Town of New Haven Planning Commission Meeting
Thursday, November 14, 2019
New Haven VT Town Office
MINUTES

Planning Commission Members Present: Benjamin (Benj) Putnam, Co-Chair; Bev Landon; Dan Monger; Pat Palmer; and Maggie Eaton
Members Absent: Rob Litch
Visitors: Amanda Bodell, John Mazzuchi

I. Meeting Commenced: 7:03 PM

1. **Adjustments to the Agenda:** none
2. **Visitors' Business:** none

II. Standing Items

1. **ZA Update**

   ZA Aaron Brown reported that he has processed three agriculture exemptions, three certificates of compliance, and a lot line adjustment in the past month. He has also dealt with a question about whether roads create a natural lot subdivision which is not clarified in the New Haven subdivision regulations and which needs clarification (see item 5.19 below). He also reported that the court has not issued a ruling on the New Haven Power Equipment matter. Finally, Aaron reported that he expected no significant changes to the contemplated budget.

2. **Town Plan Update/Energy Plan Update**

   Maggie reported on her work to prepare the first draft of the enhanced energy plan. She has been meeting with ACRPC representatives, with people familiar with the history of the previous energy plan (the Town attorney, two Selectboard members), and with people familiar with various aspects of the plan elements (energy generation, storage, transmission, and use reduction etc). In order to understand generation siting restrictions related to natural resources, Maggie has attended workshops on forest conservation and ownership. She also attended a webinar on the Transportation Climate Initiative. She will be meeting with energy committee representatives from other towns to lean how they designated local constraints and preferred areas for renewable energy development. The New Haven plan can contain either or both of these elements either on maps or by description.

   Maggie announced that she will conduct a meeting with the Planning Commission energy committee on November 21 at 6 PM at the town office and will warn that meeting. The meeting will review the first draft of the enhanced plan. The

Commission members also agreed that Maggie will attend a meeting of the Conservation Commission to obtain their input about areas where commercial sized renewable generation development should be restricted or could be suitable. Maggie answered questions about how the New Haven energy plan relates to the ACRPC plan. She explained that the plan data (energy use, targets, etc) and the maps showing known and possible constraints and potential sites for renewable energy development all came from both the State and ACRPC. The energy committee work is to make the plan specific to New Haven. Maggie also raised the issue about the amount of power that the new VELCO data processing center will be using. The reason for the question is that the energy plan requires that reduction in energy use be addressed to meet targets. Based on census predictions, the energy plan assumes a fairly flat energy usage with the exception of an increase in the number of heat pumps and electric vehicles. If the VELCO plant will be significantly increasing the energy use in New Haven, the plan will need to take that into consideration. Maggie will contact VELCO with the question and report back. Finally, Maggie will clarify whether the Selectboard has accepted or voted on the State energy planning maps.

3. **Workshops**

Aaron reported on attending a FEMA flood plain mapping workshop and learned that FEMA will be updating flood plain maps with completion expected in 5 years. Aaron also attended a conference entitled 'When Governments Cooperate' and he will also be attending a workshop on municipal ordinance.

4. **ACRPC Activities**

Maggie reported that ACRPC obtained a contract for $10,000 from Efficiency Vermont to implement electric and thermal efficiencies. A work plan for the contract is being developed and some outreach is planned before this is completed.

ACRPC also reported that grants from VNRC for smart growth planning featuring density development are being offered. Given that this goal is to be included in the revised Town Plan, the Commissioners agreed that New Haven should apply for one of these grants.

5. **Zoning Revisions**

Referring to a list of suggested zoning changes previously distributed by the ZA, the Commissioners discussed the following:

1. "No definition exists for footprint, side and rear setbacks, bed and breakfast, inn, right of way, [save for more terms]." The ZA will research the definitions used by other towns and report back.

2. "Should "gasoline or motor vehicle service station" be updated to include private, for-profit electric vehicle charging stations?" The Commissioners agreed that this change should be made.
3. "The definition for "AAP" (accepted agricultural practices) should be changed to "RAP - Required Agricultural Practices" and cite 6 V.S.A. 4810." The ZA reported that state law requires this change.
4. "Definitions exist for solar and wind energy systems, but not coal, hydroelectric, nuclear, etc." The Commissioners agreed that this change should be made.
5. "The definitions for public and private outdoor recreation assume that the town would develop playgrounds, parks, open spaces and swimming pools, but only private developers would do other types of projects (ex: skiing areas). Is this the intent of the regulations?" The Commissioners agreed that the definitions are confusing and should be changed.
6. "It's somewhat confusing that only two classes of permitted uses exist: by right and conditional use. This could suggest that one needs no permit if something is by right and everything else requires DRB approval. I don't think this is the intent of the regs. It would be clearer to say allowed by right (ex: agriculture), permitted, and conditional use. This will require going through each zoning district to decide what's allowed by right. Presumably allowed by right would always include agriculture and silviculture and maybe other development (ex: at-home day care with fewer than X number of children)." The ZA reported that three categories should be created: by right, permitted, and conditional use. He will research the provisions of other towns and report back.
7. "The town should clarify whether it wishes to exempt or require site plan and performance standard reviews for accessory on-farm businesses. Act 143 (2018) allows towns to choose either path. The town may very well want to require farms that host events, regular meals (more than 8 per year?), etc. to go through site plan review." There was extensive discussion about this issue. Zoning needs to clarify what approval processes are required. While on-farm businesses should be encouraged, potential intrusions on the neighbors should also be considered. Various thresholds for what triggers a required review were offered. The ZA will review Act 143 to obtain clarification and he will draft language for review consistent with the Act.
8. "Consider adding the following to exempted activities/developments: driveway maintenance and repair, at-grade patios, landscaping, interior repairs and remodeling, wheelchair ramps and other accessibility measures not in the public right-of-way (this is required under the ADA), normal maintenance and repair of existing structures (might be helpful to spell out things such as siding and window replacement), school bus shelters, and a specific number of garage/yard sales per calendar year. Include a clause that says the zoning administrator may be appealed for an exemption determination." The

Commissioners agreed that the kind of developments that require review vs those that do not should be clarified.

9. "Section 350 refers the reader to Article X, but then the reader isn't given a clear definition. One has to go through each section. It would be clearer to say that all conditional uses require site plan in one place." The Commissioners agreed that zoning should state that "site plan approval is required for the following...".

10. "Why are one- and two-family dwellings required to go through conditional use approval in the Highway Commercial district? Why are they not allowed in the Industrial District?" Benj and Bev agreed that it makes sense that residents should not be allowed in the industrial district. More flexibility can exist in the Highway/Commercial district.

11. "A definition exists for height, but no district standards exist. Does the town wish to consider a height maximum? 35 feet seems reasonable." The Commissioners agreed that there should be a maximum height standard. Benj reported that the typical measurement is from the average grade to the peak of the building. Possibly waivers can exist for lots of unusual topography.

12. "Item 2 prohibits "dust or dirt which is considered offensive." It seems offensiveness alone is difficult to enforce as a standard. The standard might be improved by saying "detrimental to public health" or "uncharacteristic of the surrounding area." The Commissioners felt that dust and dirt detrimental to public health was a legitimate area of concern and the ZA will research the language used in other ordinances and report back.

13. "The subdivision regulations do not specifically address boundary line adjustments separate from subdivision. It is unclear what the DRB wishes to receive for application materials and expectations for plat filings." This was considered a major issue. Discussion occurred about whether boundary line adjustments could be approved by the ZA (as Middlebury does) without going through the DRB and variance hearings etc, perhaps with a threshold for large adjustments compared with lot size that would require review prior to approval. The ZA will research the matter further and report back.

14. "The subdivision regulations still refer to the Planning Commission as the appropriate municipal body for review. It should be changed to the DRB." The Commissioners agreed.

15. "The regulations do not provide an opportunity to request a reconsideration of DRB decisions within 30 days, which is allowed under state law. The process allows applicants to request changes to conditions without going directly to an appeal." There were various opinions about whether there should be a process for reconsideration for decisions that were based on erroneous or incomplete facts or whether the opportunity for reconsideration would be abused by residents who simply did not accept a decision and want to avoid having to appeal. A possible solution could be to charge a fee for a reconsideration. The matter was not resolved and will be referred for further consideration.

16. "Does the town intend all permitted structures to require a CO? It seems features such as uncovered porches might be exempt." Questions arose about past practices, whether a CO should be required for everything, for only major structural changes, or for limited changes such as only enclosed structures.
17. "No provision exists for the reconstruction or repair of damaged structures due to fire, natural disaster, etc. Consider allowing the ZA to exempt repair/reconstruction within six months of the damage's original date and requiring that such work be done within two years." There was general agreement that property owners of such damaged structures should not be burdened by typical approvals and that the ZA should be able to exempt this kind of reconstruction or repair. The ZA will draft language to that effect and report back.
18. "The definition for fence includes "vegetation...used for screening." This would mean that a hedgerow over 8 feet in height would require a permit. I don't think this is the town's intent." The Commissioners agreed that permits should not be needed for vegetation.
19. "The subdivision regulations do not specify whether public roads that divide a lot create a subdivision." There was general agreement that public roads should create a natural subdivision. Also possibly rivers. The ZA will research the State definition of a waterway and report back with suggested language.
20. "No fee exists for commercial developments per se. It's $115 to build a residence and $90 to build a major construction project more than 400 square fee." This has been addressed by the Selectboard and is considered resolved.
21. "Remove requirement for pavement of subdivisions roads." The Commissioners agreed and that gravel is acceptable.
22. "Adopt waiver language for dimensional requirements to apply to additions to structures built prior to zoning." Some towns require a conditional use permit in these cases but there was an opinion that this can be too burdensome. A suggestion was made that, if the DRB finds that the addition does not make the structure more non-conforming (such as when the addition further encroaches into a set back), then there might be a waiver provision to avoid a conditional use permit process. If this matter is to be addressed it should be in the zoning section on non-conforming structures. The ZA will research the matter further and report back.
23. "Address temporary buildings i.e.; storage containers, tent-like garages, etc. Currently would fall under structure but many believe tax definition rules rather than bylaws." The ZA will research this matter further and report back.
24. "Make temporary construction trailers allowable as a part of any commercial construction project up to 1 year with 1 year allowable by ZA." This provision is currently in the bylaws and is acceptable.

25. "Make parking setbacks the same as building setbacks in Highway Commercial district." It was agreed that the setbacks would depend on the location of the building and where the parking area was sited. It was agreed that the DRB should address this during site plan review.
26. "Eliminate references to dwelling exemptions in the Industrial District." The Commissioners felt otherwise.
27. "Remove the term "proposed on lots adjacent to residential districts" from the last section of 1005-a, highway commercial district." It was reported that the Selectboard had intended that a 100 foot setback would be required in these cases but that an oversight prevented this provision from being included in the zoning revisions. The ZA will research the Selectboard minutes to make a determination.
27(2). "Make a new definition that says when bordering a highway, the district on either side will extend to the center of the traveled portion of the highway." This has already been addressed.
28. "contour lines should be looked at closely." No action was taken on this item.
29. "Create a municipal District." No action was taken on this item.
30. "Minimum/Maximum levels for such issues as dust, decibels, lumens. Update the lighting requirements." If decibels were to be regulated, there was a difference of opinion about which party should bear the responsibility for determining a noise violation- the noise maker or the person(s) troubled by the noise. Pro's and con's existed for each option. There was general agreement on the inclusion of a lighting provision that required down lights to avoid nighttime light pollution and to preserve a dark sky. Provisions dealing with dust/particulate matter (including soot) and decibels required further research which the ZA will perform and he will report back.
31. "Standards for private driveways (width of traveled portion to the driveway, require pull-off every x amount of feet. Private Roads requiring inspection for compliance. This could be done by the fire dept. (for a fee) every 5 years and reported to ZA for compliance. This could be implemented on a rolling basis therefor 20% of private roads are inspected each." The ZA will check with the fire department to determine their understanding, expectation, or role in determining the dimensions of private driveways. There was agreement that residents should not first learn about their impassable driveway during a fire. Further consideration is needed about whether a driveway ordinance should be added.
32. "signage specs undated and clearly stated i.e. size and number of signs allowed. Also clarify define signage versus art/statue/architectural work." Currently, there seems to be no signage problem in the Town but some specifications should exist to prevent future problems such as multiple signs or signs of excessive size.
33. *this line does not exist*

34. "Limit number of storage trailers allowed on a site, they are considered a structure." There should be a provision that ensures that storage trailers are considered structures in the zoning provisions.
35. "Require applicants to be in compliance with all zoning regulations or be grandfathered in before allowing any new applications." Compliance should be required and this provision can be handled by the ZA who can issue a notice of violation when assessing new applications.
36. "Rewrite sections 350-352 (site plan approval process) to make it easier for applicants with a checklist and a sample of what is required (Don Johnston is willing to help with this)." Attempts have been made in the past to create a check list and the Commissioners agreed that the ZA can generate such a check list as a zoning tool without this having to be included in the regulations. The ZA will send his list to the DRB for their review and consideration.

A further issue about kennels was raised but no determination was made about including kennels in the zoning regulations.

Maggie suggested and Aaron agreed to send this list and comments to the DRB for their consideration and input.

III. Review of Minutes

The minutes of October 14, 2019 were reviewed and Aaron proposed consolidating all of the adjustment items together. Benj suggested that the reason (to consult the Town attorney for legal advice) be added to the Executive Session section. With these changes, the minutes were approved (motion made by Bev, seconded by Dan, voted in favor unanimously with Maggie abstaining).

IV. Adjourn

Pat moved to adjourn the meeting. Benj seconded the motion. All members voted in favor of the motion. There being no other matters to discuss, the meeting was adjourned at 9:05 PM.

Respectfully Submitted,
Aaron Brown
Approved on 2/10/2020

_____[abstain]_____
Rob Litch

Benj Putnam

Beverly Landon

Pat Palmer

Dan Monger

Maggie Eaton