

## APPROVED

**Huntington Planning Commission**  
**October 28, 2009**  
**FLOOD HAZARD ORDINANCE DISTRICT PUBLIC HEARING**

Commissioners Attending: Lucinda Hill, Tom Bailey, Everett Marshall, Gordon Miller,

Commissioners Absent: Eric Silman, Beverly Little Thunder

Others Present: Brian Hayes, Jeff Fergerson, James Fecteau, Teddy Brace, Betty J. Wheeler, Alan R. Brace, Mark Cavic, Heidi Weston, Wayne Curley, Duncan Keir, Linda Fickbohm, Sarah Jane Williamson, Ken Pillsbury, Joseph H. Spence, Charles A. Spence, Dave Brautigam, Dori Barton, Dean Grover, Dana Cummings, Brett Lindemuth

Minutes: Heidi Racht

The hearing was chaired by Everett Marshall. He asked that people wait until the introduction was finished before asking questions.

Everett Marshall gave an introduction of the Flood Hazard Overlay District (FHOD), emphasizing insurance and safety. The town currently has a Flood Ordinance and it was decided to incorporate the ordinance as a section of the town's zoning regulations. It was explained that the current ordinance will not pass the FEMA requirements for flood insurance and that the FHOD for the Town of Richmond had been through the complete process and was used as a model. He reviewed the subsection headings and the mapping process. Currently, the mapping used in Huntington has 20' contour intervals; some of Chittenden County has 2' intervals. The map in Huntington can be off and flood level is determined by elevation. He explained that there are ways to get this out of areas that are questionable. Richmond is refining its mapping using orthophotos. Huntington adds a 100' section this is outside the mapped area so the Administrative Office for Zoning can determine if a proposed project is in the flood zone.

He explained that the Administrative Officer is the Zoning Administrator (Cathleen Gent) not Town Administrator Ed Wildman.

Heidi Weston asked, "Is the Zoning Administrator an engineer?" She wondered how this person was qualified to make a determination.

Marshall replied that there were areas that would be "obviously out of the flood area."

Tom Bailey explained about the maps. Marshall added that the maps weren't developed with the latest technology and that some of the flood areas might not be on the map. Bailey said, "It's a safety thing." Elevation may determine the flood area and if the line is as low on one side as another, the Zoning Administrator would be able to make this determination. Bailey suggested a LOMA, stating, "If FEMA makes the determination, the it is out of the Flood [Hazard Overlay] District." Marshall said that the Administrative Officer would have authority to make the decision. If it's not clear, then an engineer would make a determination.

Mark Cavic said, "We can be more restrictive, but not less. Did we do this because Richmond did it?"

Bailey replied, "Yes. It is arbitrary."

Marshall said that Ned Swanberg with the state River Management Office said to have extra land under consideration “was a good idea. If enough people don’t like it, it can be removed.”

Ken Pillsbury said he wanted to “establish how the hell we’re going to run this meeting. You shut me down.”

Marshall replied, “I was doing an introduction.”

Pillsbury said he had a question regarding insurance. On the cover sheet, it says that the purpose of the regulations was to “make eligible the Town of Huntington, its citizens and business for federal flood insurance, etc.” but on page 1 of the document itself, it says the regs don’t guarantee flood insurance [3.5 A: 5].

Marshall said that the town “is making its best effort to meet the regulation, but there’s no guarantee. There are insurance rates outside the FHOD and in, and they are different.”

Pillsbury said, “It isn’t just the federal flood insurance. You can get it privately.”

Bailey said that the federal insurance was sold through local agents, but the rate is affected by the location on the flood map and whether this regulation is in place.

Referencing the town’s investment in bridges and roads, Dori Barton commented, “This town needs insurance. Most townspeople wouldn’t want to pay the higher rate.”

Teddy Brace said that he received a lot of insurance calls over the phone. This is a “way to try to control your land for other things to come along.” He then talked about the Planning Commission’s hearing for the Zoning Regulations where attendees made comments and the HPC “knocked down footage of land. How is it constitutional without another meeting?”

Marshall reviewed the process of the hearings and said that the Selectboard had had another hearing on the Zoning Regulations before it went to a vote.

Brace asked how is it legal? “When we say no that’s their job to do what we say.” He referred to the 100’ buffer and said, “we said we wanted a 50-foot buffer.”

Marshall replied that comments were going both ways.

Dori Barton interjected, “I was the chair and comments were in both directions. The decision was made to go with 100 feet and go to the voters. There is a process to amend the document.”

Brace then said that it seemed that Barton’s family always seemed to benefit from grants and regulations.

She responded, “I benefit from smart planning. We choose to be active on the Boards, You can do this, too.”

Tom Bailey asked if Brace’s objection was to zoning.

Brace said, “We want to know where these grants are going.”

Bailey then made a pitch for another Planning Commission member, remarking that there had been a vacancy on the Commission for over a year.

Everett Marshall explained that some of the restrictions of zoning “do restrict property owners on what they can do on their land.” The regulations were not to benefit certain individuals, but rather “to benefit society.”

Duncan Keir said. "Some zoning regs are important to the community and are good, even if it's hard for us to appreciate." He then talked about how people used to dump their garbage in the river banks and wait for spring to wash it away or put it into the river.

Keir asked if owners outside the zone who are affected by the 100' extension would have their insurance companies require them to change their policy.

Gordon Miller, who identified himself as a realtor, said, "It's a concern of mine that appraisers will require insurance."

Lucinda Hill asked if it would be current owners of "just things that happen in the future?"

Jim Fecteau talked about the livelihood of the farmer: "you planned your entire life around your price of land. You have all these outside forces telling him he can't do anything. You're done."

Brian Hayes, who recently purchased a house on Bridge Street, noting that his house was two feet outside the flood zone, asked, "By what right do you preemptively raise it and now tell me that my house is now in the floodplain?" He said, I'm subsidizing the town and my taxes are high enough."

Sarah Jane Williamson asked if the ordinance didn't pass in some form, then nobody would get insurance.

Everett Marshall confirmed this and noted that the town already had a Flood Ordinance in effect. "This wasn't a new idea."

Miller explained that the ordinance was supposed to be in place by March and that all towns needed to be done by August 2010. "We're trying to get ours considered early [and avoid the logjam of last-minute ordinances], but this may have to wait until Town Meeting."

Marshall said that it wasn't going to limit what is done outside the FHOD.

Jim Fecteau disagreed, talking about the trailer park on Hinesburg Hollow Road, which he said was in the FHOD. Arnold Blair [who lives across the road and up on a hill] has to get flood insurance because of FEMA which says he's in a flood hazard zone."

Miller replied that this was an instance where a property owner could do a LOMA.

Fecteau replied that it took too much work to do this and that people say "the heck with it, I'm just going to get flood insurance." He made a comment about his building permit taking 3 months. He then asked if the Planning Commission would do the LOMA.

Dean Grover clarified that the 100-foot buffer was introduced because of the accuracy [lack of] of the mapping. He asked about the accuracy of the new maps.

Marshall replied that they were based on a 20-foot contour, plus orthomaps. "Most of Chittenden County had digital elevation modeling done.

Grover said when you talk about floodways, only if there's a 0.0 rise in the stream as a consequence of a structure, which would be an impossibility. "Thou shalt not build in the floodway' should be stated on the revised regs."

“The floodway is a zone within the mapped flood area,” Marshal said. “It is determined by FEMA.”

Joe Spence asked, “What is wrong with the existing flood map? Get what FEMA has added and then forget the 100 feet. Then let people know. Leave it the way it is and then see if anything is added.”

Duncan Keir suggested that the existing ordinance be taken and “tweaked” to do what FEMA requires.

Tom Bailey confessed to having done the writing of the document, “The old reg would not be approved through FEMA. I started with a reg I knew would be.” He explained that the Richmond document had already been approved by FEMA.

Marshall said that the Huntington Zoning Administrator, who is the Town Planner in Richmond, spent a lot of time working with officials on the Flood Hazard reg. He noted that the biggest challenge Huntington had was mapping the area.

Jeff Ferguson commented that the Commission began with the “arbitrary addition in footage added, so the 100’ would not be looked at by FEMA.”

Marshall said that FEMA would look at its mapped area. Then if someone comes in with a project that is in the buffer, it would be looked at separately.

Ferguson said, “It’s an important distinction. What is the community benefit to adding 100 feet of area to the map? Who’s on the hook for that tab?”

Marshall said that it was to keep property owners who might be in the flood area that wasn’t mapped from losing property.

Ferguson replied, “We’re separating out two very different issues.

Mark Cavic said that he was speaking from personal interest: part of his property was in the flood district, but his house wasn’t. The 100-foot overlay would change his property and it would all be in. “Once we adopt something, it’s hard to go back. Let’s pass the minimum we need to pass this. Let’s not use a template from another town.”

Marshall said that most of the regulation was to meet FEMA requirements. “We don’t have a lot of latitude.”

Brent Lindemuth said, “A lot of people in Richmond don’t like the regulation. It is a lot more work for Ms. Gent. I’m getting a feeling about how the public good is about to run you over. You should not be crushing people’s hopes and dreams.”

He then asked, “Is the town prepared to pay Ms. Gent’s salary due to increase in hours?”

Heidi Weston said she strongly disagreed with the regulation, citing family heritage that reached “back to the 1700s. Many of you are probably living on the property that my family owned.” She noted that the “process already allows for inquiry” and expressed unhappiness with the subdivision permit that was recently required of her family.

Alan Brace urged the Planning Commission to look into what was being asked of it.

Dana Cummings said, “Our regulations as related to the Flood Zone would pass. So the FEMA map only determines flood insurance eligibility. What’s the purpose of the 100-foot buffer?”

Marshall responded that the purpose was for projects that would be in the flood zone. The map isn't accurate.

Cumming then said that by extending the map, there would be "a lot more stuff going through zoning. The problem corrects itself without the buffer." The valley is too steep and narrow to fill the fields. He asked if the map would be corrected.

Marshall said that it would in 5-10 years. The Regs point to the most current map. As maps get approved this would change.

Duncan Keir gave an historical perspective of the glacier that came through 10,000 years ago, noting, "we really don't know what flooding is going to bring." He said that the new document was "completely different. I'm an advocate of protecting the environment and since the existing ordinance has a list of things that can be done, it seems like it's pretty restricting." He asked if farmers had ready the Accepted Agricultural Practices to see if they're restrictive. He also said 100 feet is "going too far. The pendulum swings too far and it seems excessive. The redress puts the onus on the landowner to hire an expert."

Teddy Brace noted that his house is located at a higher elevation next to the river "and I don't see where 100' would make sense." He pointed out that his house on the hill would see the entire village washed away before the water reached that height. He then talked about the river and how the landowners were allowed to remove gravel and now they aren't. "We fixed the river. It's the only place it doesn't wash out."

Dori Barton said it would be easier to accept the 100-foot buffer "if we knew the extent. It would be nice to have a sense if this corrects a significant problem. I don't want to be the person who buys land and builds a house and not know. She asked why Richmond did it.

Tom Bailey said, "It's arbitrary to be safe. It seemed to me to be a good idea." He went on, "We're four volunteers, so I haven't a clue how in detail this will affect people. The best strategy for insurance purposes is to buy the cheapest insurance and grandfather at the lowest rate, so even if the LOMA fails" the rate would be maintained.

Ken Pillsbury commented that he supported comments made by Jim Fecteau, and then said, "Every time you people come up with something..."

Everett Marshall asked him who he meant and there followed an exchange about the term "you people," with Pillsbury commenting that he wished "everyone could be so correct."

Pillsbury went on, "Every time you come up with more rules, you don't take into consideration the landowner. My farm is my bank account and that's my retirement. I certainly don't appreciate when people continually try to control how I use my land. That farm has generated a lot of income for the town."

He then turned to Tom Bailey with a brief comment about how he wasn't his fan.

Brett Lindemuth pointed out that Section H permitted development of agricultural uses with a zoning permit but that two pages later agricultural activities were exempt if conducted in accordance with Accepted Agricultural Standards. He said that development does not mean new building, it mean activity in the area. He asked if everyone who was affected had been personally contacted about the ordinance, stating, "It's a crime of conscience not to contact everyone who has land there. Think about this before you close your peepers tonight."

Jeff Ferguson asked, "What is the process for Draconian measures regarding lawns and fillings holes in the yard? Where are the teeth to make these real?"

Bailey replied that the statutes spell out what powers the town has to enforce.

Ferguson noted that it would be "Herculean."

Bailey said, "appeal to the ZBA."

Brian Hayes asked, "Are we seeking these measures in order to keep the river clean? There are areas where animals are in the river, trash is being burned. Is there something we can do now?"

Lindemuth pointed out in Section K #2 (Exempt Activities) that maintaining a driveway "You could get in trouble with Ms. Gent." He asked if the ordinance could be decided on when the map comes out. Then, contact people and make it a transparent process. His next question was about lawn development: does this require a permit? He again suggested waiting for the FEMA map to come out and contacting people who the regs affect and then holding a public meeting.

Bailey suggested that if someone wanted to do this, "it would be a help." He noted the timing did not allow for the Commission to wait until the new maps were approved by FEMA: people won't get flood insurance.

Joe Spence said he wouldn't come to get a zoning permit to cut hay and wanted the Commission to strike the first sentence in Section H.

Dori Barton noted that the existing regs depended on expertise from the state. A change in the new regs gives the Administrative Officer authority to make determinations now handled by the state. "Zoning Officers come and go with varying qualifications. I'm more comfortable with the state."

Everett Marshall said there was a process for looking at contours and making evaluations.

Barton urged the Commission to "stick with the existing system. The Zoning Administrator may give the wrong information."

Other comments included:

- Jeff Ferguson asking if the buffer setback would be visible on the map;
- Teddy Brace stating that there was no reason for the buffer;
- Dana Cummings noting that haying is exempt, and that he was against the buffer;
- Linda Fickbohm requesting that the Commission consider the minimum requirement, commenting that she didn't like pushing out the map and that it would mean that landowners would need to spend time and money as would the town;
- Heidi Weston objecting to the word Richmond appearing in a couple of places and declaring that the ordinance should "focus on our town and its needs;"
- Jim Fecteau saying that he hadn't known about the hearing except from Mark Cavic;
- Heidi Racht countering that it had appeared in The Times Ink, been sent out in two emails, was on the town's website and was posted;
- Teddy Brace observing "the majority is against it;"
- Lucinda Hill responding that public hearings take comments and these are taken into consideration.

Marshall explained the process, stating that the Planning Commission would close the hearing and take written comment and emails. There would be a redraft and another public hearing by the Planning Commission.

<b>Adjournment</b>	Everett Marshall moved to adjourn; seconded by Tom Bailey. The meeting adjourned at 9:34 pm.
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Date UNAPPROVED minutes submitted to HPC: October 26, 2009  
Date minutes APPROVED by the HPC: December 16, 2009  
Date Approved Minutes submitted to Town Clerk: December 21, 2009

RECEIVED [Signature]  
DATE December 21, 2009