

UNDERHILL PLANNING COMMISSION

Thursday, May 4, 2017 6:30 PM

Minutes

Planning Commissioners Present: Chair Cynthia Seybolt, Carolyn Gregson, Catherine Kearns, David Edson, Pat Lamphere, Nancy Bergersen, David Glidden, Johnathan Drew

Staff/Municipal Representatives Present: Andrew Strniste, Planning Director

Others Present: Kurt Johnson, Selectboard Member; Penny Miller, Development Review Board Member; Stacey Turkos, Development Review Board Member

[6:25] The Planning Commission convened at Underhill Town Hall at 6:25pm.

[6:30] Chair C. Seybolt called the meeting to order.

[6:31] Chair C. Seybolt asked for public comment. No comments were provided.

[6:33] **Chair C. Seybolt asked for a motion to approve the minutes of April 27, 2017.**

Commissioner Bergersen made a motion to approve the minutes of April 27, 2017.

Commissioner Kearns seconded the motion. Commissioner Edson proposed a correction for a possible grammatical mistake. **The minutes of April 27, 2017, as originally presented, were approved unanimously.**

[6:41] Members of the Commission signed the updated version of the Rules of Procedure.

[6:42] Chair C. Seybolt advised the Commission about the spring Planning & Zoning Forum that would be held in June of this year, and recommended that the new members, or any other interested Commissioners, to attend. Selectboard Member Johnson stated that interested parties should let Staff Members Strniste or Bigelow know, and they would put in a request for funding with the Selectboard.

[6:39] Chair C. Seybolt began the discussion regarding the owner occupancy requirement for accessory dwellings by listing the advantages and disadvantages of the requirement:

Advantages	Disadvantages
<ol style="list-style-type: none">1. The intention of the accessory dwelling unit is for family members;2. Fosters a sense of community;3. Preference of neighbors/DRB with no support for the other side besides the Commissioners; and4. Renting both units is possible by converting the structure	<ol style="list-style-type: none">1. Perceived financial burden2. More affordable housing3. Limits property owner's rights

Chair C. Seybolt continued to state that eliminating the owner occupancy requirement could be a controversial change that would jeopardize approval of all the proposed changes. Commissioner Kearns inquired if a single-family dwelling with an attached accessory dwelling could be rented out as a single-family dwelling, which was answered in the affirmative. Commissioner Gregson explained that Underhill is largely a NIMBY town; also mentioning that the original implementation of the owner occupancy requirement was mandated by the State, financial burdens are situational, and that there are not a lot of absentee landlords. Staff Member Strniste advised that the elimination of the owner occupancy requirement would be indirectly eliminating accessory dwellings. Board Member Miller stated that the owner occupancy requirement helps

discourage absentee landlords, and accessory apartments that do not contain owners becomes a public building that must be regulated by fire safety. Commissioner Lamphere advised that there are other mechanisms that would ensure that the building meets fire & safety regulations such as obtaining insurance.

- [6:57] Board Member Miller began a discussion that focused on the temporary absence of an owner versus a single-family dwelling with attached accessory apartment being used as a rental property. Staff Member Strniste advised that if the owner of a single-family dwelling with an attached accessory dwelling wishes to rent out both units, then he or she should convert their property/structure to the appropriate use that allows for the stated intention – the two-family dwelling use. Commissioner Edson stated his hesitancy of adding in additional regulations. Commissioner Drew stated he was struggling with the life/safety issue, and the permitting that may not be obtained if the owner occupancy requirement were to be eliminated.
- [7:01] Board Member Turkos provided a hypothetical situation for the Commission to consider. A discussion then ensued on how much flexibility there is when a property owner is not occupying one of the structures for a temporary period of time due to another commitment. Staff Member Strniste advised that there was a degree of common sense that comes into play, as the distinction between accessory apartments and two-family dwellings is that a two-family dwelling is a property that is income driven. Commissioner Drew echoed the sentiment that if the single-family dwelling and the accessory dwelling are both being rented, the property is no longer a private residence, and is now a commercial enterprise.
- [7:11] Staff Member Strniste asked Commissioners Edson and Lamphere if the owner occupancy requirement were to be eliminated, then what would they say is the distinction between an accessory apartment and a two-family dwelling. Commissioner Edson answered by stating that an owner could build an accessory apartment and have less permitting required from the State.
- [7:18] Commissioner Edson recommended that the regulations should follow the State definition for attached accessory dwellings. Board Member Miller stated that the State of Vermont requires all single-family dwellings to allow an accessory apartment (according to their definition), and if the accessory apartment is larger than their stated standards, then the State requires additional permitting. She then inquired if there would be an issue a landowner would have when selling a single-family dwelling with an attached accessory apartment, but using the structure as a two-family. Commissioner Edson advised that towns have the ability to make the accessory dwelling definition less restrictive. Commissioner Lamphere advised that he believes there is a checks and balance system in place, and that there should be no owner occupancy requirement. As he sees the issue, it is more of a health, safety and welfare concern.
- [7:26] Commissioner Kearns stated she was comfortable treating a single-family dwelling with an accessory dwelling where both units were being rented out as a two-family dwelling as long as it could be rented as a single-family dwelling without special treatment. Commissioner Lamphere rebutted that he believed that a hardship still exists in that scenario.
- [7:36] Commissioner Gregson inquired if taxes would change if the dwelling was to be a multi-family dwelling compared to being designated as a single-family dwelling with an attached accessory apartment, and Staff Member Strniste advised that he believed taxes were based on square footage.
- [7:38] Commissioner Edson clarified his proposal: attached accessory apartments should align with the State definition, and detached accessory dwellings could deviate from the State definition. The

proposed detached accessory dwelling would allow no owner occupancy requirement; and could not exceed more than 50% of the primary dwelling or 1,000 sq. ft. Chair C. Seybolt recommended that both the primary dwelling and detached accessory dwelling be accessed by the same driveway. Commissioner Gregson recommended requiring a maximum distance between the two buildings. Chair C. Seybolt took a straw vote on whether there should be an owner occupancy requirement for attached accessory dwelling units. The straw vote yield five Commissioners in favor, one Commissioner opposed, and two Commissioners uncertain. Commissioner Lamphere echoed his earlier sentiment that he did not see what the owner occupancy requirement accomplished.

[7:49] **Chair C. Seybolt proposed the following issue to be voted on: not requiring the owner occupancy requirement for the detached accessory dwelling unit. The Commission approved the recommendation unanimously.**

[7:50] **Chair C. Seybolt proposed the following issue to be voted on: requiring detached accessory dwellings to not exceed 50% of the primary dwelling unit or 1,000 sq. ft., whichever less. The Commission approved the recommendation unanimously.**

[7:53] **Chair C. Seybolt proposed the following issue to be voted on: requiring the detached accessory dwelling to share a curb cut with the primary dwelling. The Commission approved the recommendation 7-1, as Commissioner Lamphere opposed.**

[7:56] **Chair C. Seybolt proposed the following issue to be voted on: that attached accessory dwellings follow the State's definition for accessory dwellings. The Commission approved the recommendation 7-0, as Commissioner Lamphere abstained.**

[7:58] Chair C. Seybolt distributed a document containing the upcoming timeline for the proposed bylaw changes, goals, list of items resolved, and list of items unresolved.

[7:59] The Commission will have a quorum for the May 18 meeting.

[8:00] Board Member Turkos asked about the bylaw update process, and what is to be expected.

[8:02] Commissioner Edson stated he wished to review some of the conditional uses in Table 2.1 of the Regulation.

[8:03] **Chair C. Seybolt asked for a motion to adjourn. Commissioner Bergersen made a motion to adjourn, which was seconded by Commissioner Drew. Motion approved unanimously.**

Respectfully Submitted By:
Andrew Strniste, Planning Director

The minutes of the May 4, 2017 meeting were accepted this 18th day of May, 2017.



Chair C. Seybolt, Planning Commission Chair