

PLANNING COMMISSION

MINUTES

PUBLIC HEARING FOR FLOOD HAZARD REGULATIONS AND

REGULAR MEETING

January 21, 2014

MEMBERS PRESENT:

Alan Couch, Chair	Logan Nicoll,
Terry Carter	Norman Vanasse

OTHERS PRESENT:

George Benson, Jr.	Rose Goings	Mike O'Neil
Pamela Bruno	Kevin Golmont	Jason Rasmussen
William Bruno	Marji Graf	Ann Rose
Angie Ciufu	Patti Greenwood	Tina Rosen
Liz Crowley	Glenn Heitsmith	Scott Stearns
Peter Crowley	Margaret Killian	Vincent West
Joanne Esau	Rich Killian	Lisha Klaiber, Recorder
John Esau	Gary MacIntyre	Michelle Stinson – LPC-TV
Marty Fino		

PUBLIC HEARING FOR FLOOD HAZARD REGULATIONS

- A. Alan Couch called the public hearing to order at 6:00 p.m.
- B. All members present.
- C. Jason Rasmussen advised that the Planning Commission has been working on upgrading the Flood Hazard Regulations for the past year. The first public hearing was in the spring of 2013 and a second was held in November. The draft presented in November contained changes made from suggestions from the first hearing, the Select Board and the Village Trustees. One of the changes was to reduce the number of streams where setbacks would be required. In the Village, the 50 foot setback from the top of the bank was changed to 25 feet and a waiver provision was added for small lots.
- D. Alan Couch noted that the board hoped to satisfy the Select Board and also not to upset too many people.
- E. Glenn Heitsmith asked how the board decided which streams to reduce. Did they go back to Irene?
- F. Jason Rasmussen said that the reduction was not specific to Irene. Some of the streams were mapped as only seasonal and not perennial. They looked at existing data. They had to start somewhere.
- G. Glenn Heitsmith asked then if intermittent streams were not considered streams.
- H. Jason Rasmussen said not for the setback provision.
- I. Glenn Heitsmith said that he has a stream and Act 250 said that there must be a 50 foot setback from that stream.
- J. Alan Couch advised that Glenn Heitsmith's property is in the floodway and local regulations are superseded by the start in those areas.
- K. Frank Wingate noted that the base flood elevation was changed.

- L. Jason Rasmussen said that the stream setbacks were changed by FEMA. FEMA asked Ludlow to change the regulations to meet the state model. He said that he does not think that the FEMA special flood areas have changed.
- M. Alan Couch closed that public hearing at 6:10 p.m.

REGULAR MEETING OF THE PLANNING COMMISSION

1. CALL TO ORDER

- A. Alan Couch called the meeting to order at 6:11 p.m.

2. ROLL CALL BY RECORDING SECRETARY

- A. All members Planning Commission members present. He advised that there is still an opening for one more member.

3. APPROVE MINUTES

- A. The minutes to be approved are from the meeting of November 19, 2013.
- B. **MOTION by Terry Carter and seconded by Norman Vanasse to approve the minutes from November 19, 2013 as corrected. Motion passed unanimously.**

4. COMMENTS FROM CITIZENS

- A. There were none.

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

5. ZONING BY LAW REGULATIONS

- A. LAKES DISTRICT
 - i. Alan Couch said that the Planning Commission is modifying the zoning regulations for sustaining and responsible development in all zoning districts. With respect to the Lakes District, the state, there is a possibility that the state will be passing Flood Hazard Regulations that will affect all of the lakes in the state. If Ludlow can create regulations that are in line with the state, we may be exempt from the state regulations. We could maintain local control and not have people who don't live here be in control. We do not want to create undue burdens. We do not want to create undevelopable lots. Jason Rasmussen has worked with the board with language for the regulations that will satisfy the state. Not everyone will be happy, but this board does due diligence for the whole town. The Lake Rescue Association has emailed there

- suggestions and suggestions were also received from Gary Mac Intyre. Alan Couch said that after tonight's meeting, the board will review suggestions.
- ii. Jason Rasmussen noted that there were no changes to Section 430 – Lakes in the description or purpose. He advised that the changes to the Uses matrix were to delete GROUP HOME and UPGRADING from the permitted uses. He explained that VLCT suggested that a Group Homes does not need a permit. He further explained that Upgrading was deleted because people should not need a permit to change their kitchens or do similar repairs unless they are in the Flood Hazard Area.
 - iii. Rose Goings explained that would also include things such as changing windows or siding. No permit would be required.
 - iv. Marty Fino asked if grandfathering was included.
 - v. Rose Goings said that changes are allowed within reason. She also stated that any changes in the Flood Hazard Area would require a permit.
 - vi. Joann Esau asked if this were affected by percentage of building, like gutting the whole inside and just keeping the shell.
 - vii. Rose Goings said that a permit would not be required unless they add bedrooms, change the footprint, add square footage or add to the height.
 - viii. Jason Rasmussen continued in to District Standards and noted that other than one changing minimum to maximum, there were no other changes.
 - ix. Gary Mac Intyre said that the minimum lot size of 40,000 square feet made most of the lots non-conforming. They need to date that was put into effect. He said that setting the waterfront setback at 50 feet, the building front yard at 55 feet and side setback at 15 feet could be considered a conflict. A person could say that the side was the waterfront. It needs further clarification.
 - x. Rose Goings said that the building front yard is measured from the center of the road.
 - xi. Gary Mac Intyre also suggested that they change the building height maximum from 35 feet or 3 stories to 2 ½ stories. They may run into a problem with the 35 feet. He went on to discuss lot coverage, suggesting that maximum coverage of 20% is excessive, that would amount to 8,000 square feet per floor. He suggested that be lowered to 2 ½ or 3%.
 - xii. Alan Couch said that the board would not be making any concrete changes tonight.
 - xiii. Jason Rasmussen noted that the next section was new language. It includes a 50 foot setback where there can be no new structures and a 50 foot buffer with not new structures or disturbances. Also, no new roads, driveways, excavation or grading. This pertains to new, undeveloped lots. It is a simplified version of the VLCT model of the Lake Shore Protection language. This applies to Round Pond, Lake Rescue and Lake Pauline.
 - xiv. Kevin Golmont asked if this was only new, not grandfathered.
 - xv. Jason Rasmussen said yes.
 - xvi. Angie Ciufu asked about tearing down a structure and rebuilding in the exact same place.
 - xvii. Jason Rasmussen said generally speaking, yes.
 - xviii. Joann Esau asked the difference between existing and non-conforming.
 - xix. Jason Rasmussen said an existing structure that is more than 50 feet back from the water is conforming. If the structure is less than 50 feet back from the water, it is existing, but non-conforming. He said that all existing structures can stay as they are without a problem, this applies to new buildings.
 - xx. Joann Esau asked about upgrading non-conforming structures.
 - xxi. Rose Goings said that you may upgrade an existing non-confirming structure as long as you stay within the existing footprint, do not add to the square footage, do not lift the roof and do not add bedrooms.

- xxii. Gary Mac Intyre said that there are only about 3 new lots available. He said that the issue is really tear downs. He said that if you tear down an existing structure, you lose the grandfathering.
- xxiii. Rose Goings said that the Lakes District was established in 1990 and if you have a non-conforming structure, like a camp, and tear it down, you can rebuild it within the existing footprint.
- xxiv. Gary Mac Intyre said that they would lose their grandfathering if they knocked the structure down.
- xxv. Rose Goings said the town of Ludlow has not approached it that way.
- xxvi. Gary Mac Intyre said it was a legal issue.
- xxvii. Marty Fino said we have always been able to take a structure down and rebuild if we maintain the footprint and height.
- xxviii. Gary Mac Intyre said this should be referred to the town attorney.
- xxix. Frank Wingate said that Turner was denied an add-on to the structure and court decided that they could rebuild within the same footprint.
- xxx. Rose Goings agreed that they had to it had to be returned to the original footprint. She explained that you may not increase the degree of non-compliance.
- xxxi. Marty Fino said that the Lake Rescue Association feels that the 50 foot vegetative zone is not appropriate for the lakes because most of the lots are non-conforming. He suggested the first 10 feet as a natural buffer zone. He added that docks are not considered in this.
- xxxii. Gary Mac Intyre disagreed; the 1973 Inland Water Course law designated a 50 foot buffer zone. Right now, all lots on the lake are non-conforming. The regulations should stay as written.
- xxxiii. Jason Rasmussen said that the 50 foot buffer is written for the 3 undeveloped lots. He said that people can keep their existing structures and continue to mow their lawns. They can't add structures or expansions and no additional cutting of trees.
- xxxiv. Frank Wingate asked if no mowing also means no cutting.
- xxxv. Jason Rasmussen said yes, the state uses the word mowing instead of cutting.
- xxxvi. Frank Wingate said that eventually, you would have a buffer. He said that most people have docks and would not be able to use their property. People need dock space.
- xxxvii. Jason Rasmussen said people can keep their existing lawns as is. This is for new lots or other work that would require a permit.
- xxxviii. Frank Wingate said it would be a filtration area.
- xxxix. Jason Rasmussen said that is the intent.
 - xl. Alan Couch said what people already have, they can keep. We are encouraging growth.
 - xli. Angie Ciuffo asked if someone tears down a structure, is that lawn also grandfathered.
 - xl.ii. Jason Rasmussen said yes.
 - xl.iii. Marty Fino said it would require DRB review.
 - xl.iv. Jason Rasmussen said he did not think so.
 - xl.v. Gary Mac Intyre said this is in conflict with the Lake Shoreline Protection booklet. The booklet says that a 125 foot buffer is required.
 - xl.vi. Jason Rasmussen said there are things in these regulations at a lower level than the state bill.
 - xl.vii. Gary Mac Intyre said that the Lake Shoreline Protection bill would apply to all land within 50 feet of the lake.
 - xl.viii. Jason Rasmussen said that his interpretation of the Shoreline Protection Area is 50 feet from the mean water level. We are trying to say NEW development must meet this intent.
 - xl.ix. Gary Mac Intyre said you can't force people who have existing properties to make a buffer.
 - l. Alan Couch said we are trying to encourage responsibility on the part of the property owners to do the right thing.
 - li. Norm Vanasse said that buffers keep the water clean and we need to comply with that.

- l.ii. Gary Mac Intyre said that the booklet also has a list of various plants that would be good for the buffer.
- l.iii. Jason Rasmussen said that new lawns or expansions are not allowed.
- l.iv. Marty Fino referred to Section E and said that the Lake Rescue Association has submitted language for this section.
- l.v. Gary Mac Intyre said retaining walls should not touch the water.
- l.vi. Jason Rasmussen said that Planning Commission has not reviewed this language yet.
- l.vii. Rose Goings said stairs are allowed to the water and are considered normal lake shore facilities.
- l.viii. Jason Rasmussen said the Planning Commission will review this language. He went on to the Exemptions section. These do not require a permit. One item is removal of unsafe trees or limbs and pruning of trees.
- l.ix. Gary Mac Intyre asked who determines what is unsafe.
- l.x. Marty Fino said this would allow topping of trees.
- l.xi. Gary Mac Intyre asked the consequences if someone cuts down all of the trees. He said that the state regulations have replacement schedules for trees.
- l.xii. Jason Rasmussen said we are trying to keep this simple.
- l.xiii. Gary Mac Intyre said that the term “effective sate if these regulations” should be changed to the “effective date of these changes.”
- l.xiv. Marty Fino referred to Exemptions item c and suggested that “normal” be removed and “reconstruction” be added the phrase “...may undergo *normal* maintenance, repair, and *reconstruction* provided that such action does not increase the degree of nonconformity.”
- l.xv. Jason Rasmussen said the Planning Commission will review this. Moving on to Section 3 – Administrative Review, Jason Rasmussen said that this comes from the state model and allows footpaths to the water and reasonable access to the water.
- l.xvi. Marty Fino said that the Lake Rescue Association has suggested changes to that language including removal of part “a” saying that was covered under section 1f.
- l.xvii. Anne Wingate asked if that means that any changes to waterfront have to go to Rose Goings for approval.
- l.xviii. Jason Rasmussen said you would get a path permit from Rose Goings.
- l.xix. Anne Wingate said that would make it difficult for people to do any changes.
- l.xx. Gary Mac Intyre said that he disagrees with the Lake Rescue Association suggested language. He said that it is open to interpretation. He asked about sitting areas by the water, a patio or something 10’ x 10’ to sit by the water.
- l.xxi. Anne Wingate said they need to make clearer what people are expected to go in and ask Rose Goings about.
- l.xxii. Gary Mac Intyre said there has to be some leeway.
- l.xxiii. Jason Rasmussen said that for ADA access to the water, people would need to see Rose Goings.
- l.xxiv. Gary Mac Intyre said that is not required by state law and should be handled on an individual bases. It could mean a track or elevator. It needs to be spelled out.
- l.xxv. Jason Rasmussen said the intent is for minimum clearing to get access to the water. Normal water facilities are subject to a zoning permit. One story boat houses, docks and stairs are included in this.
- l.xxvi. Gary Mac Intyre disagreed with this, but added that if they do allow it, they should add that a state permit is required for docks and boathouses and should add that the boathouses should have 3 and 1 or 4 and 1 pitched roofs.
- l.xxvii. Angie Ciufu asked why a pitched roof.
- l.xxviii. Gary Mac Intyre said that you could end up with a deck on top of the boathouse and then it would not be a boathouse.
- l.xxix. Marty Fino said that the state allows larger areas for docks.

- lxxx. John Esau asked what the high water mark is.
- lxxxi. Alan Couch said probably around April 15th, when the lake is at its highest.
- lxxxii. Jason Rasmussen said they need to add a definition for that.
- lxxxiii. Gary Mac Intyre said that the meets and bounds on some deeds on the lake refer to high and low water marks. They should try to stay away from that.
- lxxxiv. Frank Wingate said that the state does not require a permit for docks if they are less than 50 feet long and less than 500 square feet. The town should not restrict what other lakes are allowed to have.
- lxxxv. George Benson said that if this is about not have state regulations, why put in state permit required.
- lxxxvi. Frank Wingate asked if the board is going to change the language.
- lxxxvii. Alan Couch said not tonight, they will review these suggestions.
- lxxxviii. Marty Fino noted that in section ciii steep slopes require wooden stairs.
- lxxxix. Terry Carter said that the type of wood should also be considered. Pressure treated wood with the chemicals is not good for the lakes.
 - xc. Jason Rasmussen said the Planning Commission will review this.
 - xc. Jason Rasmussen said that Conditional Uses require DRB approval.
 - xcii. Marty Fino said there that “modification” should be removed if it does not increase the degree of nonconformity. He added that knock downs should be win the same footprint and that people should not be required to change existing mowed areas.
 - xciii. Jason Rasmussen said the Planning Commission will review this.
 - xciv. Joann Esau said that state is considering a law to supersede local laws.
 - xcv. Alan Couch said that was language in a bill that did not pass about town regulations. Either way, we are trying to protect our shorelines.
 - xcvi. Gary Mac Intyre said they should send a letter stating that 90% of the lake properties are non-conforming lots.
 - xcvii. Frank Wingate said that VLCT got municipal rights added to the bill.
 - xcviii. Alan Couch said that we will rework these regulations and have another public hearing with those changes. Changes will be posted prior to the meeting. After that hearing, the Planning Commission will consider comments and if there are no major changes will send them to the Select Board.
 - xcix. Kevin Golmont asked what happens to people who do clear-cut.
 - c. Gary Mac Intyre said the only way to enforce this would be with an ordinance enforceable by the police. He said that there is an ordinance to prevent kids from gathering at Red Bridge.
 - ci. Anne Wingate said they need a definition of clear-cut. She asked what happens when the Select Board gets the proposed changes to the regulations.
 - cii. Rose Goings said the Select Board has the authority to adopt the regulations or put it to a town vote. You are all welcome to attend the Select Board meetings.
 - ciii. Anne Wingate asked if these would be ready for Town Meeting in March
 - civ. Rose Goings said no.
- B. LANDING STRIPS AND HELIPADS
 - i. Alan Couch suggested changing the order to allow Other Business to be discussed prior to Landing Strips and Helipads.
 - ii. **MOTION by Terry Carter and seconded by Norm Vanasse to table this topic until the next meeting. Motion passed unanimously.**

6. **OTHER BUSINESS**

- A. Tina's Fun Stuff
- i. Liz Crowley advised the board that she had submitted a letter concerning the sign regulations. She and Tina Rosen have opened a business on Depot Street and the existing regulations call for a setback of 10 feet and there is no place to put a sign. The pole where the previous owner's sign was located is on Greg Mauriello's property. They are asking the board to consider changing the ordinance for signs to help them out. She said that more than 50% of the signs on Main Street are not in compliance with the ordinance and she said that the SHOPPING sign is too high and people can't see it.
 - ii. Alan Couch said that the board did not have chance to review the ordinance. He said they will review this.
 - iii. Rose Goings said that Depot Street is a problem because the buildings are set back from the road. The sign regulations are the same for the town and village and not laid out for specific areas. The board should look at Depot Street and Elm Street and change the regulations for them. Many of the signs pre-exist the 1990 regulation. We need upgraded sign regulations or an ordinance that would be enforceable by municipal ticket.
 - iv. Liz Crowley said the street is fully occupied.
 - v. Tina Rosen said that all she needs is a sign. The motto for Ludlow is "A better place to Live, Work and Play," but she needs the ability to show that her store exists.
 - vi. Alan Couch advised that this board does not have the ability to do anything right now.
 - vii. Rose Goings said that this board can only propose changing the regulations to the Trustees.
 - viii. Norm Vanasse asked if there was anything that could be done in the mean time.
 - ix. Tina Rosen said that there were lots of people in town over this past weekend and they did not know she was there.
 - x. Alan Couch said that this board does not have the authority to do anything right now. We can only try to change the regulations.
 - xi. Liz Crowley asked the time frame for this.
 - xii. Alan Couch said the board would discuss it at their meeting next month. It would still have to go to the Select Board and Trustees.
 - xiii. Terry Carter said that after that, there would be a public hearing.
 - xiv. Rose Goings said that they can apply for a sign permit, but she would have to deny it. Then it would go to the DRB for appeal.
 - xv. Tina Rosen said that she cannot afford that.
 - xvi. Liz Crowley said that they would like to put the sign up about 3-4 feet from the existing pole. It would not remove any parking spaces.
 - xvii. Alan Couch said that, at this time, the board cannot help them.
 - xviii. Logan Nicoll said the board would look into it as soon as possible.
 - xix. Marji Graf said that visitors cannot find things in Ludlow. They should have a marquee sign with list of businesses on Depot Street. Also, people can't find the golf course or Jackson Gore and get angry. This is not visitor friendly.
 - xx. Norm Vanasse asked who could do that.
 - xxi. Rose Goings said the town manager or Trustees.
 - xxii. Liz Crowley said they could put signs at Kesman Park.
 - xxiii. Rose Goings said that off-premise sign are not allowed in the state.
 - xxiv. Alan Couch said that it is a good point and we do need to become more user friendly.
 - xxv. Patti Greenwood said this should be fast tracked and given priority.
 - xxvi. Terry Carter said the board would like to try to help her out.
- B. Flood Hazard Regulations
- i. Jason Rasmussen asked the board if they are ready to forward the Flood Hazard Regulation on.

- ii. **MOTION by Terry Carter and seconded by Logan Nicoll to forward the Flood Hazard Regulations to the Select Board and Trustees. Motion passed unanimously.**
- C. Next regular Planning Commission meeting February 25, 2014 at 6:00 p.m.

7. **ADJOURN**

- A. **MOTION by Logan Nicoll and seconded by Norman Vanasse to adjourn this meeting. Motion passed unanimously.**
- B. Meeting adjourned at 7:48 p.m.

Respectfully submitted,

Lisha Klaiber

Alan Couch, Chairman

Logan Nicoll

Terry Carter

Norman Vanasse