

# PLANNING COMMISSION

## MINUTES

### REORGANIZATIONAL MEETING AND REGULAR MEETING

August 28, 2014

#### MEMBERS PRESENT:

Alan Couch, Chair  
Terry Carter

Alan Isaacson  
Logan Nicoll

Norm Vanasse

#### STAFF PRESENT:

Rose Goings

#### OTHERS PRESENT:

Jason Rasmussen

Lisha Klaiber, Recorder

Steven Seitz– LPC-TV

#### 1. CALL TO ORDER

A. Alan Couch called the meeting to order at 6:05p.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 July 22, 2014.

B. **MOTION by Logan Nicoll and seconded by Alan Isaacson to approve the minutes from July 22, 2014 as presented. Motion passed unanimously.**

#### 4. COMMENTS FROM CITIZENS

A. Rose Goings advised that a letter had been received, today at the Planning Office, from Andrea Lehtonen. She said that the letter contains items that are part of the agenda including; public hearing concerns, personal services in the Preservation District and size of sheds allowed without a permit in the Preservation District and the rest of the village.

B. Alan Isaacson suggested that the letter be scanned into the minutes and that during the meeting, Rose Goings make comments from the letter as they pertain to the discussion. *NOTE: Letter is at the end of the minutes.*

C. Terry Carter noted that the letter also included comments about using Okemo instead of Ludlow Mountain and that this had been previously discussed by the board.

D. Alan Isaacson also noted that the letter contained comments regarding who is a legal or interested party to a hearing.

- E. Rose Goings advised that at a recent DRB meeting, she made a comment regarding who is considered party to a hearing as she is afraid that appeals would be thrown out due to a person not having party status. She said that Phil Carter felt that anyone interested in the hearing should be able to comment at that hearing. The new zoning regulations already have addressed interested parties.
- F. Alan Isaacson advised that the letter also had comments about the Preservation District being Design Review, but that was never the case. The purpose was to maintain the character of the area. The wording was taken from another town, possibly Woodstock or Manchester, but he did not recall the town, and it was not for design review. It was also not designed to restrict commerce, but to maintain visual character.
- G. Norman Vanasse agreed that it was not intended for design review, but to maintain the character of the area.
- H. Alan Isaacson said that he does not know why there is a difference in the square footage allowed for sheds without permits.
- I. Rose Goings said that the board may change it or leave it as it is.
- J. Alan Isaacson said it had not been a problem until now. It is in the Village zoning.

***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

- A. DEFINITIONS AND FINALIZE VILLAGE ZONING
  - i. Jason Rasmussen advised that he had sent out a draft of the regulations with the changes that the board has discussed and also made a few other little changes. He went through the draft to make sure that there were no internal conflicts. He also made sure that section 241 jived with the new open meeting law and made sure that it was consistent with state law.
  - ii. Alan Isaacson asked if the town website is considered as an allowable posting site.
  - iii. Rose Goings said that the town and village now post meeting notices at the Town Clerk's Office Bulletin Board, the Town Hall bulletin board, the post office, Berkshire Bank, THE VERMONT JOURNAL and the website. She added that Section 241 was mentioned in the letter from Ms. Lehtonen.
  - iv. Jason Rasmussen said that the model language used in the draft is from state law. He explained that Ludlow is an "on the record" town and there are additional DRB requirements. They have more rigorous hearings and cleaner records.
  - v. Rose Goings said that the state law is about interested parties who live within the municipality, such as an abutter.
  - vi. Alan Isaacson said that the regulation, as written, does not limit people from speaking.
  - vii. Terry Carter asked if Ms. Lehtonen lives in Ludlow.
  - viii. Rose Goings said that she is a property owner.
  - ix. Alan Isaacson said that language does not limit that.
  - x. Jason Rasmussen said that language is from the state law. He added that a person must have participated in the local hearing in order to be party for an appeal.
  - xi. Terry Carter read from the state law.
  - xii. Jason Rasmussen said that if a person is unable to attend a hearing, they may submit a letter. He said that page 8 of our draft describes interested person.
  - xiii. There was general consensus among board members to leave the language in the draft as is.

- xiv. Jason Rasmussen said that he made changed references to the Select Board in the Village Regulations to Trustees. He advised that he had also struck out Section 251 in its entirety because it is now dealt with in section 223 and also had information about flood hazard regulations that is now in the Flood Hazard Regulations.
- xv. Alan Isaacson said that Section 223.2 is the definition of Interested Party and looks like the state law.
- xvi. Jason Rasmussen said he had taken it from state law. He said that he added Section 266.7 – Minor Amendments that would authorize the Zoning Administrator to review and approve minor amendments to a permit that would not alter the basic permit.
- xvii. Alan Isaacson said that the changes would still have to meet the zoning regulations.
- xviii. Rose Goings said it might include things like landscaping and changing an existing deck from 144 to 164 square feet. It would not include building a new deck.
- xix. Jason Rasmussen said it would streamline the process for some people.
- xx. Alan Isaacson said it should not exceed setbacks or side yard distances.
- xxi. Jason Rasmussen said the Zoning Administrator can't waive the standards of a district. These would not be substantial changes and the changes must still meet the regulations.
- xxii. Alan Isaacson asked, referring to Section 270.1 if PUD's are allowed in the village and that the language refers to all other districts.
- xxiii. Rose Goings said that when the Mill changed to condominiums in the 1970's it was before these zoning regulations.
- xxiv. Terry Carter said the village is all about clustering.
- xxv. Jason Rasmussen said that language was in the village regulations and maybe that was the intent.
- xxvi. Alan Isaacson suggested that maybe it should read Village Residential or Village Residential Commercial Districts and remove references to other districts.
- xxvii. Logan Nicoll asked if that language should be added to the new Town RC2 District.
- xxviii. Jason Rasmussen said he would check to see if it had been included.
- xxix. Linda Tucker said that the Historical Society is interested in what changes are being made to the Preservation District. She said the character of the area should be maintained and asked what personal services are.
- xxx. Jason Rasmussen said that personal services would include barber, hair dresser, photographer, shoe repair and shine. He said that professional services would include professions such as: architects, accountants, insurance brokers, dentists, doctors, lawyers and surveyors.
- xxxi. Alan Isaacson said that hair dressers are licensed, would that be considered a professional service.
- xxxii. Terry Carter said there is already a spa in the Preservation District.
- xxxiii. Alan Isaacson said that when the medical office was at 70 Main Street, there was also a massage therapist and a financial advisor in the building at the same time.
- xxxiv. Rose Goings said that Green Mountain at Fox Run is opening a medical office there. She added that in her letter, Andrea Lehtonen also mentions personal services.
- xxxv. Jason Rasmussen said they were added as conditional uses. He said that there are subtle differences between Professional Services and Personal Services.
- xxxvi. Alan Isaacson said asked if photographer fit with hair dressers or shoe repair. He is curious why it is listed under personal services.
- xxxvii. Terry Carter said we are trying to encourage people to come.
- xxxviii. Logan Nicoll said why list all of the examples if they are also listed in the back under definitions. Maybe it should be removed to decrease clutter.
- xxxix. Norman Vanasse said if they put in too much detail, it may be dangerous as they may leave someone out.
- xl. Jason Rasmussen said he deleted "or similar services."

- xli. The board agreed with that.
- xlii. Jason asked about schools.
- xlili. The board said yes to schools.
- xliv. Logan Nicoll asked about ski clubs.
- xlv. Terry Carter said that is listed under tourist homes.
- xlvi. Jason Rasmussen asked the board what they want to do about the 144 square feet vs. 120 square feet for sheds.
- xlvii. Rose Goings said to make sure not to add to a building. The town regulations specify shed or storage.
- xlviii. Alan Couch said that the extra 2 feet is okay with him and they should make them all 144 square feet.
- xlix. Rose Goings agreed.
  - 1. Logan Nicoll said it would make it more uniform.
  - li. Jason Rasmussen asked about the shoulds and shalls.
  - lii. Terry Carter said they should all be shall.
  - liii. The board agreed.
  - liv. Terry Carter asked about the phrase, “is encouraged” in reference to changing windows in the Preservation District.
  - lv. Alan Isaacson said that the intent was to keep the character. This would mean that people would not rip out individual windows to make one large window. The pattern of the windows should remain the same. The character of the façade should remain the same. It is not meant to cost the owner exorbitant amounts to have customs windows made if the original windows are not standard sizes.
  - lvi. Linda Tucker asked if any of the houses are on the Historic Register. She said that if there are any, they have much stronger regulations. She said that the museum windows have to be restored.
  - lvii. Terry Carter added that the library windows also have to be restored.
  - lviii. Linda Tucker said it should be required if the building is on the Historic Register.
  - lix. Alan Isaacson said that is another set of regulations and not these. He said that the regulations for the Preservation District were meant to be guidelines.
  - lx. Logan Nicoll said that the language is still vague. He said that they should change the shoulds to shalls, but also add something about not making requirements that would be cost prohibitive to the property owners.
  - lxi. Jason Rasmussen said he would add a blanket statement about that and change the shoulds to shalls. He asked board members to email him any other suggestions they have. He suggested that Group Homes be added as a conditional use.
  - lxii. Rose Goings said that half-way houses or teen centers doesn’t fall under the state definition and should be a conditional use. Abutters should know what is going to be in the abutting property.
  - lxiii. Jason Rasmussen said he would add group homes.
  - lxiv. Alan Isaacson asked if group homes have to be permitted.
  - lxv. Logan Nicoll said there is a provision in the law that if it is a change from a legal single family home, it just goes through.
  - lxvi. Alan Isaacson said that there was a recent issue in Chester regarding a group home and the Select Board there rejected it, the state insisted to allow and the Select Board still told the State no. At this time, the state has decided not to fight against the Select Board’s decision.
  - lxvii. Jason Rasmussen said there are a few towns that have similar issues and there are gray areas. He said that VLCT has told him that what Ludlow currently has in its regulations about this is not OK.
  - lxviii. Alan Isaacson asked Jason Rasmussen to ask VLCT for a definition.
  - lxix. Jason Rasmussen said that he did not get good language from them when he asked about it.

- lxx. Logan Nicoll said he likes it as a conditional use.
- lxxi. Rose Goings said that the house where the young adults live on Mill Street is not a half-way house or group home.
- lxxii. Jason Rasmussen said that he had suggested residential care home, but the VLCT had told him to tread lightly.
- lxxiii. Terry Carter suggested Therapeutic Community Residence.
- lxxiv. Steven Seitz suggested they consider Transitional Living Home.
- lxxv. Jason Rasmussen said he would check. He then asked about Aircraft Landing areas in the Village and said it is pre-existing.

6. **REVIEW AND APPROVE FLOOD HAZARD FORMS**

- A. Rose Goings explained that the forms are not ready yet.

7. **SIGN LETTER TO AGENCY OF NATURAL RESOURCES RE; FLUVIAL EROSION**

- A. Rose Goings said that we had received a letter requesting maps and that she has written a letter to ANR requesting copies of Fluvial Erosion Maps that Alan Couch needs to sign.
- B. Alan Couch signed the letter.

8. **OTHER BUSINESS**

- A. Next meeting is on September 16, 2014.

9. **ADJOURN**

- A. **MOTION by Terry Carter and seconded by Norman Vanasse to adjourn this meeting. Motion passed unanimously.**
- B. Meeting adjourned at 7:40 p.m.

Respectfully submitted,

Lisha Klaiber

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Alan Couch, Chairman

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Logan Nicoll

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Terry Carter

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Norman Vanasse

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Alan Isaacson

**AUG 28.2014**

LUDLOW, VERMONT

**MEMORANDUM REGARDING LUDLOW PLANNING ISSUES  
PLANNING AND ZONING REGULATION REVISIONS**

**To:** Planning Commission of the Town and Village of Ludlow, VT

**From:** Andrea Lehtonen  
75 Main Street  
Ludlow, VT.  
[LehtonenLaw@aol.com](mailto:LehtonenLaw@aol.com)

**Date:** August 28, 2014

**Preface:** This memorandum is being submitted as public comment from a property owner who is concerned about the future of Ludlow, my hometown.

My family has owned property and paid taxes in Ludlow for over 100 years including owning the property which is now The Hideaway motel and campground (which previously contained my grandparent's home, which was torn down), acres of land on Ludlow Mountain, sold to the original developers of Okemo Mountain in the 1950s where the original lifts, trails and base lodge were built, over 30 acres of land located from Freedom Hill Road behind Sam's Steak House, Darcy's restaurant and extending behind the now Subway restaurant, as well as 78 Main Street, 75 Main Street, and 73 Main Street.

The family still retains ownership of both 75 and 73 Main Street, located in the Preservation District.

My grandparents did not own these properties because they were rich. They were hard working Italian immigrants who worked in the mills. My grandfather was also a lumberjack who personally chopped down trees from his acreage on Ludlow Mountain and Freedom Hill, as well as former property located in M. Holly, to sell as lumber and pulp.

In respect for my family, I remain concerned about the future of the town and how Planning and Zoning affects it, both short and long term.

**My comments should not be construed as criticisms of any local officials or committee members. I am sure local paid officials work hard and committee members volunteer their time to serve the town and this should be valued.**

However, robust discussion of the issues is necessary for effective and meaningful government, and both residential and small commercial property owners comments should be valued and considered equally, even if they differ from the opinions of town officials or the interests of larger commercial interests, such as Okemo Mountain, now owned by a private management and commercial real estate company located in Orlando, Florida.

As an illustration, I believe Ludlow previously had a **Ludlow Area Chamber of Commerce**. At some point this was changed to the **Okemo Valley Chamber of Commerce**.

The official geographical name of the mountain located in Ludlow is **Ludlow Mountain**. This area has also often been referred to as the Black River Valley. Okemo is the name of one privately owned profit making business located on Ludlow Mountain, named that by the original developers in the 1950s.

Why is the local Chamber of Commerce named after one private business?

## **I. GENERAL COMMENT:**

### **A. Concern About Loss of Residential Properties:**

In my review of the minutes of the Development Review Board and Planning Commission over the past several years, it is obvious that there is pressure for increased commercial development. Okemo Mountain Resort advertises itself as one of the few ski resorts with a village at its base.

This **Village** should not be comprised in the future of commercial ventures servicing the resort industry. Already we see a decline in permanent residents of the village and town, and a decline in school population. With a high school student census of only 194 students in the six grades of grades seven through twelve, and an average cost of \$17,275 per pupil in the school district, I am concerned that a declining resident population will result in the future elimination of a Ludlow school system.

We need to protect residential areas of the town so people want to live there. It is quite a livable village with many resources, most of which can be walked to. Village and town policies and decisions need to encourage people to live in the village. I encourage committees and government to value its local residents.

That being said, I have particular concerns about The Preservation District. I own property in the District, but I have no financial reasons for my concerns as I do not intend to sell the property, utilize it for a business or benefit any individual through my estate. The property is in trust for a Ludlow charity, the Black River Academy Museum.

I have heard it said that the Preservation District exists merely for design review. This was not and should not be the case. The existing regulations state that the purpose of the District is to maintain the special character and architectural integrity of the District while allowing **appropriate** (emphasis added) home-based enterprises and community services. The regulations have also clearly restricted commercial development to specific small scale endeavors that would be consistent in a residential area.

If the District regulations are interpreted to just include design review we could end up with a long Main street strip mall with a New England style built Dollar Store, a New England style built Taco Bell, and a New England style built Burger King.

11. **DRAFT UPDATES TO ZONING AND FLOOD HAZARD REGULATIONS JULY, 2014**

**A. Section 241 Public Hearings (2)(B) :**

This section now says that an *interested person* must demonstrate at the hearing that he or she meets the criteria in the regulations, to be considered an *interested person*, Such criteria are drawn from Vermont case law.

There are several serious issues involved with this regulation:

(1) The Development Review Board (hereinafter, "the Board"), should not decide on the basis of testimony at the hearing as to who has *interested person* status. This is significant if the Board restricts testimony because it concludes a potential speaker is not an interested person. If a person is not allowed to participate in the meeting, **he or she is not able to appeal any Board decision to the VT Environmental Court**, as participation is a legal requirement.

(2) The decision as to who is an interested person will be made by the court after an appeal is filed. If the court decides the appellant does not meet the criteria, the appeal will be dismissed.

However, as an example, even if the Court dismisses an appeal on interested person grounds, the appellant can still submit a **motion for reconsideration** to the court to demonstrate that he or she does have interested person status.

I was an appellant in a case involving 70 Main Street.

At the July 14th 2014 meeting of the Board, the zoning administrator stated that not everyone is an interested party and perhaps they should not be allowed to speak. She then said she is concerned about this because of 70 Main Street, and that **THE PERSON** who appealed did not have party status.

Taken to its logical conclusion, the Board could then prevent appeals by subjectively preventing people from speaking, particularly perhaps when the Board may be in favor of the project.

**THE PERSON** the zoning administrator was referring to was obviously me.

My appeal was dismissed as the Court concluded that I had not provided sufficient evidence that I could claim status as an interested person. As a Massachusetts, not a Vermont attorney I was unfamiliar with the detail required. However, I am confident that I would have obtained interested person status if I had submitted a more detailed motion for reconsideration which is allowed. Unfortunately, personal medical issues in my family took precedence over the opportunity to submit the motion in a timely manner and I declined to do so.

In addition, in the 70 Main Street case, I was not the only appellant. There was a remaining appellant, Mary Jane O'Hara whose appeal remained active.

Again, it is not up to the zoning administrator or the Board to decide who has a legal right to appeal. I agree with the comments made at that same meeting by the Chairman of the Board, Phil Carter, who correctly stated that everyone should be allowed to speak if they come to a meeting.

## **B .Preservation District Regulations:**

### **(1) Conditional Uses: Addition of Personal Services:**

This category has been added to conditional uses in the new draft. What was the reasoning behind this? It adds another potential commercial use to a predominately residential district.

My concern is that it was added because of one particular case, again 70 Main Street. This is the only evidence I can find in meeting minutes for the addition. The Environmental Court, in its remand order to the Board stated that it was unclear to the Court which conditional use **IF ANY**, the proposed use fell under.

This language by the Court **IF ANY**, tells me that the Court did not see a listed conditional use for personal services, and that they would ultimately overturn the Board's decision.

In the May 20th, 2014 minutes of the Planning Commission 70 Main Street was once again brought up when the zoning administrator stated that "a recent application "did not go through for personal uses.

Personal uses is now added and I am concerned that it is added for special individual interests as it is no secret that the 70 Main Street project discussion has been contentious and at times personally insulting in public when people were only exercising their right to appeal.

**(2) Exception for Permit in Preservation District versus general exception :**

Article 4, Section 410 A (h) states that no permit for a building is required in the Preservation District if the floor space is less than 120 square feet.

Article 2, Section 220(1) -Zoning Permit states that no permit is required in town provided the floor space does not exceed 144 square feet.

I do not have a problem with the difference for the Preservation District but I wonder if this difference was intentional or a mistake.

In conclusion, I hope the Committee will view my comments in the manner in which I intend them - concerns based on my genuine concern for the community of Ludlow.

Thank you