

# UNDERHILL PLANNING COMMISSION

Thursday, February 15, 2024 @ 6:00 PM

REGULARLY SCHEDULED MEETING

Minutes (Draft)

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## Attendance

### **Planning Commissioners:**

Commissioner Brian Tijan  
Commissioner David Edson  
Commissioner Lea Van Winkle  
Commissioner Sandy Wilmot  
Commissioner Bart Johnston  
Commissioner Roy Dunphey  
Commissioner Boris Seagraves

Commissioner Carolyn Gregson\*  
Commissioner Tim Frost

\* joined via GoToMeeting.

To view the recording of the evening's meeting, visit: <https://www.youtube.com/watch?v=K9BqF2sNSzM>

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[6:00] Chair Tijan called the meeting to order.

### **AGENDA ITEM: ADDITIONS TO AGENDA**

[6:00] Commissioner Dunphey said someone asked him recently if it is possible to have both a duplex and an ADU on a property. Commissioners were not sure if anything in the town regulations would prevent it. Even if our regulations do not allow it, Act 47 supersedes our regulations so we need to find out if Act 47 says it must be allowed.

Commissioner Van Winkle said the Planning Commission is interacting more with the DRB and that is potentially a conflict of interest for her, since her husband is DRB chair. Because of that and other responsibilities in her life, she will not continue on the Planning Commission after town meeting. She is happy to be an alternate. Chair Tijan said there is someone interested in joining the Planning Commission but we should post the vacancy on Front Porch Forum.

### **AGENDA ITEM: PUBLIC COMMENT**

[6:06] No members of the public were present.

### **AGENDA ITEM: REVIEW AND APPROVE 2/1 MINUTES**

[6:06] Commissioner Edson said a statement attributed to him, "It reduces the value of the property if someone else is operating a business there," should be changed to "Not allowing a business to transfer with the property reduces the value of the property."

Commissioner Van Winkle asked what he means by that. Commissioner Edson said if a property is sold he thinks a business on the property should be able to continue on the property with the new owner.

Commissioner Wilmot moved to approve the minutes of February 1, 2024 with the requested change, Commissioner Dunphey seconded and the motion was passed unanimously.

## **AGENDA ITEM: DRB ISSUE REVIEW**

[6:10] Commissioner Edson proposed changing the “Accessory Structure, Use” definition in the land use regulations by changing “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” to “A structure or use that is clearly incidental, customary, and subordinate in overall appearance, but not necessarily in size, to the principal structure or use of land on the same lot.” The other commissioners had no objections to that.

Commissioner Edson said he proposes adding two definitions of barn. One is “Barn (State-Defined): One of various farm structures that fall under the jurisdiction of the Vermont Agency of Agriculture, Food and Markets.” The other is “Barn (Accessory Structure): One of various structures accessory to the principal structure.” There would also be a note saying “See Accessory Structure.”

Commissioner Wilnot questioned whether we should have different requirements for barns that meet state agricultural standards and barns that are not used for commercial agriculture. Someone might build a barn for two horses but in the future they could use it for cows. Chair Tijan said he thinks it is important to carve out barns that meet the state definition because we have no authority over those. For barns that don’t meet the state definition we could give different leeway than for other accessory structures. Commissioner Wilnot suggested adding “or is for agricultural use” to Commissioner Edson’s first definition. Chair Tijan brought up the possibility that someone might keep one horse in a building so it would be classified as a barn and use the rest for some other purpose. Commissioner Frost said he doesn’t think we care how the building is being used. Either it falls under the state agricultural standards or it is an accessory structure.

Commissioner Wilnot said once we define something as not agriculture then there are exemptions that are no longer available. For instance, in our Rural Residential District, a building with an agricultural exemption is a permitted use but an accessory structure needs conditional use review. Others said that should not be in the regulations. A conditional use permit is not required for an accessory structure.

Chair Tijan said if we have different requirements for agricultural use that doesn’t meet the state standards, we need to get really detailed about defining agriculture or we will have situations like someone putting one chicken in a building as a loophole.

There was discussion about whether a permit from the state is needed for an agricultural building. Commissioner Van Winkle said there is no state permit for farm buildings. What the state provides is approval for current use. Commissioner Dunphey said he thinks commissioners are speculating quite a bit. We should read the state regulations. Commissioner Van Winkle said the state only gets involved if someone is trying to get a tax break. Commissioner Gregson agreed. Chair Tijan asked, if someone wants to build a barn for agricultural purposes, do they need a permit from the town? Commissioner Gregson said she believes they have to conform to setback requirements and they have to file an application but they do not have to pay a permit fee or taxes.

Commissioner Wilnot pointed out that our regulations already have a definition for agriculture. Chair Tijan said there is also a definition of farm structure that is very detailed, with specified numbers of different species. Maybe the barn definition should refer to the farm structure definition. Commissioner Wilnot said she disagrees with using the farm structure definition. Commissioner Edson said he is not sure we need a definition of farm structure. Chair Tijan said we need to figure out where it is used.

Commissioner Wilmot volunteered to go through the regulations and search for agriculture and farm structures to see where they come in. Commissioner Edson will review barns.

Commissioner Dunphey proposed language to be added to the regulations: “The DRB and zoning administrator require all paperwork pertinent to a warned hearing to be submitted to the zoning administrator 15 days prior to the hearing. Failure to do so will result in a postponement of the hearing.” Commissioner Wilmot suggested changing it to “may result in a postponement.” Chair Tijan said he thinks the language should be added to Section 5.2 (A) as #5.

Commissioner Wilmot said no town seems to have “wedding” as a defined event. Hartford uses “public assembly facility.” Hinesburg uses “functional hall,” defined as “use of a barn or similar structure, existing or new.” Hartford defines a “public assembly facility” as “any structure or area where a large number of people collect to participate in or observe programs, including performing arts facilities.” She suggests using that definition and adding “weddings and special events.” Hartford has differences in permitted vs. conditional use depending on the size of the building. If it is under 2500 sq. ft. it is mostly allowed in residential districts. Buildings larger than that need a conditional use permit. Hinesburg has special conditions including that the road access has to be on a first, second or third class road, 50 ft. side and rear setbacks, and no residents closer than 500 ft.

The Commission agreed that “event venue” should be the name for the new type of structure we want to define. Commissioner Wilmot suggested defining it as “any structure or area where a large number of people collect to participate in or observe programs, including performing arts facilities, weddings and special events.” Chair Tijan suggested adding something like “regularly” or “for commercial purposes.” Commissioner Wilmot suggested adding “other than incidental or occasional use.”

There was discussion about whether to make the language more specific than “large number” and about where in town we would want to allow event venues. Commissioner Dunphey said we don’t have to define how many people can be at the event venue because the DRB will set limits when they issue a conditional use permit. Commissioner Wilmot suggested adding the word “ongoing” so the definition would refer to “ongoing large numbers.” She said we can set limits and not leave it up to the DRB. That makes their job easier. Chair Tijan said if we want to add additional rules for event venues, it seems like that would go in a different section of the regulations, not the definition.

The commission agreed on this definition of event venue: “Any structure or area where a large number of people collect to participate in or observe programs, including performing arts facilities, weddings and special events.”

Chair Tijan said at the next meeting we can return to agriculture and barns and also the issue of utilities on steep slopes. Commissioner Van Winkle said Act 47 does not say anything about duplexes and accessory dwelling units. She can look into that. Chair Tijan said that can be discussed at the next meeting also.

## **ADJOURN**

[7:17] Commissioner Johnston made a motion to adjourn, Commissioner Edson seconded and the motion was passed unanimously.

Respectfully Submitted by Donna Griffiths

These minutes of the February 15, 2024 Planning Commission meeting were approved on

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Brian Tijan, Planning Commission Chair

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Date

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