

**Town of Hinesburg
Planning Commission
January 10, 2018
Approved on January 24, 2018**

Members Present: Maggie Gordon, John Kiedaisch, Marie Gardner, Dennis Place, Joe Iadanza, Jeff French, Barbara Forauer, James Donegan (arrived at 7:39 pm)

Members Absent: Rolf Kielman

Public Present: Johanna White, Jean Kiedaisch, Briana Connell, Bill Marks, Carl Bohlen, Mary Beth Bowman, Merrily Lovell, Catherine Goldsmith, Andrea Morgante, Bob Thiefels

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.

Housekeeping Changes to Zoning & Subdivision Regulations

- Discuss feedback from December 13 public hearing
- Discuss feedback received via email
- Discuss feedback received from the Development Review Coordinator
- Discuss additional changes – retail store vs. convenience store clarification; abandonment definition
- Discuss desired revisions based on feedback, and next steps

Joe I. briefly reviewed the public hearing on the Commission’s proposal for zoning “housekeeping” changes held on 12/13/17. He said that it was a good public hearing and that he had gained some perspective from the public comments and feedback. He noted that Alex W. had provided the Commission with a summary of the proposed changes that also incorporated public comments, both written and spoken at the hearing.

Section 2.5.3 – Setback Requirements for Structures Only

The proposed change was intended to codify the long-standing practice that the standard setbacks in Table 1 apply to structures, but not other forms of land development like roads, driveways, etc. Joe I. reviewed comments that were heard from Andrea Morgante recommending the requirement for setbacks for parking lots, roads and driveways.

Barbara F. asked why there is not a setback requirement for parking lots, roads and driveways. Alex W. said that for structures requiring a permit, residents come into the zoning office and often learn about setback requirements at that time. But since permitting is not required for driveways there is not an opportunity for residents to learn about requirements. He went on to say that driveways are also often very near or directly on a property line, so requiring a setback could make the situation more difficult. Additionally, many projects come before the DRB, and there is often a discussion of the possible need for driveway setbacks at that time. Alex W. said that there is a stream setback for parking lots, but that is addressed in a different section of the regulations.

There was general discussion about setbacks for parking lots, roads and driveways. The Commission determined that this is a broader subject than originally anticipated, and decided to withdraw the proposed change for the time being until further discussion could be had.

Section 5.6.11 - Drive-thru Windows/Service

Jeff F. said that comments from Stuart Deliduka (a member of the public) had provided additional insight into the subject and that there might be more to take into consideration than originally anticipated. He said that his original goal was to create and encourage a livable, walkable community, and that drive-thrus go against this model. He went on to suggest that drive-thrus might be considered on a case-by-case basis, given that people with small children or mobility issues could benefit from them.

Joe I. agreed that, in his opinion, drive-thrus are undesirable and are a poor land use where the Town is working to create a high-density district. Marie G. agreed that they should be handled by the DRB on a case-by-case basis. There was general discussion about drive-thrus, curbside and pull-in service, and the possibility of including language to guide the DRB on conditional use approvals.

Maggie G. acknowledged that she has a small concern about banning bank drive-thrus because that might put new banks at a commercial disadvantage over the existing banks that have them. But she said that she is in favor of banning them altogether, saying that they do not fit into the overall vision of a walkable village center.

After additional discussion the Commission decided to retain the proposed change.

Section 5.8 - Accessory Uses and Structures

Peter Erb (a member of the public) had raised a question at the hearing about whether accessory uses were allowed for accessory structures (e.g., a home occupation in an accessory apartment). The Commission discussed what constitutes a home occupation (i.e., the differences between businesses that create additional traffic and those that do not), and if the proposed change should place additional restrictions on home occupations.

The Commission acknowledged that although the question is not currently an issue, it has the potential to be in the future. It was decided to leave the proposed change as written and take up the question of home occupations for accessory apartments at a future time.

Section 5.9 - accessory apartments

Maggie G. said that after reviewing the community feedback she is now leaning toward not allowing new access point. She suggested creating conditional use language saying that a second access point would need to show limited impact on resource areas. Marie G. agreed with Maggie G.'s suggestion. She said that she had reviewed other Town's policies and they do not allow additional access points. She said that the Town of Williston says accessory apartments will use the same drive unless the Director of Public Works deems the existing driveway unsafe, though they do not address resource areas.

James D. agreed with public comments that allowing a second access point while not implementing proximity requirements allows for more fragmentation of the landscape. Joe I. agreed, adding that he had also changed his mind about allowing additional access points.

Alex W. noted that the current regulation specifically says that no additional drives shall be created, so the Commission could opt to leave that language as-is or expand it to allow them under certain circumstances.

Additional discussion followed about additional access points and the possibility of placing proximity requirements on accessory apartments. The Commission determined that the question of proximity requirements was a larger discussion and should be considered at a later date. It was decided to retain the proposed changes for accessory apartment sizing, and reinstate the current zoning requirement for no additional drives.

5.18.5 – Temporary Structures

Maggie G. said that she still supports the proposed changes, and Joe I. agreed. James D. suggested adding language saying that temporary structures can be in place for 6 months out of any year and would need a permit beyond that time frame. John K. and Joe I. agreed. Alex W. said that he had verified that temporary structures are required to meet setbacks.

The Commission agreed to retain the proposed change with an amendment incorporating James D.'s suggestion.

Section 5.29 – Outdoor Lighting Standards

Joe I. considered Missy Ross's suggestion that properties already subject to outdoor lighting requirements (e.g., subdivision or site plan approval conditions) still must comply with those earlier requirements. He said that he wanted to be careful not to undo site or subdivision approvals with a regulation change. Alex W. said that the proposed language could be crafted accordingly.

Alex W. pointed out that this provision exempts up to four lights under a certain brightness on a primary dwelling, and if they are not overly bright they do not have to comply with this regulation. He suggested that the Commission think about it and they could discuss it in the future if they felt warranted.

Size Limit for Retail Establishments

- Review existing size limit – section 3.5.6 #2 (Zoning)
- Review Town Plan action item 3.1.1
- Review discussion from 2011 on this topic – February 23 and March 9, 2011 PC meetings
- Review letter from citizens recommending extending 20,000-square foot limit to the Commercial district

Alex W. provide the Commission with some historical context to begin the discussion. He said that since zoning changed in 1981, the Hinesburg community has had conversations about the appropriate size for retail establishments. More recently, the Kinney Drug project as well as the proposed Hannaford supermarket project have reinvigorated this conversation.

He said that in the beginning, Hinesburg had one commercial zoning district with no size limit on retail stores. In 1981, a distinction was made that there would be no size limit in the existing commercial zoning district and a 10,000-square foot size limit in the newly conceived village zoning district. In 1996, the village zoning district was increased from 10,000-square feet to 20,000-square feet. Today, the same regulations remain: no size limit on retail stores in the commercial zoning district (on Commerce Street and Ballards Corner Road), and a 20,000-square foot cap on retail stores in the village and village northwest zoning districts.

Joe I. said that the Commission should think about the different zones and how the Town Plan guides the discussion. Alex W. said that there is a single section in the village zoning regulations that calls out the maximum size of 20,000-square feet. He went on to say that the village northwest zoning district simply mirrors the village zoning district, and said that the village northeast zoning district does not allow retail uses so a maximum size does not apply to that district.

Alex W. said that there have been suggestions to extend the 20,000-square foot cap to the commercial zoning district, and noted that there is language in the Town Plan to consider the possibility of increasing the size limit for grocery stores in other areas.

Marie G. asked about the status of the Hannaford project, expressing concern about the potential for additional legal proceedings if the Town chooses to extend the 20,000-square foot cap to the commercial zoning district before that project has been settled.

Alex W. gave a brief update on the status of the project, noting that the proposal was for 36,000-square feet and would not be possible in any other district as the regulations currently stand. He said his understanding is that the project is no longer vested and will need to submit a new application, to be reviewed by the DRB under the regulations in place at the time they submit an application. He noted that the stormwater regulations have changed since their first application. Additionally, if the Town chooses to extend the 20,000-square foot limit to the commercial zoning district and the regulation is implemented prior to their application submission then the cap will also apply to the application.

Jeff F. said that he is in favor of extending the 20,000-square foot cap to the commercial district, saying that it makes sense to bring that district in line with the other districts. He noted that his concern is not project specific, rather he is in favor of keeping the look, size and feel of the village. He went on to say that his intent is not to discourage economic growth by suggesting the extension of the cap, noting that research indicates that “box stores” are now realizing that it is not a good business model and are moving toward smaller stores. He said his concern was that a large retail store of any kind currently has the opportunity to move into the commercial district, and if that happens then the Town could potentially be left with a large unoccupied building that does not fit with the Town’s overall vision of a livable, walkable village center.

Dennis P. asked if Jeff F. felt a smaller store would have less impact on traffic, and there was discussion about grocery store sized in neighboring towns. Marie G. asked if lot 15 was the only remaining lot the could fit a building larger than 20,000-square feet, and Alex W. confirmed but noted that redevelopment of existing commercial properties was also a possibility to be aware of.

Joe I. said that even if most lots in the commercial district were not large enough to fit a large single-story building, a developer could design a multi-story building. He said that efficient land use and minimizing impact on resources dictates multi-story properties, perhaps with mix-use capacities. He encouraged the Commission to not only consider the intended consequences of extending the cap to the commercial district, but also the unintended consequences, keeping the Town’s best interest in mind.

There was general discussion about building sizes and examples, light industrial vs. retail, and mixed-use properties. Maggie G. said that she does not believe extending the cap to the commercial district discourages retail, and said that it makes no sense to her to have a size limit in all other areas of town but no limit right in the center of the village. Joe I. said that the commercial district was originally created with a different vision in mind and Alex W. agreed, saying that it was originally intended to be a separate and distinct area where residential units were not allowed. He noted that the community’s vision has since changed significantly and the general consensus is to create more integration between the districts.

Maggie G. asked if residential units are now allowed in commerce park and Alex W. said they are on the 2nd or 3rd floor of buildings. Jeff F. said that he likes the idea of seeing more residential development in the commerce park area.

Bob Thiefels (a member of the public) said that many townspeople encouraged Hannaford to work with the Town to develop a smaller footprint, but they refused. He said that this is a good time to extend the cap to the commercial district and he does not believe that there will be legal consequences associated with the change. He encouraged the Commission to make the change quickly while there is a brief window for the opportunity.

Marie G. said that it was a good point, but again expressed concern over the possibility of additional lawsuits. Alex W. said that, practically speaking, it is a non-issue because Hannaford will likely be submitting a new application in a matter of weeks and the zoning change process is lengthy, involving discussion, public hearings and eventual submission to the Selectboard for consideration and public hearings.

Bill Marks (a member of the public) said that after hearing that the Kinney Drug building was approximately 20,000-square feet, he now wonders if the Town should be considering a smaller cap on retail square footage. Alex W. said that town records indicate that Kinney Drug is 11,766-square feet. Bill M. went on to say that thoughtful discussion of this issue is appropriate to the future of the community, and suggested requesting that the Selectboard enact interim zoning to allow the Commission time to fully work through the issue. Mary Beth Bowman (a member of the public) agreed.

Joe I. noted that this is a charged topic and encouraged the Commission to proceed with the Town's best interest in mind, to consider the full ramifications before moving forward, and to be prepared to commit to follow-through if interim zoning were implemented. Alex W. said there are two pathways the Commission could follow: 1) discuss, hold a public hearing, then forward a proposal to the Selectboard, or 2) determine that this is an emergency situation and request that the Selectboard implement interim zoning for the commercial district. Bill Marks noted that the two options are not necessarily mutually exclusive, saying that interim zoning could be implemented to allow the Commission time to work through the normal deliberation process.

There was additional discussion about building sizes, the village vision, the Commission's agenda for the year, and the intent of extending the 20,000-square foot cap to the commercial zoning district. The Commission deliberated on whether or not to request interim zoning from the Selectboard.

Jeff F. made a motion to send a request for interim zoning in the commercial district to the Selectboard, to apply the standard 20,000-square foot limit as found in the rest of the village zoning district. John K. seconded the motion.

There was additional discussion about the ramifications of Jeff F.'s motion and the legal process of enacting interim zoning.

Joe I. **made a motion to amend Jeff F.'s motion to change the goal of the request to consider the future development of commercial district to be more in line with the greater village area.** Marie G. **seconded the motion.** The Commission voted **1-7.**

There was additional discussion about Jeff F.'s motion, the intent and the legal process that would follow if the motion were passed. The Commission agreed that the goal of interim zoning would be to allow the Commission time to consider integrating the commercial zoning district to design and zoning standards with the rest of the village area, with the 20,000-square foot retail size limit being the driving factor to request interim zoning.

Joe I. called a vote on Jeff F.'s original motion:

“Jeff F. made a motion to send a request for interim zoning in the commercial district to the Selectboard, to apply the standard 20,000-square foot limit as found in the rest of the village zoning district. John K. seconded the motion.”

The Commission voted **6-2.**

Joe I. suggested continuing the review of the 12/13/17 minutes to the 1/23/18 meeting. The Commission agreed.

The meeting adjourned at 10:28 pm.

Respectfully submitted,

Dawn Morgan, Recording Secretary