRESENT:

Jason Rasmussen	Mary Jane O'Hara	Steven Seitz– LPC-TV
Phil Carter		Lisha Klaiber, Recorder

1. **CALL TO ORDER**

   A. Alan Couch called the meeting to order at 6:01p.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 August 28, 2014.
   B. Alan Isaacson advised that on page 3, Item 5A, xxi, his last name is spelled incorrectly.
   C. **MOTION by Logan Nicoll and seconded by Alan Isaacson to approve the minutes from August 28, 2014 as corrected. Motion passed unanimously.**

4. **COMMENTS FROM CITIZENS**

   A. Phil Carter asked why the wording was changed in Section 223 with regard to "interested parties." He has some questions about that from the DRB point of view.
   B. Jason Rasmussen advised that the language was taken from a state model.

C. Phil Carter said that from the DRB perspective, if someone comes to a meeting, they are interested. The DRB has an obligation to listen to them. If a situation becomes contentious, he (as Chair) would have to screen each person and decide who may or may not speak. He asked, what if someone's property is on the town line, and their neighbor lives in the other town, would they be interested parties. He said that he does not understand the intent of Section 1 and he would not know how to screen people. In a recent appeal, Judge Durken said that the person was not an interested party. That person had come to our meetings. The court decides, at the next step, who is or is not an interested party.

D. Alan Couch said that the intent was to create a local level of control for circumstances when it does go to a higher level.

E. Phil Carter said he does not like the language. He advised that all of the evidence taken by the DRB goes to the court. He would not know how to enforce this language if there were 50 people in the room. How would he screen each person?

F. Mary Jane O'Hara asked what the definition of "on record" is.

G. Phil Carter said that the DRB is held to a higher standard than a de novo board. The evidence taken by the DRB goes to the court and the judge will not hear that evidence presented as the judge does not need to recreate the evidence. The minutes and tapes along with any other evidence submitted go to the judge and they decide if the appeal is heard. In a de novo situation, the judge rehears all of the evidence.

H. Mary Jane O'Hara asked if a person was at a DRB meeting, but did not speak, does that count.

I. Phil Carter said the person would have had to have spoken.

J. Alan Isaacson said that Item C in the language would allow just about anybody to speak. He said that he does not think it restricts anyone.

K. Phil Carter said that the DRB acts like a courtroom. Attorneys will argue and interpret if a testimony should or should not be heard or included. If a person is speaking against their client, the attorney may say the person is not an interested party. He continued, saying that we should let the judges decide.

L. Alan Couch said that if this is all hashed out at the DRB hearing, it would go to the judge that way.

M. Phil Carter said that the definition of "interested party" in the definitions section is not the same as the one in this section. He said that he has spoken to Chris Callahan about this and was told that our philosophy of allowing anyone who comes to the meeting to speak is perfectly fine.

N. Alan Isaacson said that the old language in the definitions is close to the one in the regulations. He said that maybe the language in the document is superfluous and we should just refer to the definitions. The language in both is about the same except that the definitions do not include Item 2.

O. Phil Carter said the DRB does not want to exclude anyone.

P. Mary Jane O'Hara said that only people who live in town can speak.

Q. Alan Isaacson said anyone can speak, but only town residents may vote.

R. Terry Carter said non-town residents may speak with permission from the floor.

S. Logan Nicoll said that at a town meeting, a candidate was not allowed to speak because their opponent was not present.

T. Phil Carter said that if the DRB takes evidence and their findings of fact and decision are based on evidence and the judge says evidence was presented by a person who is not considered an interested party based on our regulations, it may jeopardize the appeal and our decision may be in jeopardy.

U. Alan Couch said that decision should be up to the interpretation of others.

V. Jason Rasmussen said he would check the definitions for consistency with the state regulations. He added that the municipality is only empowered to do what the state allows you to do. Having the definition in the regulations as well as the definitions section may be redundant.
W. Phil Carter asked Jason Rasmussen how other towns handle this – how do they screen people.
X. Jason Rasmussen said that generally, they allow people to speak.
Y. Mary Jane O'Hara said that allowing everyone to speak takes up time from residents and actual interested parties may be cut off.
Z. Jason Rasmussen said it is a delicate balance. People have the right to participate and most towns let all speak and let the courts decide who is an interested party. He said they could just keep the old language in.
AA. Steve Seitz asked if the DRB chair could ask people what their interest is.
BB. Phil Carter said no, there are too many pieces (for example who is an immediate neighbor) that would have to be addressed and attorneys would look for loopholes.
CC. Logan Nicoll said the language is very broad and allows anyone to speak at the hearings. He would like to have the language simplified.
DD. Terry Carter agreed that there is a lot of language and that attorneys probably would argue with the language.
EE. Jason Rasmussen said he would try to modify it. He added that the board needs to discuss the definition of interested party.
FF. Phil Carter said he does not want to screen or exclude people.
GG. Alan Isaacson said they should have one or the other, not both.
HH. Jason Rasmussen said they could reinsert the existing language and make it the definition.
II. Terry Carter agreed that they should reinsert the existing language. She asked for the definition of "immediate."
JJ. Alan Isaacson said the state does not define it.
KK. Logan Nicoll suggested that they take it out of the title, remove section 223.2 and put this in the definitions. He said that Section 223.1A is the exact wording as in the state statute. He suggested they put it in the definitions section exactly as in the statutes.

NOTE: Jason Rasmussen maintains the master files on his computer and notates suggestions and possible changes as they are discussed.

5. **ZONING BY LAW AMENDMENTS - FINALIZE VILLAGE ZONING**

A. Alan Isaacson also noted that Jason Rasmussen had not sent out a modified copy.
B. Jason Rasmussen said he should have, but did not because there were not many changes. He moved on to the definition of Transitional Housing.
C. Terry Carter said the board is trying to create a definition to cover Mill Street and half-way housing.
D. Jason Rasmussen said that Transitional Housing is similar to Group Housing, but does not meet the state definition of Group House and therefore, not exempt.
E. Rose Goings said that Mill Street did go before the DRB.
F. Jason Rasmussen said that Group Homes do not need a permit and are allowed in all districts. He said that they would want the Transitional Housing as a conditional use. He added that VLCT cautioned that you can't require a permit for Group Homes. He said they need to add a definition for Transitional Housing.
G. Alan Isaacson said they should then add Transitional Housing as a conditional use in the Village RC.

H. Mary Jane O'Hara voiced her concerns about landscaping and reshaping of property. If allowed, it must drain away from neighbors' properties. She said she has a neighbor who put down black top and now they need a catch basin.

I. Alan Isaacson said that a permit is not required to pave a driveway. He added that this state does not have building codes and does not limit or inspect construction. He told Mary Jane O'Hara that she would need to talk to the state representative for that. It is not zoning.

J. Logan Nicoll said that paving does require a permit in the Lakes District, but not in the others.

K. Terry Carter, referring to the Sign regulations, said that she would like to put in that inflatable signs are not allowed.

L. Jason Rasmussen added it.

M. Logan Nicoll asked if they wanted to include the word "actively" with regard to moving signs.

N. Jason Rasmussen asked if the board wanted to forward these regulations on, or did they want to see a final draft.

O. Alan Isaacson said he would like to see a final draft.

P. There was general agreement to see a final draft.

Q. Mary Jane O'Hara said that when the Preservation District was created from the RC district, 19 conditional uses were removed, including "personal services." Why was it added in again?

R. Terry Carter said that this board does not want to exclude it.

S. Mary Jane O'Hara said it is too broad.

T. Logan Nicoll said that this board decided that it was okay to put in. It is keeping with the atmosphere of the district.

U. Terry Carter said that this board does not object to it and wants to encourage business.

V. Logan Nicoll said that by definition, it seems it would make a great fit in the District.

W. Alan Isaacson said that the Preservation District intent was to create visual character and not to limit business.

X. Terry Carter said that in this economy, we don't want to restrict business, especially on Main Street.

Y. Mary Jane O'Hara said that there are empty buildings on Main Street in the center of the village.

Z. Alan Couch said that by including it, the intent is to be consistent with the look of the area and to allow people to earn a living without encroaching on the character of the area.

AA. Mary Jane O'Hara opined that the intent was not to encourage businesses. She said that if it is allowed, there will eventually not be any lights at night in the Preservation District. People will not want to live there.

BB. Terry Carter said that this board hears you, but we don't want to exclude people from earning a living.

CC. Alan Couch said that he does not think people will be buying up all of the houses there for businesses. He said that this board is trying to create a friendly environment and to allow people to develop their properties.

6. **REVIEW SUBDIVISION DRAFT REGULATIONS**

A. Jason Rasmussen advised that he went through the regulations and there were not many changes. He went through the draft to make sure that it relates to the Town Plan, Zoning Regulations and state statutes. He went through the definitions and made needed changes or added new ones as needed. He corrected some citations, took the definition of Common Lands from the Zoning Regulations, and added a definition of fragile features. He said that he would make the definition of interested party consistent with the zoning regulations. He said that he would send out a draft before the next meeting.
B. Alan Isaacson said that they would need to put all of this information into the Town Regulations and asked if Jason Rasmussen could convert it over.
C. Jason Rasmussen said they had started with the town regulations and transferred the information over to the village regulations and some of the changes made in the village regulations now need to be transferred back to the Town regulations.
D. Alan Isaacson asked if this could be done for the next meeting.
E. Jason Rasmussen said he would try.
F. Rose Goings said they also need to add the Shore Land Districts into the town regulations.
G. Logan Nicoll said they also need to work on the new RC2 district.

7. **OTHER BUSINESS**

A. Next meeting is on October 21, 2014.

8. **ADJOURN**

A. **MOTION by Norman Vanasse and seconded by Logan Nicoll to adjourn this meeting. Motion passed unanimously.**
B. Meeting adjourned at 7:42 p.m.

Respectfully submitted,

Lisha Klaiber

Alan Couch, Chairman

Logan Nicoll

Terry Carter

Norman Vanasse

Alan Isaacson