

**Town of Hinesburg
Planning Commission
December 13, 2017
Approved January 24, 2018**

Members Present: Maggie Gordon, John Kiedaisch, Rolf Kielman, Joe Iadanza, Marie Gardner, Barbara Forauer

Members Absent: Dennis Place, Jeff French, James Donegan

Public Present: Briana Connell, Jean Thompson, Margo Casco, Caleb Casco, Mary Beth Bowman, Stuart Deliduka, Dave Nagel, Laura Bowditch, Johanna White, Missy Ross, Andrea Morgante, Bob Hyams, Geoffrey Gevalt, Bob Theifels, Peter Erb

Also Present: Alex Weinhagen (Director of Planning & Zoning), Dawn Morgan (Recording Secretary)

Joe I. chaired the meeting, which was called to order at 7:30 pm.

Agenda Changes: None.

Public Comments for Non-Agenda Items: None.

Public Hearing –Housekeeping Changes to Zoning & Subdivision Regulations

- Public feedback –questions, comments, discussion

Alex W. explained that the purpose of this hearing was to review the Commission’s proposal for zoning changes, some of which serve to clarify regulations and some of which represent substantive changes. He described the process, saying that the Commission has spent several months discussing the changes and the proposal is now being presented to the public for feedback. The Commission is required to hold one public hearing but could hold additional public hearings if they feel it is needed. He said that after the public hearing the Commission will discuss the feedback gathered, make adjustments at their discretion, and present a final proposal to the Select Board for approval. The Select Board will then review the proposal and make adjustments as they feel warranted. The Select Board is then required to hold one public hearing before they can adopt the proposal. He went on to explain that zoning revisions are not required to be voted on by the community, but the Select Board does have the option to put an item up for a vote if they feel it is something controversial. Finally, voters do have the option to petition an item for a vote.

Joe I. opened the public hearing for public comments and questions.

Missy Ross said that she is concerned about exterior lighting and its impact on rural areas. She said that she is pleased to see the proposal moving toward requiring downcast lighting for all new projects. She suggested modifying the wording in section 5.29.1 for clarification. Alex W. explained that the intent of the proposed change is to require downcast lighting for all projects moving forward, but to exempt lighting that was in compliance before the change but would fall out of compliance after the change came into effect. He agreed that the way the proposed change is currently worded, it had the potential to also exempt lighting that is out of compliance with their permit both before and after the change (e.g., A homeowner out of compliance with their Association regulations for downcast lighting before the change would still be out of compliance after the change and would need to work with the Zoning Administrator to come into compliance).

Andrea Morgante asked if someone with previously nonconforming lighting would be asked to come into compliance at the time of requesting a change to their site plan. Alex W. said that they would not, given the way that the proposed change is worded, unless the DRB felt that the lighting was so egregious that they felt a change was warranted.

Andrea M. asked about the proposed change saying that boundary adjustments between two adjoining parcels do not require a subdivision. She asked if, by definition, someone was making a boundary adjustment they were creating a new lot. Joe I. clarified that this proposed change referred to a simple boundary line adjustment (e.g., if one landowner has 10.7 acres and the adjoining landowner has 3.3 acres and the landowner with 3.3 acres wanted to make it a full 4 acres).

Andrea M. asked about the definition of surveys, and Alex W. explained that a survey is a description of property lines and easements. He went on to say that currently, if a landowner wants to make a boundary adjustment there is no requirement for a survey. He said that this proposed change would require a survey, but would allow the survey to be constrained to the area relevant to the boundary line adjustment. Andrea M. suggested including a definition of the word Survey, for clarification and consistency.

Peter Erb requested further explanation about the proposed change to Boundary Adjustments and Transfers of Land to an adjoining landowner. Alex W. said that the two sections are being collapsed into one Boundary Line Adjustment review, with no limit to how much can be adjusted but a survey would now be required for the area being adjusted. Alex W. went on to explain that if either landowner is part of an approved recorded survey then the application will need to go before the DRB, otherwise and administrative review would be sufficient.

Bob Theifels asked if the proposed changes to accessory apartment regulations would override association rules, and Alex W. and Marie G. said that the association regulations would take precedent.

Andrea M. inquired about the proposed change to the Subdivision regulations the strengthens the language of decisions, asking if it would require legal review of decisions to ensure that there are not

loopholes in the decision that can be challenged. Alex W. said that the proposed change is to bring the regulations in line with State statute language and would not require additional legal review for decisions.

Andrea M. suggested updating the landscaping section of the Zoning regulations to match the proposed change in the Subdivision regulations.

Andrea M. expressed concern about the proposed change to building envelope regulations. She said that she felt that the goal of current zoning is to limit land fragmentation and reduce the amount of impervious surfaces. She said that the proposed change seemed like it tied in with the accessory use regulations and could be a way for a landowner to create several lots. Alex W. said that the proposed change comes from discussions regarding the DRB frequently hearing small revisions to building envelopes. He elaborated, saying that there was also discussion about allowing landowners to utilize their entire property, as long as there was no impact to any other setback requirements. He said that today, building envelopes for normal landowners in Hinesburg are simply the property and primary resource setbacks, so the thought process was to make subdivisions consistent in that regard.

Andrea M. expressed that primary resources are not isolated from the surrounding land, but are part of an overall ecological system and the goal of zoning is to protect those systems. She said that we should be trying to do the least harm possible instead of allowing people to create more impervious surface, greater fragmentation of forests, impact agricultural soils, etc. Alex W. noted that compliance with all primary resource setbacks would still be required.

Peter E. agreed, saying that the Town has worked hard to preserve the rural nature of Hinesburg so that development doesn't stand out. He said that another important resource is what the town looks like, and that this was a very large policy change that should not be treated as a minor zoning change.

Stuart Deliduka said that he did not have an issue with the proposed changes to lighting regulations. However, he said that he was not in favor of the proposed prohibition to drive throughs. He said that the town has no way of knowing what changes will be coming in the future, particularly in light of the larger development applications in progress. He gave several examples of businesses that might provide drive through service such as a scoop shop, animal feed store, pre-ordered grocery pickup, upgrade to the post office, etc.

Stuart D. went on to say that he believes it is important to keep in mind parents with small children and the aging population, noting that the existing Kinney Drug pharmacy drive through and the bank drive throughs prove invaluable to both populations. He said that his business, Element Nail Salon, relies on both pass-through and out of town destination traffic and the more complementary businesses there are in town the better for all. He said that the option for businesses to provide flexibility and provide curbside service to the senior, disabled and parental communities. Additional discussion about drive throughs followed.

Caleb Casco asked why temporary structures would require a permit after 6 months if they are movable. Alex W. said that temporary structures had the potential to stay up for years, so the rationale is that if a structure is up for less than 6 months it is seasonal and after that it would require a permit to ensure that regulations such as setbacks are met. Alex W. went on to say that the proposed change is simply reducing the amount of time a temporary structure is allowed to be up before requiring a permit (from 1 year to 6 months).

Caleb C. said that if someone obtains a permit, then the structure is no longer movable. Alex W. agreed, but said that they could amend their permit. Rolf K. noted that temporary structures could have some of the same issues as a permanent structure, such as blocking a neighbor's view. Alex W. went on to say that the definitions are being clarified to define structures as anything erected upon the ground is considered a structure and requires a permit, with some exceptions (e.g., camping vehicles). Additional discussion followed.

Bob T. said that he thinks it is a good regulation because it gives the Town some enforcement capacity and could give a neighbor some recourse if there is an issue around a temporary structure.

Jesse Paul asked if there was a "down time" limit or definition (i.e., removing the structure for a period of time and then re-erecting it). Additional discussion followed.

Johanna White asked to not make the 20,000-square foot limit on commercial properties permanent. Joe I. said that the Commission had discussed the topic at their last meeting and had decided to take it up at a future meeting, separately from these housekeeping changes. Additional discussion followed.

Peter E. said that he was concerned about allowing additional curb cuts for accessory structures. He said that it is not in line with subdivision regulations which say that someone cannot put a separate entrance in if it can be avoided. He said that disallowing an additional driveway was in lieu of requiring that the structure be a certain distance from the house, and that allowing additional drives opens a pathway to expansion that the Town may not be anticipating. There was discussion about the proposed size allowances as a percentage of the primary dwelling structure.

Marie G. agreed with Peter E., adding that the Town Road Foreman is also in disagreement about adding curb cuts to town roads. Andrea M. and Missy R. agreed. Geoffrey Gevalt suggested modified language that says no additional access drives shall be created without obtaining a special permit. Missy R. noted that minimizing curb cuts is an important safety and cost saving policy, saying that every driveway requires a culvert that results in maintenance by the road department.

Missy R. asked about the approval process and Joe I. said that the Commission will be discussing community feedback in January. John K. added that all Commission meetings are open to the public and invited the community to attend.

Jean Thompson said that she is happy to see the increase in size allowance of accessory dwelling size.

Andrea M. suggested adding language saying that applicants for accessory apartments will need to get State permits for sewer, septic, fire & safety, etc. Alex W. suggested that, rather than a comprehensive list it could be language referring to the State regulations.

Peter E. suggested that the Commission discuss and include clarification on approved uses for accessory apartments (e.g., home occupations).

Andrea M. said that parking lots and driveways don't constitute development, so someone could lease land, put in a parking lot or driveway, and it would not be required to meet setback regulations. She suggested adding clarifying language regarding leasing land versus a structure.

Andrea M. said that the proposed changes to setback requirements are only applying to structures and not parking lots or roads. Alex W. said that the proposed change clarifies what has been long-standing practice, that there are no setbacks for driveways and roads. He went on to say that there are for parking lots, but not in this section. Andrea M. said that it ties into the subject of water quality and buffer zones, etc. Alex W. suggested adding language to the section referring to stream setback requirements.

Andrea M. asked if agricultural buildings receive a certificate from the State stating that they are exempt from local zoning. Alex W. said that landowners are supposed to submit an application notifying the Town that they are planning to build. Discussion about permitting agricultural buildings followed.

Andrea M. asked about traffic requirements for home occupations, and whether that was an opportunity for the DRB to perform a traffic study. Alex W. said the proposed change was not intended to require traffic studies for home occupations, but recognizing that traffic for home occupations on higher volume roads can be greater than for lower volume roads.

Andrea M. said that she had additional comments but would discuss them with Alex W. directly.

Several email comments were presented to the Commission from the following community members: Heidi Simkins, Marian Willmott, Nancy Wright, Roger Kohn, Nancy Dunlap, Richard Andresen, Crocker Bennett and Wayne Maceyka.

Joe I. closed the public hearing at 9:20 pm.

Minutes of 11/29/17 Meeting: Maggie G. made a motion to approve the 11/29/17 minutes as amended. John K. seconded the motion. The Board voted 4-0. Barbara F. and Marie G. abstained.

Other Business & Correspondence:

Notice –Town of Huntington regulation revision public hearing, 12/18/17

Alex W. said that he notified the Commission of a public hearing scheduled in Huntington for 12/18/17.

There was discussion about the January meeting agenda and the fact that the Select Board has 1 year from the closing of the public hearing to approve or deny the proposed changes.

The meeting adjourned at 9:29 pm.

Respectfully submitted,

Dawn Morgan, Recording Secretary