

Planning Commission Minutes
12/14/22

Members Present: Vance Bell, Chris Cummings, Bill Dunkel, John Finley, Tom Johnson, Kate Wright

The meeting began at 6:34PM via Zoom.

Vance moved to adopt the minutes from our 10/12/22 meeting; seconded by John; unanimously approved.

Bill noted that the DiStefanos have put their property on Wheeler Rd up for sale. We discussed whether or not the Planning Commission is obligated to inform the realtor of the conditions that the ZBA has imposed upon development of that site. Chris and John, both of whom are licensed realtors, stated that the property owner is legally obligated to disclose any limitations or conditions pertaining to the property that he/she wishes to sell. Chris will look into whether this information has been made known to the realtor the DeStefanos have employed. Given this, we concluded that there is no reason for the PC to contact either the realtor or the DiStefanos. A question was raised about whether the pending sale means that a stop work order is in effect. Bill said that he believes the DiStefanos still have the right to close in the foundation of their house, though they have not done so. He will ask Kord to check with Bob Fisher, town attorney, about this matter.

Bill updated everyone about the discussion at last week's Selectboard meeting regarding the abandoned house on Windham Hill Road, close to Abbott Road and the Jungermann's home. The house is falling down and is potentially a health and safety hazard. Keith and Kathy have offered to buy the property, but the owner may want to rebuild. The Selectboard plans to contact the owner and see what plans, if any, he has to rectify the situation. Bill noted that the house is very close to Turkey Mountain Brook and appears to be in a Regulated Flood Hazard Area. Apparently the house was built during the 1960s and therefore may predate zoning bylaws which regulate construction in Flood Hazard Areas. Bill noted that Sec. 707E of our Zoning Regulations contains regulations pertaining to Nonconforming Structures and Uses in Regulated Flood Hazard Areas. If the house in question is

a nonconforming structure, 707E2 apparently prevents it from being rebuilt in its present location. According to Sec. 707E3 it is considered to be an abandoned structure and can be removed by the town according to Sec. 707E5. If the house is not a nonconforming structure, any work done to rebuild or repair it presumably must conform to the very strict regulations contained in Sec. 708. Bill will bring this to the attention of the Selectboard and the town attorney.

Bill mentioned that at the last Selectboard meeting there was a discussion about whether the town should attempt to tax and regulate short term rental properties, out of concern about the lack of affordable housing in Windham and throughout Vermont. The state allows towns to regulate their own short term rentals. The Selectboard has not asked the PC to do anything regarding this issue. Bill introduced the topic because it likely will be on a future SB agenda and he wanted the PC to be aware of this. We had a brief exchange of preliminary thoughts about this issue.

Bill and Tom noted that the Dec. 14 issue of the *Chester Telegraph* contained an article about that town's decision to require owners of short term rental property to pay a fee and register with the town. John suggested that regulating short term rentals of second homes in Windham would most likely do nothing to provide inexpensive housing for low income families. Kate noted that it is not just low income families that are having difficulty finding affordable housing in our area. Chris said that houses are not being bought in Windham for the purpose of renting them to low income families. He feels there is a disconnect between the state's housing goals and its regulations. Bill mentioned at the SB meeting that the town will need legal advice if it decides to tackle this issue, which is complex and could have unintended consequences if not thought through clearly. Everyone agreed that it is necessary to be very clear about the purpose and intent of any such regulations that may be contemplated. The PC will take no further action unless instructed to do so by the Selectboard.

Bill noted that a recent encounter between a logger who was restricting traffic on West Windham Road and a member of the Selectboard has again raised the issue of how the town should publicize the recent changes in our Zoning Regulation about timber harvesting. Related to this, Chris asked how these regulations can be

enforced. Bill noted that the town has the authority via Vermont statute to enforce its zoning bylaws, and presumably could order a logger to stop operations if he has not posted bond, gotten an overweight permit and an access permit from the town road foreman. This, of course, depends upon someone investigating to see if landowners and/or loggers have actually complied with these conditions. Bill mentioned that he has raised the possibility of having the town constable enforce these rules. Tom thought this might be a good idea because the road foreman does not want to be a cop, and the constable seems to be willing to perform this role. Everyone seemed comfortable with having the constable involved.

Three ideas were offered about how to better publicize the new timber harvesting rules:

- 1) John suggested that we require loggers to post their access and overweight permits in a prominent, easily visible location at the work site.
- 2) Tom suggested including a notice to all landowners about the new logging regulations, and their responsibility for complying with them, when the Town Report is mailed to them prior to Town Meeting.
- 3) It also was suggested that every issue of the *Windham News & Notes* should contain a short summary of the new regulations.

Bill will convey the first two suggestions to the SB and will take responsibility for getting notices in future editions of the *News & Notes*.

Vance moved to adjourn; Tom seconded. The meeting was adjourned at approximately 7:40 PM.