

**Town of New Haven Planning Commission Meeting**  
**Monday, February 10, 2020**  
**New Haven, VT Town Office**  
**MINUTES**

**Planning Commission Members Present:** Benjamin (Benj) Putnam, Co-Chair, Bev Landon, Pat Palmer, Maggie Eaton, and Dan Monger

**Members Absent:** Rob Litch

**Staff:** Zoning Administrator Aaron Brown

**Visitors:** Amanda Bodell and John Mazzuchi, Esq.

**I. Meeting Commenced:** 7:05 PM

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

**II. Standing Items**

**1. ZA Update**

ZA Brown reported little activity this past month.

**2. Website Update**

Bev Landon explained that she compiled a history of zoning in New Haven and asked that the Town website list any missing revisions. The Planning Commission discussed the possibility of providing PDFs of previous regulations. Brown agreed to update the website as time allows.

Landon also encouraged the PC to consider noise regulations more closely – particularly how to require entities that generate noise to hire independent sound studies - and to include an appendix of acronyms in the updated zoning regulations. Maggie Eaton said she created something similar for the energy plan.

Eaton asked if the PC could develop a threshold at which a sound study could be ordered to avoid having frivolous complaints lead to expensive sound studies. Benj Putnam encouraged having this discussion during the zoning revisions portion of the meeting.

**3. Town Plan Update**

**4. Energy Plan Update**

Eaton reported on activities since December. She met with the DRB to review the draft and plans to present to the Conservation Commission as well. Eaton met with a member of the Middlebury Energy Committee, Richard Hopkins, who recently examined at a more granular level energy use. She said she also recently attended a “Window Dressers” workshop in Bristol, which teaches people how to make low-cost window inserts to improve R values. Eaton plans to work with the organizer and Stark Mountain Woodworking to hold a workshop in New Haven.

Eaton and Landon are also working to compile a list of low- and moderate-income energy efficiency opportunities.

Eaton said she will convene the next meeting of the energy committee after she’s gathered feedback from the Conservation Commission on places of high natural value.

Addison County RPC reviewed the working draft of the energy plan. The RPC recommended prioritizing action items. Eaton said she will also forward digital maps of renewable energy resources and restraints. Eaton also plans to announce the draft plan at Town Meeting Day and provide a general overview of the work and the process.

Eaton explained that it is unlikely that the state would approve any plan that claims credit for the solar generation that already exists in town. Dan Monger said he’s spoken about substantial deference with Senator Chris Bray and is concerned that the Town will lack “teeth” even if it receives substantial deference.

## **5. Workshops**

Brown said the Vermont League of Cities and Town’s will hold its Spring conference in Putney this year and he reminded the group that it has an education budget.

## **6. ACRPC Activities**

Brown had occasion to be at the regional planning commission three days in a row this past month. He attended, with Maggie Eaton, a regional energy roundtable; it was productive, well-attended, and positive. He said the group will meet again in March to discuss efforts to improve efficiency at some larger businesses in the area. He also attended a meeting to discuss potential FEMA funds for recovery from Halloween flooding and met with the Local Emergency Management Planning group

(LEMP). The federal and state governments plan to discontinue funding LEMPs at the regional level come July 2021 and will instead look to a state model.

## **7. Zoning Revisions**

Brown directed the group to page 14 of the draft unified bylaws. He added some exceptions to the requirement for a certificate of occupancy, including cemeteries, dormers, and the removal of fill – activities which might require a permit but do not lead to a change in building use. Eaton asked if small building improvements require the Vermont building energy standards certificate, and Brown responded that only when energy use is substantially changed is a certificate required. Other exemptions (ex: unheated camps) also exist.

The group reviewed other development to specifically exempt from zoning, including vegetation used for screening, at-grade patios, normal driveway maintenance, interior renovations, siding repair, and landscaping.

The group discussed whether to exempt the repair/replacement of structures damaged by fire or natural disasters if the replacement structure does not have a larger footprint than the original one. Putnam suggested perhaps waiving the fee for such projects but still requiring an application.

Brown explained that he eliminated the section on variances for renewable energy structures because they are governed by state law. In its place he put a section on administrative approval of boundary line adjustments. Brown explained that the language would allow the zoning administrator to refer boundary adjustments to the Development Review Board under certain circumstances, such as unusual terrain or substantial size.

Monger asked if the language identified an acreage standard. Putnam responded that the group had considered that at the last meeting but not decided.

The group reviewed reconstruction of non-conforming structures. Brown said he extended the period to start construction from one to two years. Landon and Putnam suggested changing that to the end of construction to avoid disputes over what constitutes “start of construction.” Eaton said the insurance industry has definitions for when construction begins.

Brown reviewed an expired public use exemption section found in the 2011 bylaws. He asked if the group wished to make the exemptions permanent. Putnam explained

that most the exemptions are found in state statute and the interim zoning probably intended to make the Town regulations comply with state law. The listed items are more types of developments that cannot be expressly prohibited under local zoning. Putnam urged that the group review the state statute.

Brown reviewed the current bylaw's section on solar and wind energy systems (Section 527) and said that state law governs these developments. He reminded the group that the state has setback requirements for developments of a certain size. Monger asked if New Haven has any serious wind power potential. Eaton said the town's wind potential is very low for commercial-sized projects, though some homeowners might be able to generate enough wind power for residential use. Putnam added that residential wind systems would go through the Public Utility Commission for approval, not through local zoning.

Brown said he changed Section 527 to address height restrictions, which the group previously discussed setting to 35 feet unless otherwise approved by the DRB. Landon responded that some homes in town exceed that height. Monger asked if the height restriction would affect silos. Brown responded that silos would likely be exempt as an agricultural use. Putnam pointed out that Phoenix Feeds has several structures that are far taller than 35 feet and asked whether a new proposed feed company would be restricted to 35 feet. Brown said that new proposed projects such as that would go through the DRB in any event. Putnam said it might be difficult for the DRB to decide whether a 40-foot-tall house would be allowable. Putnam said it would be helpful to develop standards for the DRB to use in reviewing height. Amanda Bodell suggested adding height standards for specific districts, such as the Industrial District. Putnam said that suggestion was good. Pat Palmer pointed out that certain types of tall structures, such as water towers, are beautiful to some people and eyesores to others. Putnam said that makes height standards difficult to determine; he added that height restrictions, however, can encourage adaptive reuse of historic, tall structures.

The group moved onto the sections on district standards. Brown said he inserted the language regarding lot depth into the RA-2 and RA-5 sections, specifically that the RA-2 district extends 600' from the centerline of applicable roads and the RA-5 district extends 800'. Attorney Hill previously provided language regarding split district lots, and that language is also included. Putnam explained that the split lot provision is a compromise that allows responsible development.

Brown said that DRB Chair Kathy Barrett pointed out that certain definitions exist, but do not appear as allowable uses in any districts (ex: kennels and junk yards).

Putnam and Landon agreed that ill-defined uses are old problems in the zoning regulations.

Eaton asked what types of developments cannot be “zoned out” through local regulation due to state statute. Brown listed Act 248 energy projects, agriculture, certain types of silviculture, and accessory on-farm businesses. Putnam said that some towns disallow anything that is not specifically allowed. Eaton asked if New Haven has such a list.

Brown advised that the Planning Commission keep track of retail marijuana legislation and how some proposals have given towns the authority to say yes or no to that type of development. Landon asked if marijuana would be considered agriculture. Brown said that Agency of Agriculture officials have repeatedly said no and that marijuana will be regulated by the Department of Public Safety.

Putnam said he would favor stating that if something is not specifically allowed than it is prohibited. Bodell asked if that would entail removing definitions for uses that are not allowed, and Putnam said that would make sense.

Brown said that the current regulations allow the DRB to consider novel developments on a case-by-case basis, at least in some districts.

Putnam said it might be useful to include under retail sales operations some definition that would include places that sold structures such as sheds. Brown said that Livingstone Farm did go through DRB approval for its operation at New Haven Junction.

Putnam asked Brown to check that all allowed uses are defined in the bylaws.

The group discussed junkyards. Landon said that in addition to local zoning, junkyards must go through state permitting.

The group then discussed changes to the zoning map. Discrepancies with various flood maps exist. Landon said that Kevin Behm at the regional planning commission will provide several options to consider. Putnam said it would be good to know what’s required to map for floodplains. Brown and Landon said that FEMA will have LIDAR-based flood maps for Addison County available in 3-5 years. Brown said he did not change any subdivision regulations, other than to identify the DRB as the review board. He also pointed out that Article XI needs to be changed to reflect that the document is a unified bylaw.

Bodell asked how planned unit developments are addressed. Brown said there are definitions and standards of review. Eaton added that clustered development is encouraged when feasible. Putnam suggested moving planned unit development to the subdivision section. Eaton asked what needs to be done to implement such a development or to incentivize them. Brown said some communities lower fees, but New Haven's fees are already quite low - \$115 for a single family house, for example. Bodell said density bonuses are a tool in some towns, including Waltham.

Landon expressed concerns that PUDs are less feasible in New Haven than other towns due to water supply issues. Putnam made the point that the regulations should be flexible enough to allow PUDs, and the state will make determinations about water and septic supplies. Eaton said that her property has ample water. Landon agreed that water supply is site-specific.

The group agreed that development in New Haven has tended to be single-family residences and not PUDs.

### **III. Review of Minutes**

The group reviewed minutes from November 14, 2019, December 9, 2019, and January 13, 2020.

Monger moved to approve the November 14 minutes. Landon seconded. Motion passed.

Landon moved to approve the December 9 minutes. Monger seconded. Palmer abstained. Motion passed.

The group deferred the January 13 minutes to March. Putnam asked that next month's agenda include time to discuss correcting minutes.

### **IV. Correspondence**

Brown said he shared the draft revisions with DRB Chair Kathy Barret<sup>†</sup> and Selectboard Chair Steve Dupoise, both of whom submitted comments.

### **V. Adjourn**


Palmer moved to adjourn the meeting. Landon seconded the motion. All members voted in favor of the motion. The meeting adjourned at 9:00 PM.

Respectfully Submitted,

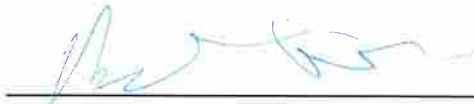
Aaron Brown

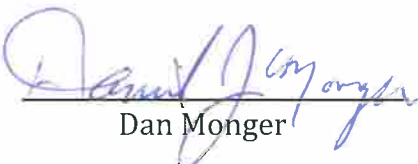
Approved on 3/9/2020

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Rob Litch

  
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Benj Putnam

  
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Beverly Landon

  
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Pat Palmer

  
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Dan Monger

  
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Maggie Eaton

