

UNDERHILL PLANNING COMMISSION

Thursday, February 1, 2024 @ 6:00 PM

REGULARLY SCHEDULED MEETING

Minutes (Draft)

Attendance

Planning Commissioners:

Commissioner Brian Tijan
Commissioner David Edson
Commissioner Lea Van Winkle - absent
Commissioner Sandy Wilmot
Commissioner Bart Johnston
Commissioner Roy Dunphey
Commissioner Boris Seagraves
Commissioner Carolyn Gregson*

Commissioner Tim Frost

Others:

Meg Armstrong

* joined via GoToMeeting.

To view the recording of the evening's meeting, visit:

<https://www.youtube.com/watch?v=2miVurEOAa8&list=PLm9TgJr7n7xePmrmx4P1AwYbnxYkYrXNx&index=1>

[6:06] Chair Tijan called the meeting to order.

AGENDA ITEM: ADDITIONS TO AGENDA

[6:06] No additions to the agenda were needed

AGENDA ITEM: PUBLIC COMMENT

[6:06] DRB member Meg Armstrong introduced herself. She said she thinks she is interested in being on the Planning Commission instead of the DRB. Her motivation is that she owns a large parcel of land with different parts in different zoning districts and the zoning map would only allow her to develop the part that should not be broken up. She would be interested in working on maps that more accurately reflect the zoning descriptions.

Chair Tijan said we know we need to get the map up to date. We are waiting for completion of the natural resources inventory. We are going to use that to inform redrawing the map. Board member Wilmot said it should be done in the next 5 or 6 months. Chair Tijan said working on the map is a 2024 project for the Planning Commission. Any changes to the map first need to go to the selectboard, then to the voters at town meeting 2025.

AGENDA ITEM: REVIEW AND APPROVE 1/4 AND 1/18 MINUTES

[6:10] Commissioner Edson moved to approve the minutes of January 4 and January 18, 2024, Commissioner Johnston seconded and the motion was passed unanimously.

AGENDA ITEM: DRB ISSUE REVIEW

[6:12] Chair Tijan said one issue raised by the DRB was whether barns should be considered accessory structures. They are currently not included in accessory structures. A related question is whether to

get rid of the requirement for accessory structures to be subordinate. Another question raised at the last meeting was whether there should be an overlay for a historic district where there are different requirements for accessory structures. He does not think there was much interest in that.

Commissioner Dunphey said he thinks barns should be considered accessory structures. Commissioner Gregson said they were originally separated for agricultural purposes because taxation is different. Chair Tijan said his understanding is that the town has no control over a barn built for a working farm. Commissioners Dunphey and Gregson agreed that is the case.

Commissioners all agreed that barns should be considered accessory structures.

Chair Tijan asked if the Commission wants to do something with the requirement that accessory structures be subordinate to the primary structure. Commissioner Wilmot read the definition of Accessory Structure, Use: *A structure or use that is clearly incidental, customary, and subordinate in size and overall appearance (except for barns) to the principal structure or use of land on the same lot. Examples: in-ground pools, ponds, garages, storage sheds, playhouses, tree houses, barns, satellite dishes, residential wind towers, etc.*

Commissioner Dunphey asked, if we get rid of the size requirement compared to the house, where do we draw the line? Could someone in a 3 or 5 acre zone build a 5000 sq. ft. structure? Some neighbors might object. Should we require everything over a certain size to go to the DRB? Commissioner Edson said he would be against limits on size. Commissioner Dunphey said he would too.

Commissioner Johnston asked if a permit is needed for a steel shipping container. Chair Tijan said he thinks so. He thinks they fit under the definition of a structure. Commissioner Gregson agreed as a former lister.

Commissioner Gregson said if someone wanted to build a 5000 sq. ft. structure on a 3 acre property the neighbors could complain when they go to the DRB. They would be notified of the building permit application. That does seem excessive. Commissioner Edson said that is really subjective. Commissioner Gregson brought up a past lawsuit about development not compatible with the neighborhood. Commissioner Edson said he thinks the legislature has said you can't restrict a structure because it is not in the character of the neighborhood.

Commissioner Johnston said he is not in favor of having size requirements.

Commissioner Edson suggested use of shipping containers could be explicitly excluded. They are ugly. Commissioner Wilmot said she is not sure she would agree with that. Commissioner Gregson said they can make wonderful houses. She would not want to disallow them.

It was agreed that the requirement for accessory structures to be subordinate in size to the principal structure should be eliminated.

There was discussion about possibly separating accessory structure and accessory use and having different definitions. Chair Tijan suggested possibly taking out the reference to use. He is not sure where it comes in.

It was agreed to add a definition of barn defining it as a building approved by the state for agriculture. Every other barnlike structure is an accessory structure. Chair Tijan suggested that we not delete the language excluding barns because agricultural barns are excluded. We will just add a definition of barn.

Chair Tijan said he wants to ask Brad Holden if there is any reason not to remove references to accessory use. Commissioner Dunphey and Commissioner Wilmot questioned the meaning of “subordinate in overall appearance.” Chair Tijan said he thinks the whole definition needs to be redone.

It was agreed that different Commissioners will volunteer to work on different sections of the regulations where it is agreed there should be changes and bring drafts back to future meetings. Commissioner Edson volunteered to work on the accessory structures changes discussed tonight – adding a definition for barn, removing the requirement to be subordinate in size and considering how accessory use fits into the regulations. Chair Tijan will ask Brad Holden for clarification on accessory use and email the whole group if he gets helpful information.

Chair Tijan asked if we want to define wedding facilities and allow or disallow them in certain districts. There doesn’t seem to be any point in defining them if we are not interested in allowing or disallowing them. Several Commissioners were in favor of regulating wedding facilities due to the associated noise and traffic. Commissioner Dunphey said we would have to come up with use standards for wedding venues. Commissioner Wilmot suggested we could look at how other towns regulate them. Chair Tijan suggested that someone investigate that in two other towns such as Jericho and Essex. Commissioner Wilmot agreed to do that.

The Commission agreed that Section 8.6 should be renamed from Transportation Facilities to Roads and Pedestrian Infrastructure as suggested by Penny Miller.

Chair Tijan said another question from the DRB was whether we need the statement in the Subdivision Review Standards that lots and lot layouts shall be configured to avoid irregularly shaped lots unless warranted due to topographic or other physical site constraints, or to minimize the fragmentation of natural, scenic or cultural resources under Section 8.3. Charlie Van Winkle and Penny Miller didn’t seem to feel it was necessary. The Commission agreed that should be taken out.

Another question is about the definition of utilities. Utilities are exempt from steep slope restrictions but utilities are not defined. Commissioner Wilmot suggested changing “utilities” to “public utilities.” Meg Armstrong said if the regulations don’t say that private utilities can be on a steep slope then they can’t. She suggested that utilities cause little long term disturbance on steep slopes and it should not matter whether they are public or private. Commissioner Dunphey said he can’t think of a situation where going up a steep slope with a secondary power line or sewer line or water line is going to disturb too much. Meg Armstrong said lines will be buried. Commissioner Wilmot said this section of the regulations doesn’t say they have to be buried. A path would need to be cleared for a transmission line, making a permanent clearing. Chair Tijan said that could have stormwater runoff implications. Commissioner Wilmot said we don’t control public utilities. She thinks this language is meant for those public utilities we don’t control. If we want it to apply to private utilities she thinks we need more clarification. Commissioners agreed this item needs more thought before a decision can be made.

It was agreed to add language to the Development Review Process section requiring that materials be submitted to the DRB 15 days prior to meetings. There is also a typo in this section that needs to be corrected. Commissioner Dunphey agreed to draft these changes.

Chair Tijan said another issue from the DRB has to do with the tie between home ownership and home industry. If someone with a home industry sells their house, can they continue to operate the business on that property? Commissioner Edson said he thinks any established business should go with the property. It reduces the value of the property if someone else is operating a business there.

Commissioner Dunphey agreed that the ability to run a business out of that building should be passed along to the new owner. Commissioner Frost asked, what if it is in a zoning district where it is not allowed but it has been grandfathered in? Commissioner Edson said he thinks in that case the business should be allowed to keep operating. Commissioner Frost disagreed. Commissioner Gregson said in the past it has always been that the ability to operate the business does not transfer. It needs to go through the DRB again. Commissioner Edson suggested making a change so a business can be continued by the new owners. Chair Tijan suggested continuing the discussion of this issue at the next meeting.

Chair Tijan suggested that before the next meeting everyone refresh themselves on the definition of utility and review the accessory structures language Commissioner Edson will be revising.

OTHER BUSINESS

[7:30] Commissioner Gregson said she didn't attend in person tonight because she had been exposed to someone who tested positive for Covid. In this situation, would other Commissioners prefer her to attend remotely or attend in person wearing a mask? It was agreed that Commissioners who have been exposed to Covid but are not testing positive can come to a meeting if they wear an N95 mask. Commissioner Dunphey said he can provide N95 masks.

ADJOURN

[7:33] Commissioner Edson made a motion to adjourn, Commissioner Seagraves seconded and the motion was passed unanimously.

Respectfully Submitted by Donna Griffiths
These minutes of the February 1, 2024 Planning Commission meeting were approved on

Brian Tijan, Planning Commission Chair

Date