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APPROVED

**HUNTINGTON PLANNING COMMISSION
ZONING and SUBDIVISION REGULATIONS REVISIONS**

PUBLIC HEARING

March 22, 2012

Huntington Public Library

PRESENT: Dana Cummings, Ginger Lubkowitz, Everett Marshall, Julia Austin, Gordon Miller, Knox Cummin

ABSENT:

OTHERS PRESENT: Jim Christiansen, Morris Knight, Jeffrey Beaulieu, Lawrence Phillips, Tom Heilmann, Heidi Weston, Peter Williams, Megs Keir, Eliot Lorthrop, Duncan Keir, Roman Livak, Jean Sturm, Heather Pembroke, Doug Graver, Tom Sturm, Rachel Towers, Tom Bailey, Margaret Taft, Nancy Bretschneider, John Altermatt, Dori Barton, Ralph Towers and others

MINUTES: Heidi Racht

MODERATOR: Britt Cummings

Moderator Britt Cummings explained the process of the meeting. He placed a five-minute limit on an individual comment; also, the moderator would recognize each person who wished to speak before calling on a person a second time.

He explained that the Commission was there to take comments and not to engage in discussion.

Heidi Weston expressed concern that answers would not be given that night.

Dana Cummings gave an overview of the work that led to the hearing, stating that the Commission had begun work on the Regs over a year ago.

This prompted Roman Livak to comment on the fact that the Town Plan was to expire on June 18 and remark that the Commission was putting "the cart before the horse" by working on the Regs instead of the Town Plan.

In general, the zoning maps would be added and the front setback would be changed from 60' to 50' to make it the same in all zoning districts.

In answer to a question from Morris Knight about the purpose of the hearing, it was confirmed that the comments were to only be on the changes to the documents on not on the Regs in general.

[NOTE: Throughout the hearing, comments were made about the track changes that are heavily visible in sections that were simply moved from one section to another. Participants found the actual changes hard to find.]

Livak asked about the map, noting that there was no Flood Hazard Overlay.

Livak commented on the change to the front setback, objecting to the change. He said, "I kind of like the 60' for consistency." He noted that allowing development closer to the road, left "less leeway if the road

needs to change.” As a point of clarification, Everett Marshall noted that the 50’ was from the centerline of the road. Livak added that it is 25’ from the edge of the road instead of 35’ for a three-rod road.

This prompted John Altermatt to inquire if “a lot of houses were nonconforming.” Livak said he was “not suggesting either way,” just noting that there was “less leeway.” Altermatt asked if the Reg has “inconsistency.” Marshall responded that the document has “inconsistency in the same district” and the change corrects that.

Altermatt said that he thought it was “ok to have different setbacks in different districts. Livak said that “with a four-rod road, we might want to change the road, due to the proximity to the river.”

Heidi Weston added, “Consistency is not a good argument.” She then went on to say that in the village district, she preferred a 40’ setback. She questioned the arbitrary date of 1940 [2.6.3 Setbacks for Restoration of Older Structures] for the restoration of appurtenances like porches to be allowed by Conditional Use. Livak agreed, saying that it “should be before the institution of zoning.”

Weston then asked, “What conversation took place around the village.”

Duncan Keir said he supported tighter density in the villages, adding that he had “no problem” with differences in districts and that they should have different criteria. He went on, “the town, through the planning process, should be looking at sensitive areas and acquire property rights.”

Dori Barton brought up Form Based Code, stating, “The Planning Commission should look at Form Based Code before settling on a number [setback]. You might decide to table this and stick with what you have and then look at what makes sense.”

Ginger Lubkowitz then discussed the Town Plan and the process for updating it, including that the HPC planned to recommend adoption of the current plan with only a change of date on the cover to serve as an interim plan. This is similar to what Richmond and Bolton are currently doing. In answer to a question from Margaret Taft about the amount of time that the interim would be in effect, Lubkowitz replied it would be about a year. The Huntington Plan would be revised in 2012 and presented for approval in 2013.

Keir then asked, “Why aren’t we discussing this instead of the Zoning Regs?” To this, Livak added that the HPC had said there would be an annual review when the Regs were adopted.

Altermatt asked for an explanation of the roles of the Town Plan and Zoning Regs. Cummings responded that the Town Plan is broader and a visionary document, while the Reg is an enforcement document to actualize the Town Plan. The Regs implement the Plan.

Livak said, “The Town Plan is ready to expire and the Planning Commission’s effort has been put into Form Based Code instead of the Town Plan.”

Lubkowitz explained that, while a couple members of the Commission have worked on this, it is a separate committee and the work has been done with a Planning Grant. She briefly discussed the concept.

Weston then asked, "Who are making these decisions?" Lubkowitz explained that it was being worked on now. Gordon Miller added, "The product will come to the Planning Commission. It is an overlay district for the village." Marshall then said that if it doesn't fit in the Town Plan, it may need to be changed.

Megs Keir remarked that town plans are always in flux. "Tonight we are here to find out about these specific changes. This meeting is about these changes." She then advocated for more compaction in the village and said, "Consistency [throughout the town] shouldn't have any part in the setback."

Livak asked about **3.2 Accessory Dwelling** in the table and changes made to this section [**5.7 Accessory Apartments**]. Lubkowitz explained that the requirement for owner occupancy of either the main residence or the accessory had been removed. This prompted Altermatt to say, "Removing the owner and the requiring Conditional Use doesn't balance."

Livak said, "Under district standards, it is permitted." Miller explained the difference between accessory housing and accessory buildings like barns, sheds and garages.

5.3 Contractors Yards

Duncan Keir said he thought the formatting was confusing. Heather Pembroke, who drafted this section, responded by agreeing that it wasn't clear due to "cutting and pasting." She then explained that the changes to the section were made to the hours to make it "more consistent." Other changes include reducing noise, which is stricter than for homeowners, addressing the number of vehicles in the yard, and requiring compliance with the Performances Standards for other home occupation uses.

Margaret Taft then pointed out that she had taken the time to compare the current Reg with the proposed changes:

- Section 4 screening
- Section 5 number of vehicles
- Section 12 is new, addressed vehicle round trips.

Keir reiterated that it was difficult "when you don't know where they [the changes] are." Pembroke apologized, stating that she "had taken a shortcut with this section."

5.4 Signs

Dana Cummings referred to the tables on pages 47 and 38 to point out the revisions to this section. Ginger Lubkowitz said that the chart would help "clarify" the different types of sizes.

Margaret Taft asked, "What kind of sign would be a temporary sign that would need a permit?" She suggested moving the exempt signs to the beginning of the section, so people would not need to read through the entire section only to find out that they didn't need a permit.

Other questions included John Altermatt asking about the three-month limit for a temporary sign and Morris Knight asking if there were any restrictions on the brightness of internally-illuminated signs.

5.7 Accessory Apartments

It was explained that Section 117 of the State Statute allows an Accessory Dwelling up to 30% of principal dwelling; above 30%, it needs to be built to an entirely different standard.

Tom Bailey said, "Once the State has jurisdiction, it extends to the primary dwelling."

Heidi Racht said she "objected to the removal of the requirement of having the property owner on the property." She said that an owner-occupied rental unit is different than one that has an absentee owner. If the town wants rental properties, then that should be part of the Zoning Regs and not put in as Accessory Apartments. Several other people agreed.

Other points raised include that there is a tax penalty for non-residential property; rental units can also have an accessory unit; validating the initial process.

Dori Barton noted that Accessory Apartments were initially called "mother-in-law apartments" and in the last revision of the Zoning Regs, the Commission removed the requirement for a relative to occupy the Accessory Apartment.

Keir asked about septic permits for Accessory Apartments. Miller explained that the permit was required. He then said that the town needed to comply with the quota of 200 units in the Chittenden County Regional Plan. Bailey said the Regional Plan approaches how to plan for housing.

Everett Marshall explained that the issue of owner occupation came up later, after the Commission addressed the allowing smaller dwellings to have accessory dwellings.

Dori Barton said that the change that allows an Accessory Unit to be up to 1000' and also needs to be subordinate would probably see "a challenge of the 1000 feet" by someone who wished to build to the maximum size.

John Altermatt responded, "Clearly subordinate is subordinate." Megs Keir said that a 1000' house could have a 1000' Accessory Apartment.

Marshall said, "It may need to be spelled out." Duncan Keir said, "This is subjective on the part of the Zoning Administrator, which we want to avoid."

5.16 Performance Standards

In reference to a change in the first paragraph of the section that added water to the list of dangerous, injurious, noxious or objectionable standards, Roman Livak asked what happens if someone breaks a beaver dam. He was told that the Agency of Natural Resources would address this.

Regarding the regulating of vibration [Section 5.16.2], John Altermatt asked if it was measurable vibration. Livak said it should be “enforceable” and recommended a seismograph. Everett Marshall replied that the Commission could add “undue adverse” impacts in the Reg. Altermatt noted that the running of an air compressor would fall into this section.

5.22 Surface Waters and Critical Wildlife Habitat

Under 5.22.1 b, there was a bit of discussion of the various brooks and which ones should be included in the list. Margaret Taft said that the water bodies had to do with size and whether they were tributaries of the Huntington River.

Duncan Keir objected to the inclusion of Otter Brook, which is on his property. Megs Keir pointed out that there is a misdrawing on the map of Johns Brook, which flows north into Gillette Pond.

After some discussion, Heather Pembroke summarized that, if Otter Brook is kept, the map should show the correct name and location, and that Johns Brook is incorrect on the Zoning map.

Section 5.22.3 addressed the Deer Wintering Area and the changes made to the Zoning Regs that addressed the concerns expressed by property owners at various Planning Commission meetings for the past few months.

Dana Cummings explained the changes, to which Margaret Taft comments, “This [regulation] is not understandable. Your explanation was good and what is up there [on the screen] is, too.” As far as the change to the Reg, she said, “I like what you’ve done.”

John Altermatt, speaking as a member of the ZBA, said, “There was the issue that we couldn’t give a variance in the buffer or to include building in the buffer. Under the existing Reg, the ZBA wouldn’t provide a variance. The owner can still maintain the buffer.”

Roman Livak added, “The deeryard moves as the habitat changes.” Altermatt replied, “Some type of regulation is needed.”

In further discussion, concern was expressed that Huntington was the only town with a 300’ buffer [this was removed in the current draft] and that Act 250 reviews this. Everett Marshall pointed out that part of the rationale for limiting development in the DWH is that it provides an opportunity for protection of the habitat.

Morris Knight asked if the State Biologist could make a determination on the DWH maps. Noting that maps change, he said, “If we have a map we all agree on, then the property owner would not have to get a variance. He referred to the survey done by the HPC where a high percentage of the respondents said they valued wildlife. He again recommended having a biologist help with the determination.

Knight went on, “A lot of people in Huntington are in Current Use.” He said he was “afraid that it will end and people will be parceling off” their property.

Livak asked about silviculture. Clear-cutting and logging has a more deleterious effect than a single family residence. He referred to the 300' buffer (removed from Section 5.22.1) as "onerous." He added, "Deer move around. Then the forest changes."

Dori Barton responded to Livak comments, "Silviculture doesn't removed land from becoming a deer habitat again."

In response to Nancy Bretschneider's question about whether a grandfathered lot would be developable, Tom Bailey responded, "Yes, as part of an approved subdivision."

Duncan Keir asked what happened when someone purchases a property with the intent to develop it and then it is in the DWH. He opined, "The State's mapping exceeds the actual definition of what a winter deeryard is. I like being able to hire a biologist for hundreds of dollars to see if it is." He then went on to talk about what a DWH is and the type of vegetation that constitutes the areas where the deer reside in times of severe snow depth.

Jean Sturm said she was "grateful for the changes" made to the section. This was seconded by Eliot Lothrop who said that when he built his house on Cummings Drive, he "took great pains to do things properly." He added, "It's worth getting a biologist."

Knight again advocated for getting the State Biologist out here.

Heidi Weston asked if Zoning Administrator Ed Hanson was "capable of making a decision to remove the 300' buffer is the map says this is the area we need to protect" or does the State need to be involved with a determination of the deer habitat.

Altermatt objected to the need to get a biologist to make a determination, "The burden is unfortunate for the individual permittee. It's expensive."

Rachel Towers talked about the pressures on landowners and the fact that they have lots of deer on their property. With the buffer removed, "our situation would improve."

Megs Keir then spoke about the burden on the town to "save forest, ag land and protect the rivers. We can't save everything and keep our population." She counseled creating a balance, "what do we have the right to protect by regulation and goals to protect by other means. As a town, certain pieces of property have values, and we should buy the development rights." She went on, "At some point, there's something that's not fair there. We can't save every kind of land."

Roman Livak then questioned the goal stated in the Purpose in the Reg to preserve property values and said that this was counter to preserving property values if the property could not be developed. Duncan Keir added, that the lawyers and foresters would be making a lot of fees with the DWH.

Altermatt said that the State's "lackadaisical" mapping of the DWH "impacts a lot of people. This is volatile from year to year."

The hearing was recessed until Monday, March 26, at 7:30 p

Recess: The Commission voted to recess at 9:59 pm.

UNAPPROVED MINUTES TO THE HPC: April 7 , 2012

MINUTES APPROVED: April 9, 2012

APPROVED MINUTES TO THE TOWN CLERK: April 12, 2012