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January 31, 2012

APPROVED

HUNTINGTON PLANNING COMMISSION

Minutes of January 9, 2012

PRESENT: Tom Bailey, Dana Cummings, Gordon Miller, Heather Pembrook, Ginger Lubkowitz, Everett Marshall, Julia Austin

ABSENT:

OTHERS PRESENT: Bill Hegman, Ralph Towers, Rachel Towers, Justin Willis (engineer), Brian Towers, Joe Spence, Beverly Spence, Eliot Lothrop, Rich Lachapelle, Lori Nyland, Pam Alexander, Beverly Little Thunder, Nancy Bretschneider, Bernie Young, Morris Knight,

MINUTES: Heidi Racht

Agenda:

- 7 pm Minutes of December 12, 2011
- Mail
- 7:20 pm Public Comment
- 7:30 pm Towers Final Subdivision Review
- 8 pm Presentation by Bill Hegman (Village Center designation)
- 8:15 pm Changes to Zoning and Subdivision Regs
- 9:30 pm Member Business
- 9:40 pm Adjourn

The meeting was called to order at 7:10 pm; chaired by Tom Bailey.

Minutes of December 12, 2011	Dana Cummings moved to approve the minutes of December 12, 2011; seconded by Ginger Lubkowitz. The minutes of December 12, 2011 were approved unanimously with changes. Tom Bailey abstained.
Mail	<ol style="list-style-type: none"> 1. Hazard Mitigation Grant Application from FEMA 2. Official notice of Richmond Proposed Zoning and Subdivision Regulations 3. Official notice of Richmond Town Re-Adoption 4. Notice of Hinesburg Energy Efficiency Interim Zoning 5. Reports of the Huntington Zoning Administrative Officer - December 2011 monthly report and Annual Report for 2011
Public Comment	The public present at the meeting did not wish to comment at this time.
Final Subdivision Review: Ralph and Rachel Towers Minor Subdivision, Mayo Road	The hearing continuation began at 7:25 pm, chaired by Tom Bailey. Project engineer Justin Willis spoke on behalf of Ralph and Rachel Towers to the Commission. [In the intervening time, members of the Commission had conducted a Site

Visit to the property. Present for the tour of the property on December 17 were Dana Cummings, Ginger Lubkowitz, Julia Austin and Gordon Miller.]

Willis testified that a wildlife biologist had visited the property. He presented a letter from Wildlife Biologist Erroll C. Briggs, dated December 31, 2011. In the letter, Briggs stated that in his "estimation, the houses can be located where shown on the November 2011 site plans without undue adverse impacts on the DWA or the deer that use it." He also wrote that the topography at the particular site serves as an additional buffer separating the development from overwintering deer.

Willis pointed out that "even Act 250 would have said this."

He then produced a map showing the edge of the DWA and the 300-foot buffer as it pertains to the Towers property, stating "The bottom line is that out of 21 acres, 1.6 acres are left once you subtract the wetland buffer, the 300-foot DWA buffer and the property line setbacks. If we weren't here subdividing, the owner could cut the trees. In most towns, deeryards and wetlands are left to the State. It shows up in the subdivision regs rather than the zoning regs and the town can add other restrictions during subdivision review."

He went on, "Richmond's proposed unified regulations... you can construct in the buffer."

Everett Marshall remarked that the deer wintering area setback was a "carryover of the previous zoning regs."

Willis said that this required "unusual approval" and then said, "We can fill up to 3000 square feet of the wetland without a permit. What is a better way to do this: work with the landowners or have them walk and do something else."

Heather Pembroke asked about the qualifications of the wildlife biologist.

Marshall responded, noting that Briggs's firm's other partner was Arthur Gilman, both very well respected.

Willis then handed out the revised subdivision plans, noting that corrections had been made to the plat, including research notes, pins to back corners, the Towers' mailing address, and the neighbor's name.

Tom Bailey explained the process for the Commission's decision.

Julia Austin moved to close evidence; seconded by Ginger Lubkowitz.

The Commission voted unanimously to close the public hearing for the

	<p>Towers Minor Subdivision Review.</p>
<p>Change of Agenda</p>	<p>Because the Towers hearing ended with 20 minutes left in the agenda, the Commission then moved on to regs housekeeping items, discussing 5.3.1 and 5.3.2 and then noting to make sure that the references below are corrected.</p> <p>Bailey brought up the buffer zone for deer wintering areas addressed in Section 5.22.14. He said that Aaron Worthley (Conservation Commission former chair) had told him that the changes to State mapping released last spring are based on aerial photos that show all coniferous trees. Worthley had spoken in favor of maintaining the buffer and that it was there for a good reason.</p> <p>For about 25 minutes, Gordon Miller then read from 89 pages of documents in support of removing the 300-foot deeryard buffer. He pointed out that the “deeryard” is a lot bigger in the village now.</p> <p>He went on, “If you are in a deer wintering area, you are in a nonconforming house.” Nothing can be done to it because the owner cannot make it more nonconforming.</p> <p>Miller read the language on variances (Zoning Regs Section 6.7), noting that all five facts need to be met and specified on the decision. He felt that these could not be met.</p> <p>Tom Bailey asked for the proposed language.</p> <p>Miller said, under Section 5.22.1.4 of the Zoning Regs:</p> <ol style="list-style-type: none"> 1. Remove D (300’ buffer deer winter area) 2. Changes to C <ol style="list-style-type: none"> I. change to 100’ II. change to 50’ III. leave at 0 feet
<p>Presentation by Bill Hegman (Village Center designation)</p>	<p>Having been engaged by the committee working on the planning grant, Bill Hegman presented maps he had developed for the town to develop a designated village center. He explained that the downtown designation already done by the State provided tax incentives for businesses.</p> <p>Vermont has more villages and there is now an opportunity for incentives for areas with a village center.</p> <p>The key benefits include: 10% tax credit (TC) for maintaining historic structures</p>

	<p>25% TC for façade improvements 50% TC for code improvements Priority designation for grants.</p> <p>Hegman reported that 80 Vermont towns have village centers.</p> <p>He said he had met with Leanne Tingay and had drafted two proposed village center designs with boundaries. The parameters of the designated area are that it is a traditional center of socio-economic activity, pedestrian-oriented, and commercial. This is not to be confused with a growth center, he explained.</p> <p>Hegman showed maps with village designation.</p> <p>Ginger Lubkowitz asked if the village center designation would be able to be changed. Hegman explained that the criteria included structures built before 1983.</p> <p>After discussion of the Lower Village plan, Dana Cummings asked if it could be extended down East Street to the bridge. Hegman replied, “They said no because the density changes.” “They,” he explained, are the members of the Board of Housing and Community Development.</p> <p>The Huntington Center designation follows the Main Road north to the Jubilee barn and south beyond the new Fire House.</p> <p>Hegman was asked to ask for a larger designation:</p> <ol style="list-style-type: none"> 1. Extend down East Street down to the bridge 2. Extend down Camels Hump Road through the Wiberg property 3. Extend down Main Road through 5024 (south of old fire house) <p>Hegman suggested that the Selectboard should designate a member who can be present at the State Board Hearing and approve a smaller designation, should the Board not agree with the Hegman’s request.</p> <p>Gordon Miller asked how long the process would take. Hegman replied that there would be maps, descriptions, photos and then a write-up – most was almost complete. After the delivery of the documents, it will take a couple of months. Hegman handed out the Waitsfield designation.</p> <p>Heather Pembroke asked if there was any advantage for single family residence owners. Hegman said it was a designation for commercial buildings, - there were no requirements, just incentives.</p> <p>Everett Marshall asked about buildings with Home Occupations. Hegman said he would check.</p>
Zoning and	At 8:45 pm, the Commission returned to the discussion of the Zoning Regs.

<p>Subdivision Housekeeping Revisions</p>	<p>Bailey asked if the Commission wanted to look at Gordon Miller's proposal.</p> <p>Heather Pembroke asked if the Commission wanted to take public comment.</p> <p>Comments were taken from the public present:</p> <p>Morris Knight, resident of Raven Ridge, said he supported Miller's proposal. The 300-foot buffer would "keep me from doing anything to my property which I don't believe in," he added.</p> <p>Nancy Bretschneider, Cummings Drive, said that she had subdivided 10 acres and had received Act 250 approval. This land [formerly well away from the DWA] now falls in the deer wintering area. She asked, "What happens when the lots are sold? It is a large hardship for me if I can't proceed with this. What should I be doing?"</p> <p>Joe Spence, Main Road Center, remarked, "There were three deeryards in town when I moved in [late 1960s]. Now they are anywhere there is a hemlock."</p> <p>Rich Lachapelle, Main Road Lower Village, said, "It seems a lot like land use regulation. There is a change of rules in the middle of the game and things are subject to the whim of a wetland biologist. People make plans. They plan to add onto a house. People make investments. People feel they don't know the rules. It's very subjective and they change over time."</p> <p>Arnold Blair, Hinesburg Hollow Road, agreed, "The deeryard envelopes an entire piece of property and you can't cut down a tree." (He was told there weren't any rules about tree cutting.) He went on, "I don't understand why we have all these laws. What are trying to do with these deer herds?"</p> <p>Bailey explained that the state issued the new deeryard map based on satellite imagery of conifers. The delineated boundary is determined by a wildlife biologist and confirmed that the cost is born by the landowner.</p> <p>Spence asked who drew up the paper. "I haven't heard about this from any other town. Why do we have to lead the way?"</p> <p>Marshall explained that Vermont Fish and Wildlife re-delineated existing deer wintering areas using aerial photos.</p> <p>Miller said, "So they didn't actually send someone to walk the areas."</p> <p>Marshall responded that most areas were visited over the years.</p>
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Ginger Lubkowitz said it wasn't clear "on the degree that noncompliance limits the property." There followed discussion on Sections 5.8.1 [Non-conforming uses or non-complying structures shall not be moved, enlarged, altered, extended, reconstructed, or restored (except as provided below).] through Section 5.8.3 and the impact on use of property. Someone asked, "Does adding a deck add to the degree of noncompliance?" The Commission was unclear as to whether the reg would limit this type of use in the deeryard.

As no one else from the public had anything to add, Bailey summarized that the issues articulated were breadth of deeryard that covers areas into the village; burden falls on the homeowner to prove otherwise.

Cummings said, "It's important for folks to know that this isn't something that just came up. We don't have a lot of knowledge of what the State is going to do. Our issue is to balance landowners rights and conserving wildlife habitat."

Bailey asked what the Commission wanted to do.

Pembrook asked for time to digest the new information that Miller had presented. She wanted to ask other towns about how they address this.

Arnold Blair asked if the town had voted on the Deer Wintering Area maps. It was explained that this was not a town map, but one done by the State.

The public left the room, except for Nancy Bretschneider, who continued to discuss her subdivision with individual members of the Commission.

The discussion then turned to Accessory Apartments.

Bailey said it is very likely that anyone who got a building permit for an accessory dwelling would have their entire property go under the jurisdiction of the Vermont Fire and Building Safety Code of 2006. "Assuming they exceeded the old regulation [Vermont statute of 30% of habitable floor area of single family dwelling], they would have to get a Public Building Permit."

The other option was to leave accessory apartments "at where they are now," so they would fall under the exception to the Public Building Code per State statute. This would require a worksheet that would be sent to the town.

After some discussion, Julia Austin proposed additional wording to the Zoning Regs Section 5.7.4:

"Applicants are advised that they made be required to obtain a Vermont Public Building Permit."

Marshall noted that this was a State permit and not a local permit.

	<p>Bailey asked to have any additional proposed changes to the zoning regs wording be emailed to other members of the Commission in advance of the meeting.</p>
<p>Member Business</p>	<ol style="list-style-type: none"> 1. Everett Marshall passed out a one-page summary of a US Forest Service/VNRC opportunity to work with other towns. This was part of the discussion in late November to which most of the HPC members had attended. 2. Tom Bailey mentioned the Town Fair on Tuesday, January 10, at the town library and the Form-Based Code presentation on Wednesday, January 11. 3. HPC Clerk Heidi Racht raised the issue of her hourly rate since she wanted to submit a bill. It is currently \$13.37 per hour. She was told to see how her hours to date for this fiscal year compare to the budget and then make a proposal at the next meeting. 4. Dana Cummings said that there was an “important issue” to discuss [what had happened earlier in the meeting regarding the DWA]. He said it was “counterproductive in how it was presented.” The Commission had not been prepared for a large group of people expecting to discuss a specific issue and, at the very least, it was a “common courtesy to have seating” for everyone. Julia Austin then said that the Commission had been “denied the opportunity to be prepared.” Gordon Miller responded, “This is an important issue.” Austin said, “We are all volunteers. There is a better way of presenting it to make the best use of everyone’s time.”

Adjournment: Dana Cummings moved to adjourn; seconded by Heather Pembroke. The Commission voted unanimously to adjourn at 9:45 pm.

UNAPPROVED MINUTES TO THE HPC: January 12, 2012

MINUTES APPROVED: January 23, 2012

APPROVED MINUTES TO THE TOWN CLERK: January 30, 2012