

Ludlow Planning Commission  
Meeting Minutes  
November 16th, 2023  
5:00 p.m.

**Special Meeting**

**1. Call to Order:**

The special meeting of the Ludlow Planning Commission was called to order on Thursday, November 16th, 2023 at 5:03 p.m. at the Ludlow Town Hall in Heald Auditorium by Theresa Gurdak-Carter.

**2. Attendance:**

*Board:*

Theresa Gurdak-Carter,  
Ryan Silvestri,  
Ted Stryhas,  
Judy Pullinen,  
Andi Goldman,

*Recording Secretary:*

Abigail Childs

*Public:*

Rosemary Goings,  
Martha Harrison,  
Jarrod Jowdy,  
Allison Hopkins,  
Eric Alden,  
Brendan Mcnamara,  
Noah Schmidt,  
Steve Meyers.

*John Neal,  
Eric Alden,  
Martha Harrison,  
Jarrod Jowdy,  
Heather Kelly,  
Ed Kelly,  
Glenn H.,  
Alexandra Horst,  
Bruce Schmidt,  
George Benson,  
Jean Strong.*

*Board Absent:*

None

### 3. Opening Statement of Chair

- Skipped

### 4. Considerations of any changes, additions, or removals to the agenda:

- Ryan: Discuss changing the agenda tonight to do a review of the changes - a more comprehensive review prior to approving moving forward to a public hearing. He thinks he is not ready to say yes and move forward to a public hearing. He feels we made these changes over such a long period of time that we have never had a full review. He wants to include Jarrod and Rose with us as it will affect how they do their job. Asks the board to make a motion to move forward to a public hearing and instead start a review process of the document.

### 5. Approval of October Minutes:

- Edits: #8 - should be if the state not "the town"
- Edits #8 - She wants the statistics pulled into the minutes: 297 responses and 60% rental agency wanted and only 10% did not. Also add: 80% wanted a fee and 10% did not.
- Edits #10 - Martha Rose and "Martha" - add Allison and Terry.
- Terry motions to accept the minutes as amended. All in favor. **Approved.**

### 6. Comments from citizens:

- Noah Schmidt resident and Ludlow citizen and owner of a short-term rental company. He went to a short-term alliance conference and is taking note of safety issues especially those opening us to liability like egress, over occupancy. He wants to note that he thinks the short-term rental registry can really help the town, keep things safe, and be wary of scary incidents. He thinks if something horrible did happen, it could have some drastic effects on the tourism and community. There was a story about 7 people dying in a rental that he shared.
- Steve Meyers: Notes we all take risks and we all drive cars (noting about guests who died in an incident brought up by Noah).
- Ryan responds to Noah's comment: We are waiting for input from the Selectboard and Trustees to have a joint meeting. We are at the point now where we need to be directed by the legislation for the town.

### 7. Municipal Planning Grant/Bylaw Modernization/Updates on Village Zoning

1. Reviewing #7 for Emergency Shelters. Martha updated the language here and took it out from the state's statute
2. Section 290 - Affordability Requirement. Martha is showing updates to the language that has now been accepted into the town zoning.
  - a. Ryan asks if this is added to Village Zoning. The board confirms it already is.
3. Martha noted we did not specifically add language about adding a 40% density increase.
  - a. In addition in all areas served by both municipal sewer and water infrastructure, affordable housing development, including mixed-house development may exceed density limitations for residential developments by an additional 40% and may exceed height limitations by one floor provided that the structure complies with the Vermont Fire and Building Safety Code.
  - b. Steve asked if it would allow another story. Terry asks if it can exceed 35 feet for the extra floor. Martha says it didn't address it and it must comply with Fire & Safety.

- c. Steve comments that Jackson Gore had to purchase the town of Ludlow a new firetruck to reach the height of the new building. Notes that this could be an issue for a firetruck higher than 35 feet.
  - d. Ryan asks if we should input that language so that there is no confusion: 4th floor surpassing 35ft for example.
  - e. Martha comments that it says "may exceed height limitations in compliance".
  - f. Steve asks if anyone knows the height of Jackson Gore. The board does not know. Terry notes that Jackson Gore did go through the proper practices. Rose notes it was about 65 ft and suggested we have our attorney look at this before we have it fully approved, so that would be a question to ask him regarding the height.
4. Adding a definition for Required Agricultural Practices (RAP)
- a. New definition: Required practices for agriculture, including the construction of farm structures as those practices are defined by the Secretary of Agriculture in accordance with 24 V.S.A.
  - b. The state has changed this term, Martha notes. Changed from "Accepted" to "Required"
  - c. Board approves.
5. Ryan notes that these are the changes we have made recently, but not every change. Martha says it shows all the changes since the last meeting.
6. Section 227: Certificates of Occupancy
- a. Added "as built drawing requirement" - New definition: "As built" construction drawings for all heated or cooled structures equal to or greater than 500 square feet shall also be required before a CO is issued.
  - b. Ted thinks if the building is built from the original plans, why would you go through the process? He notes it is another cost.
  - c. Ted asks what Rose is thinking and what she thinks she needs. He notes we have been talking about this off and on for a while. He says if you change things, it's fine, but then you need to update. He doesn't want to see anything more made out of it than he has to be and wants to make sure the zoning office gets what it needs.
  - d. Judy wants to know if the last added sentence includes "all structures" and what is it referring to because 500 sq ft is small. In the first paragraph, everyone needs a certificate of occupancy except for home occupations and the exceptions for single-unit dwellings.
  - e. Rose said all properties in Ludlow require a CO. She thinks this is an oversight. Right now we get certifications of occupancy for everything. Rose says the problem is that there is usually not one single house that she goes to for CO that isn't different from the drawings they gave as the permit.
  - f. Ted thinks the original plan either needs to get brought up to speed or stamped as built because it was built exactly to plan.
  - g. Rose notes if the original plans were exact, then yes that is correct.
  - h. Steve asks if as build includes fixtures and finishes as well. Rose says no.
7. Group Homes: Should group homes go under the definition under health care facilities or as a conditional use wherever we have health care facilities?
- a. Allison thinks we should keep them separate.
  - b. Used to include: "For the purposes of these Bylaws, this definition also includes a residential health care home or facility that serves more than eight persons who have a handicap or disability".
  - c. Instead of having it in a separate definition, it is now under the definition of group home.
  - d. If it is 9 or more it is a conditional use.
  - e. Now under Village Residential as a Conditional Use. As well as Village Residential and Commercial. Only these two.

- f. Terry thinks we need to add it to Village Residential District (VR2)
  - g. Terry asks how we feel about adding Group Home to VR2 which is essentially Andover Street.
  - h. Ryan notes that state statute says if we are changing zoning for plans we need to come up with a list of impacts on the land, municipal tax, vacant land amount, etc. He asks what is the actual difference. He thinks we haven't looked into the long-term cost of it. He also feels off about adding it to that only section on Andover Street.
  - i. Ryan notes reading the Municipal and Country Government paperwork about needing a written report of the proposal... notes the probable impact like increase of traffic, the overall pattern of land use, long-term cost benefit, the municipal tax base, the amount of vacant land, and actually available for that purpose... etc. (re-reading the state statute). He thinks we haven't done our due diligence. Terry says that Martha already has and she says reports are always written about zoning and always regarding state statutes.
  - j. Reports need to go to neighboring districts too.
8. Combined definitions of the "lowest floor":
- a. Martha notes the two were very similar but out of alphabetical order.
  - b. The lowest floor of the lowest enclosed area (including the basement). An unfinished or flood resistance enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor...etc.
  - c. Ryan asks if this is the first level of living space.
  - d. Rose says that this regards the flood regulations.
  - e. Judy notes that this definition seems like it is the parking area under a beach house. Or a solid surface like how the Thomson's house has one because they are in the flood zone.
  - f. Steve asks if three bedrooms in the basement are counted as the lowest floor.
9. Nursery: Which district do we allow it in?
- a. Martha notes that instead of getting rid of it we should add it and encourage it to whatever districts you would like to add it to.
  - b. Terry is OK with adding it to all districts. Judy agrees. Ryan agrees.
  - c. Rose agrees too.
10. Section 224: Expiration of Permit
- a. Added language requiring a site plan and a plan to start within one year.
  - b. Martha says there is a new statutory requirement and Rose wanted to specify that the development has to at least start within the first year. Terry and Judy agree with it.
  - c. Ryan asks that they have two years to finish. Ted thinks starting within the year is OK because it doesn't take much to start. He notes finishing is a different thing.
  - d. Rose notes that it says the expiration is on its anniversary and thought we were taking this out. Martha thought we wanted to leave it in for permitted use. Rose asks: for conditional use, we were going to have an expiration date? Martha says for conditional you need to allow at least two years.
  - e. Rose asks if we have a definition for "start". Martha says she added a definition for "substantially completed" but conflicts with Section 227 so we want to change this so that it does not conflict.
11. Section 226: Moratorium on Permits Applied for during Bylaw Amendment Period
- a. When a Selectboard warrants this then for 150 days Rose and Jarrod will have to look at this and issue permits under those regulations.
  - b. The wording says if it has been amended you can't go in and revise a permit you already issued.
  - c. Judy asks how substantially completed is determined.

{Rose asks regarding Ryan's report and she is wondering if any of the other board members understand the report, and what is in it, and notes that if Martha writes the report, then the whole board should have a look at the report and what it means to them. If they feel it is right, too. Ryan obviously has questions about it and wonders if others do too about going forward with it. Rose says she knows she wasn't here for most of it and she thinks that what Ryan said earlier about taking the time to reread it all its not worth going forward and then finding mistakes in a year or month from now. Overall, she shows her concern and is worried. Terry thinks we did go thoroughly through it. She thinks we should take the temperature at the end of the night and see how everyone is feeling. }

12. Definition: Substantially Completed.

- a. Under the certificate of occupancy (#4) - it notes "substantially complete" but when we get to the definitions the conflict is about permit conditions being met.
- b. Martha notes we could cross out "all permit conditions are satisfied" which removes the conflict.
- c. Rose says we have to keep that piece in there because the conditional use permits need to meet all of those too.
- d. Martha says instead we can revise "You may issue a temporary CO if it is complete but not all permit conditions have been met".
- e. Ryan thinks we can review that all permit conditions have been met on #43.
- f. Martha says the required landscaping cannot be completed because of the season - an issue that is reasonable to give a temporary.
- g. Ted says you won't get a substantially complete building and kicks in the fact that all has to be done like the energy certificate. You may not have a toilet paper holder...
- h. Judy says the finishes may not be done like flooring, paint, etc. but the major structure is done.
- i. Ted says even if you don't have the window trim you won't get your energy certificate for example. You have to go way beyond what is listed like plumbing, etc.
- j. Rose says a subdivision permit and town highway standards are all part of this CO stuff for the house. It's not just getting the VBES it's all kinds of stuff. It's a lot easier to just think it's building the house and getting it done but it is totally different it's not anywhere near that easy. Ted says this was his point.
- k. Terry asks if we should leave "Not all permit conditions have been met". Rose thinks a temporary CO definition might be better. It's a tough thing because temporary COs happen all the time and you have to work it to get your full CO when you're in a situation.
- l. Ryan is noting the commercial applications like shuttle service or parking or others etc. Steve notes about sprinklers. Rose says the fire marshal is part of this too.
- m. Judy asks about #43 about the part about "never more than 6 months dated from the issue" and wonders if it is enough time. Rose says it wouldn't be worth giving them a temporary CO. Answers Judy's question.
- n. Martha thinks the landscaping is not going to affect the building's energy certificate and is not a safety issue. Ex. You can't plant the rose bushes until April. Ryan says this isn't the only permit condition. Vail has permit conditions for shuttles for example. We need a discretionary clause for this. It's too much of a blanket statement.
- o. Steve says there are permit requirements for a reason. Terry thinks we should add the word "minor" or maybe "non-functioning" or "non-necessary".
- p. Ryan thinks adding minor permit conditions or "may issue" shows it is discretionary.
- q. All agree to add the term "minor" to this definition and put landscaping as an example of a minor issue. Andi wants to add "if only minor permit conditions have not been met".
- r. Adding: all structural and safety permit conditions are satisfied.

- s. Ted says the energy code will dictate it. If you don't get to the point of all the energy stuff getting done, you have not gotten to the point you need to get to.
  - t. Andi suggests adding a list of numbers to this definition. Rose thinks it's fine to list.
13. Section 430: The purpose statement at the beginning and there was another purpose statement under District Standards below. Martha took pieces of what was in the bottom section to the top section.
- a. Andi notes to remove the comma after gathering places because it reads like a list. Terry is okay with removing it.
14. Section 255 - Administrative Review
- a. Martha made revisions based on Rose not being comfortable with a broader administrative review. This focuses on retail-to-retail.
  - b. Andi asks about the part that says "furthermore" - if you don't want to do that then you have to go to the DRB. Martha confirms.
  - c. Rose says Administrative Review is part of a conditional use permit anyway which is in front of the DRB.
  - d. Rose says it wasn't her comfort level, it was that she didn't have a chance to think about it. Terry doesn't want to add more to Rose and Jarrod's plate.
  - e. Judy agrees that we shouldn't be saying there isn't enough personnel because if we need the regulations and they get passed then we need to have another person on board. She thinks we shouldn't say no to anything. Judy says if Rose is uncomfortable then we need to know if the workload is too much we need another person in the office as we grow.
  - f. Rose says retail to retail is already a permitted use so it doesn't require a site plan review anyway.
15. Section 260: Martha struck lines here. She notes some of the conditions didn't make sense. It is only retail to retail under Administrative Review otherwise it goes to the DRB.
- a. Terry asks if the Trustees will see that it was crossed out. Martha confirms.
16. #3 & #4 Section 510.3: Special Public Use Exceptions
- a. We changed these from conditional use to site plan review and limited to specific things you are allowed to look at under site plan review. The first two items #1 and #2 are covered under the site plan review already so we don't need them.
  - b. Rose has not checked with the attorney for #3 and #4. Suggest an attorney look at them.
  - c. They refer to 221.5 and Martha also referenced them in that section to find them.
17. Section 520.2: Building Coverage, Open Porches, Carports, and Garages
- a. Martha thinks it should say "intentionally left blank" so we don't need to renumber. Everyone agrees.
18. 260.3: General Standards
- a. Included definition is state law regarding units located in a district allowing multi-unit dwellings shall not be solely due to an undue adverse effect on the character of the area affected.
  - b. Andi asks if it can be highlighted that it is state law because people will not like this.
  - c. Judy suggests (SL) for state law.
  - d. Ryan says to cite the statute. Terry says that would be more work. Andi likes the (SL)
  - e. Ryan says if he sees state law (SL) then he will ask to cite it. He wants where he can find the statute to be answered.
  - f. Martha cautions that sometimes the legislature changes and then you may find that they no longer accurately reflect what the statement says.
  - g. Andi says for the purpose of the citizens and trustees, we act as an asterisk to explain it is current state law, it could change, but it's a preempt that it is not for discussion unless

someone objects and thinks it is not state law. In other words, we don't have the discretion.

19. Increasing the minimum lot size

- a. Allison notes is the opposite of what we should be doing with this grant.
- b. 8,712 sq ft is the minimum set by the state in Act 57.
- c. Martha says you can add 5,000 so we may want to go back to minimum lot size.
- d. The Trustees said it is a  $\frac{1}{4}$  acre now and we can't go any less than  $\frac{1}{8}$  and they didn't agree.
- e. Allison thinks this is an oversight on drafting. 8,712 came into play when we were talking about the new act. She doesn't think we wanted to increase the square footage lot area minimums in your districts other than the ones we had to meet the minimum of the new act. We already had 5,000 sq. ft.
- f. Ryan thinks we should go back to 5,000 sq. ft. and we agreed upon it previously.
- g. Judy notes that the minimum and maximum wording is confusing.
- h. 8,217 is a  $\frac{1}{8}$  of an acre
- i. Rose notes it's an idea that one number fits all towns is not accurate.

{Parking: Noah Schmidt: He wanted to make a note regarding parking. With Vermont's snow we are not unique with snow issues (Burlington always deals with it and their street parking) and suggest looking at other Vermont towns and how they solve parking issues. Ryan notes that we proposed for shared parking up to 1,000 feet for commercial and nonresidential.}

20. Accessory Agricultural Uses: Martha crossed it out because it wasn't used but it does say you don't need a permit, so she thinks she should put it back in.

- a. Ryan understands not having permit requirements but can we say there needs to be a notice of construction? As a town assessor, these buildings are still taxed. He is not able to know where they are going. Example: an indoor riding arena that didn't need a permit but also wasn't taxed because there was no permit. Can we say something along the lines of a construction notification?
- b. Martha notes under #2 there is a line regarding showing submission to the Administrative Officer.

**8. Motion to Accept Agreed Upon Changes and Motion to hold a Public Hearing at December's Meeting on the modernization of the Ludlow's Village Zoning and Flood Hazard Regulations**

- Terry notes we've heard Rose's concerns and Ryan's concerns about this.
- Judy asks Ryan if he would like a comprehensive read through everything we've changed. Judy is not against it but notes we probably need a special meeting.
- Ryan and Terry like that idea. Judy doesn't want to lose the grant with the timeline.
- Terry notes it's a cycle to revisit and edit and hopefully improve each time.
- Ryan thinks giving time for the outside council to read the document is needed. His concern is that if we don't come in on time we are out \$1,700 plus any other time but any harm done in oversight could cost much more than that. He doesn't see a good reason to not do our due diligence.
- Ryan says it's gone through new members in the zoning office and board members. He wants the zoning office to read through all of this.
- Terry thinks she has respect for the work that is done for it and she would like to stick with the timeline and wouldn't mind a readthrough. The public warning has to be done quickly.

- Andi agrees with Ryan and Terry because she is wondering when she is planning the legal review, can she do that one and our review at the same time? Rose says there wouldn't be time to do that and then have the meeting next month.
- Terry asks if we have time between now and the Trustees meeting (2 months).
- Andi says we can find out if a lawyer can commit or not. Rose said she couldn't guarantee.
- Andi thinks we need to manage our vendors and specifics need to be asked of them and see if they can do this and be done and comment by a certain date.
- Andi asks if we can do the read-through at the same time. She says you can negotiate for years and when you read through, things can be read differently.
- Rose notes that the town municipality agrees to take our time and not worry about the \$1,700 that goes along with the grant and possibly close out the grant. She wants to do it right. It will be in our possession for years working with the village. We changed things that needed to be changed that we were not aware of. Things could be missing and there are also other things that can be added that haven't. We can still close out the grant and the town will have to pay - the town manager is aware of that.
- Terry says we don't have money to go over it again and we don't have the funds to keep hashing it out. She says she has been here through it all and there have been things affecting us. Rose says there are a lot of mistakes in it. Terry says that is not true.
- Terry says we have a couple of options for looking at the document.
- Andi says we should take more time but doesn't agree it should be open-ended. At this point, we need a time-definite for us to review the whole thing or for the League of Cities. She doesn't want to see us kick the can down the road. She wants a due date and deadline. Judy agrees with Andi.
- Judy notes about analysis paralysis where every time we keep changing it you are never going to push it forward. She is not happy that we won't meet the terms of the grant when we know it is our timeframe. What is the drop-dead date to be passed by Trustees and what is the warning date?
- Terry says our public hearing has to be warned right away which is 15 days before. Similar things have to be done in January as a joint meeting for their public hearing.
- This has to be passed by the end of January.
- Rose says who is to say the trustees will pass it? She says they have not been that happy with it this far. If they don't pass it then we are back to the drawing board. Terry says she is encouraged by the board. Andi felt like leaving the PC after the last few visits to Trustees.
- Allison says you can continue to work on this for the next 15 years if you'd like. Jason and Brendan were at the PC meeting stressing the timeline and the town's unwillingness to pay match funds. Allison is contracted by the town and there would need to be further discussion with the town manager and RPC and what type of involvement as well as paying the match funds to continue paying for this. They have been working on this for 10 months without funding. Another grant is being stalled too. Allison thinks it is not a surprise and stresses that the RPC can't help because Brendan is contracted by him.
- Deadlines that Martha has sent are due to the match funds.
- Hearing notices have timelines of when they need to be noted.
- Andi notes we can make changes later but it doesn't take away from the importance. A draft is done piece by piece.
- Terry wants the PC to meet as soon as we can to do a full read-through. Show the old one and the new one printed.
- Ryan asks if we can have a public meeting in February and still meet the deadlines. No, we can't.
- Ryan was speaking to Branden and the \$1,700 is a non-issue. He thinks it is irresponsible to not do a read-through.



- Andi says a lawyer can begin looking at the entire thing as we look at it. Terry says it is just the availability of the lawyer. Andi thinks a lawyer should not be at the discussion but they should have it before our read-through.
- Andi thinks we should read through this on our own and come to the document with our own issues.
- Rose notes that you should read the statutes to read those.
- Terry is warning a meeting for Monday at 5 p.m.
- Terry will look into legal over the next few days.
- Andi says her approval of the document should be subject to approval.
- Noah asks how the public can review this document. Terry says she can send it to him. Andi suggested that we have what we are working on on the website at all times.
- Terry says we are going to table #8.

#### **9. Next Month's Agenda Planning: December - Public Hearing**

- Terry says time will tell.

#### **10. Board Member Comments:**

- N/A

#### **11. Citizen Comments:**

- Jarrod Jowdy: Zoning Assistance - Adds that he agrees and started going through some changes and he says it looks like there is a lot of progress but as we approach the finish line we should take more time to make sure it best suits the community to move forward. For a small fee and added time it would be time well spent. He thanks us for not rushing and steamrolling it too fast. There is a lot that he has to pick up too and he has to relearn all of the zoning laws and wants to live this for many years to come.
- Martha says later tonight she will send what she has including tonight's changes.
- Andi wants to reserve that as we get into this, she is going to advocate more time.

#### **MEETING ADJOURNED**

Judy motioned to adjourn the meeting. Ryan seconded the motion. The meeting was adjourned at 6:56 p.m. by Theresa Gurdak-Carter. The next general meeting will be at 6:00 p.m. on Tuesday, November 21st, 2023 at the Ludlow Town Hall.

Minutes submitted by: Abigail Childs

Minutes approved by: