

Town of Hinesburg
Planning Commission
July 23rd, 2014
Approved August 13th

Members Present: Maggie Gordon, Aaron Kimball, Rolf Kielman, Neal Leitner, Russell Fox, Joe Iadanza.

Members Absent: Dennis Place, Kyle Bostwick, Tim Clancy.

Also present: Alex Weinhagen (Director of Planning & Zoning), Freeda Powers (Recording Secretary), Peter Erb (Zoning Administrator).

Public Present: Rob Farley, Gill Coates, Dennis Casey, Carrie & David Fenn, Andrea Morgante, Meg Handler, Tim Casey.

Joe I. chaired the meeting which was called to order at 7:35p.m. There were no public comments for non-agenda items.

Stormwater Regulation Revisions

The Board opened up the public hearing on their proposed revisions to the Storm Water regulations. Alex W. gave a brief overview of the proposed revisions, explaining that storm water and erosion are controlled through our regulations. Current regulation language is lacking in clear definitions and standards with which to hold developers to. Implementing a clearer standard is intended to aid the Development Review Board, staff, as well as developers have a better understanding of what the town's goals and aims are in regards to storm water management and the ways to achieve them. The state's guidelines on this topic are laid out in the small yellow booklet entitled "The Low Risk Site Handbook for Erosion Prevention and Sediment Control" and its larger counterpart, entitled "VT Handbook for Soil Erosion and Sediment Control on Construction Sites." These revisions attempt to codify that. Developers will need to demonstrate storm water and erosion control to the state standards. Review by an engineer will be triggered at a lower threshold of impervious surface area (10K sq. ft. vs. state's threshold of 1 acre). The new proposal also outlines soil disturbance limits. Alex W. explained the difference between erosion vs. storm water control: Storm water control addresses run off from a site, primarily concerned with the post development flows. These regulations deal with both issues. Also, the proposal aims to expand the stream buffer area from the Village Growth Area to apply town-wide. The stream set-back prevents development of structures within 75' of streams, while the stream buffer zone precludes denuding an area within 75' of a stream of its native vegetation (exceptions for specific cases). In addition, the new regulation language explicitly requires that projects implement Low Impact Development (LID) practices to identify the best soils on site for infiltration and utilizing those to minimize storm water leaving the site and mimic pre-development flow. Alternative measures are encouraged to collect and treat storm water other than detention ponds. LID practices focus on

infrastructure which requires less engineering (i.e., rain gardens) and which do a better job of treating storm water. The Planning Commission has been discussing the issue of storm water and erosion control since January of last year (2013). Their general philosophy has been that these regulations are only one leg of a three-legged stool that makes up a more comprehensive approach to the issue. The other two means of addressing the problem are not regulatory in nature; 1) education of landowners and developers and 2) the Town taking on its own role regarding implementing infrastructure to treat storm water from existing development in addition. Currently, the Town is taking steps to implement some LID practices such as a new 3-tiered rain garden going in at the Silver Street & Rte. 116 intersection, going in this fall. The Planning Commission encourages the Town to continue implementing such strategies to treat storm water runoff and address erosion.

Joe I. opened the discussion to the public.

Rob Farley had the Board and members of the public who were present view a short video of an interview with Patricia Johansen, who is known for her large-scale art projects that create aesthetic and practical habitats for humans and wildlife. She designs her functional art projects, created with and in the natural landscape, to solve infrastructure and environmental problems.

Rob F. said in his opinion, infrastructure should be looked at as the first “leg” of that 3-legged stool and encouraged the Town to follow Johansons’ multidisciplinary approach. To do so, he said, the Town should be looking at ways to work with the existing wetlands and look at a holistic picture rather than piecemeal stormwater control. This is an opportunity for a creative positive impact and he feels that the burden to achieve this should be on the Town, not the individual landowners and citizens. The Town, he said, must take control of this issue, and must get it right.

Tim Casey spoke from the audience, asking the Board how they came to the 75’ measurement as the stream buffer zone. Depending on slope, soil types and existing vegetation, including trees, each stream—each property and site—is different. He said in the village area, an intense use area, 75’ may not be appropriate. Also, how does this affect landowners who want to cut their own firewood on their property, for example? If a tree is within 75’ of a stream, is a landowner allowed to harvest it for firewood or not? He also voiced his concerns with this regulatory language in terms of restricting landowners’ use of their land. A 75’ buffer on either side of a stream, he said, equates to 18 acres of land for every mile of stream. This is a massive amount of land when one thinks about it. In addition, he wanted to know how the Town was mapping or defining the streams. He said the town roads and their associated maintenance is a huge contributor, likely the largest, in the way of silt deposit. In that respect, he feels strongly that the Town should do its part rather than pass the burden to the landowners.

Joe I. replied that there is a good deal of GIS info available for mapping, admittedly the mapping system is imperfect and so therefore it becomes a subjective tool. The regulation language is being crafted, among other reasons, in an effort to give the Zoning Administrator a more tangible and practical guide. Additionally, addressing Tim’s concern about cutting a few trees for firewood, Joe said these regulations deal with projects that require a permit or DRB review only. To trigger these regulations at their lowest level, a project would need to be creating between 3,000-10,000 sq. ft. of disturbance.

Alex W. said Section 2.5.2 in our current regulations talks to this, and clarified that this is not tied to permits, but is more global than that. Cutting trees is a bit different than vegetation clearing, he added. The Town Plan recommends stream buffers be town-wide and also suggests that they should be variable based on conditions. This proposal does not do that, but is kept more practical with a set zone. The Board may address this if it is desired and deemed more practical.

Rolf K. asked if the current stream buffers are tied to specific water bodies and if so, what that correlation is. Alex W. said yes, the current stream buffers vary according to specific water courses and showed the map detailing those streams and their buffers. Rolf K. asked what forms the basis for the rationale of those buffers (i.e., water volume?). What is the methodology used? Alex W. said in some places, the stream order is used. Andrea Morgante spoke from the audience, saying that slope, both elevation and bank slope, soils and bedrock all have an effect. High elevation streams are important to protect, she said, and she reminded the Board to consider that small streams higher up have larger impacts later in their course. Consider, too, she said, the habitat to protect in a given area. In short, she said, there is much more to consider than just volume.

Rolf K. wondered if there is the technology and data available to supply staff, landowners and developers in order to adequately address the concerns being raised. Alex W. said he would have to look into it. Ultimately, he said, the Town would need help with how to use that data if it were available. Peter E. added that the Fluvial Erosion Hazard area (FEH), which refers to the area where a stream is likely to move through its life course) is mapped by the state, and as such, some areas already enjoy a quasi protected status. Regulations need to be enforceable and not arbitrary, he said. The Town should be applying for grants and he strongly encouraged expanding the FEH to protect existing structures. Furthermore, he suggested the Commission consider decoupling storm water control from erosion control as the two may not march in tandem. Also, he said, be clear that the buffer zone measures from the "top of bank" which means ****

Dennis Casey spoke from the audience, asking what is and is not allowed within the stream buffer zone. Alex W. cited Section 2.5.1 of the regulations and said a setback is different from a buffer zone; a setback orders that no structures be placed within a specified area while a buffer zone requires an area be left (except as allowed) in an undisturbed condition. No new lawn may be created within the buffer zone. There are some allowances to the restrictions within the buffer zone.

Meg Handler spoke from the audience, saying she applauds the attempt of the regulation revisions, but voiced her concern that the proposed language is not as specific as it could be. She cited the following examples: *"to the greatest extent possible"* *"encouraged but not required"*, saying this language takes the teeth out of the regulation. Specific guidance aids the DRB in their review process. If an issue is important, then make it regulatory, if it isn't, then it shouldn't be in the regulations. Also, she said, she feels that it is a mistake to discern streams and make buffers variable as it fails to demonstrate the understanding that water is an issue everywhere. It is important to focus on overall impacts. Peter E. said he would recommend that the Selectboard put out a yearly report on the status and progress of the infrastructure to treat stormwater in the village. Peter E. also encouraged the Commissioners to consider the cost/benefit analysis of these regulations; we must be able to comply with and enforce new regulations. Also, he said, he agrees that road runoff is a big impact on overall stormwater and erosion

concerns but the town is the recipient of runoff from developed properties. Landowners should be responsible for their impacts on the towns' infrastructure.

Gill C. said that is not always the case, giving the examples of town roads whose elevations have increased over the years, no ditches in some areas, water bars put in places which deliver runoff onto private properties. In these cases, he pointed out; the town itself is creating and worsening problems. He said with the 75' buffer in the VGA, was an evaluation of existing streams done? Who polices changes?

Alex W. recognized written submissions from the following parties: Cynthia Hendel, Lee Krohn (Senior Planner with Chittenden County RPC), Roy Schiff (Water Resource Scientist and Engineer with Milone & Macbroom), Justin Kinney (VT Dept of Environmental Conservation, Watershed Management Division), and Jim Pease (VTDEC Watershed Management Division).

Peter E. also encouraged the Board to consider adding to the language that plans to treat stormwater, runoff & erosion meet the 100 year storm event levels and higher (500 yr event) as is suggested by flood hazard studies. He also concurs with Meg H.'s comments regarding loose language, saying he does not advise use of such words as "*adequately*" as they are a nightmare to enforce.

Rob F. said he feels the state jurisdiction is in place in regards to the issue of stormwater control. He worries that the Town is putting important decisions before a volunteer board of people who don't have the expertise necessary. He cautioned burdening the Boards and said enforcement is still a concern. There are other approaches, he said, to improving storm water runoff. He feels strongly that individuals can implement these practices without Town oversight and regulation. He said buffers do vary due to topography and said that without more education, staffing and expertise the town can't provide specifics.

Joe I. called a close to the public hearing portion of the meeting and thanked those present for their input.

Alex W. said in response to Rob F.'s concerns about adequate data, expertise etc., the DRB would defer to professionals as laid out in the proposal. Joe I. said based on feedback from the public at this meeting, he feels the Board should reevaluate what they are looking to guard against (i.e., volume, velocity of flow vs. wetland protection etc.) Also, he said, it would be beneficial to achieving the overarching goal of improving water quality and mitigating impacts if we constructed regulatory language which minimized the "tests" to determine an area in order to increase the likelihood of protection. The impetus of these revisions was to protect the town from being labeled by the state as an MS4 town (indicating impaired waterways and impeding state funding). He was struck by the public feedback which was not in favor of the proposal. He said the message is clear; we have more work to do.

Alex W. said he feels it is possible to address the specific concerns raised tonight. Aaron K. said enforcement does remain an issue. Joe I. said he agrees that the Town is a major offender when it comes to storm water runoff from the roads depositing silt, salt and gravel. He said we need to set standards that hold all parties accountable.

Alex W. said that municipal infrastructure and roads are not addressed in our Zoning Regulations and said he feels the regs are not the tool to address that specific concern.

Joe I. said Town Meeting may be a chance to have a vote to put money towards this problem.

Maggie G. said she feels strongly that enforcement alone is not a reason to not have these regulations. Aaron K. agreed with comments made by the Zoning Administrator that the town's credibility is at stake in these regulations when it comes to enforcement.

Alex W. said he is unsure of the genesis of the 75' measurement. We can, however, express why we feel it is the right number; it's easy, consistent, and achieves multiple goals.

Rolf K. suggested quantifying impact areas as the state does may be complex but the value of doing so is there. Enforcement comes with establishment of a value, he said.

Neal L. suggested having the option of deferring to a scientific report to demonstrate overall improvements.

Aaron K. noted once again we seem to be dealing with competing interests. Neal L. said as every site is different, a botanical, hydrology and other studies may result in a very lengthy process. Maggie G. wondered if there are other regulations with similar issues. Alex W. said the regulations addressing setbacks within the village did have to address/work around existing structures.

Russell F. said he would like to contact the Army Corps to get more input. Maggie G. said she will email the other commissioners verbiage from the state regarding riparian buffers. The Board discussed their upcoming schedule and agendas and agreed to discuss this issue further at the August 13th meeting.

Observations from July 9 Village Area completed projects tour:

Alex W. said he got a good idea from the tour of how street trees look/work as it relates to spacing. Joe I. said he got a good feeling for sidewalk appropriateness and impact (i.e., runoff velocity). Maggie G. said she got a good look at storm water detention ponds and the role they can play in function as well as aesthetics. Joe I. said he observed how structures address the road (and which road they address). Russell F. said it was good to get a cross-sectional view of developments to better understand the effect of slope. Rolf K. said he observed green spaces in developed areas and felt that they were really left-over space and said character and privacy should be considered when discussing and planning green spaces. More thought should be given in his opinion to the importance these green spaces have to the livability of a neighborhood. Quality should be more than an afterthought, he said. Additionally, he said, it appears that on larger developments that the green spaces are more accidental as the projects progress. Joe I. said he feels that the regulations are very dispersed. Alex W. suggested adding visuals. Rolf K. said he liked that idea. Alex W. went further, saying the commission could consider a companion document for the regulations.

Minutes of the May 14 & May 28, June 11, July 9 2014 Meetings

Maggie G. made a **motion to approve** the minutes of 5/14. Rolf K. **seconded the motion**. Joe I. abstained from the vote; the Board voted **5-0**.

Maggie G. made a **motion to approve** the minutes of 5/28. Rolf K. **seconded the motion**. The Board voted **6-0**.

Aaron K. made a **motion to approve** the minutes of 6/11. Rolf K. **seconded the motion**. The Board voted **6-0**.

Rolf K. made a **motion to approve** the minutes of 7/9. Maggie G. **seconded the motion**. The Board voted **6-0**.

Other Business

The Board discussed the upcoming Summer in the Park Concert Series and decided to host an info-sharing table at two of the events. Rolf K. and Aaron K. will man the table at the 7/30 concert and Rolf K. and Aaron K. will man the table at the 8/6 concert.

Joe I. made a **motion to adjourn**. Rolf K. **seconded the motion**. The Board voted **6-0**. The meeting adjourned at 9:52pm.

Respectfully Submitted,
Freedra Powers--Recording Secretary