Town of Shelburne, Vermont

PLANNING COMMISSION MEETING AGENDA
SHELBURNE TOWN OFFICES, 5420 MAIN STREET
WEDNESDAY, JULY 14, 2021
IN PERSON MEETING; ZOOM OPTION DETAILS BELOW

PLEASE NOTE CHANGE FROM REGULAR MEETING DAY

PLANNING COMMISSION MEETING WEDNESDAY JULY 14 7:00 P.M.

Join Zoom Meeting
https://us02web.zoom.us/j/82765512429?pwd=U0lNQ010UmdKSng4b2phQy9qTndFUT09

Meeting ID: 827 6551 2429
Passcode: d7Qu35

Dial by your location
+1 301 715 8592 US (Washington DC)
+1 312 626 6799 US (Chicago)
+1 929 205 6099 US (New York)
Meeting ID: 827 6551 2429
Passcode: 278970

1. Call to order/roll call	**7:00 P.M.**
2. Approve agenda	**7:00 P.M.**
3. Approve meeting minutes of June 9, 2021	**7:00 P.M.**
4. Disclosure related to potential conflicts of interest	**7:05 P.M.**
5. Public comments on matters not on the agenda	**7:10 P.M.**
6. Joint meeting with the DRB and other CBCs regarding regulatory reform And other questions, ideas, interests, and concerns	**7:15 P.M.**
7. Other business	**8:30 P.M.**
8. Adjourn	**8:30 P.M.**

TO: PLANNING COMMISSION, DRB, AND OTHER RELATED CBCS
For the July 14, 2021 joint meeting

As we all know, the Selectboard has made regulatory reform a high priority this year. After some initial questions and concerns about the whys and wherefores of that mission, and what it all really meant, we appear to have gained a reasonably shared understanding that "regulatory reform" is at the outset about simplifying and streamlining our complicated regulatory framework without harming or abandoning the values that Shelburne seeks to protect. That said, it will inevitably and necessarily also need to involve the methods chosen and standards imposed in content and substance, for our bylaws are by all accounts are duplicative, redundant, and overly complex.

That said, we agreed to start with procedural matters as simpler ways to begin the overall process, and to build forward momentum.

To date, gratefully, the PC has advanced several initiatives: simpler matters before HPDRC can now be approved administratively, rather than always requiring the additional complexity of DRB review. Certain additional types of structures, such as small garden sheds, are now exempt from permitting.

Currently being discussed and with conceptual agreement gained are additional opportunities for administrative review, including lot mergers and boundary line adjustments, which currently require DRB review, but for which there are virtually no applicable criteria, and for which would almost never be a reason for denial. Certain issues with fences might soon be simplified.

Another key issue, important to discuss tonight, is simplifying the DRB review process. As has been explained before, the current process of sketch/preliminary/final review requires three of everything: applications, fees, public notices, mailings, staff reports, hearings, and decisions. There is no external requirement for such a multi- step process; it's just how it's long been done.

The current proposal is to simplify that into a two-step process. Retain sketch plan review for its intended purpose – allow applicants to bring in concept plans before significant investment is made in architectural, engineering, and site design plans, and allow the Town to illuminate issues, concerns, ideas,

opportunities, or constraints at this early stage. If an applicant receives sufficient clarity that gives them confidence to move forward, then they can prepare a complete application to submit for review. There's no more distinction between preliminary and final; it's just a project application that can take as little or as much time as necessary to fulfill all regulatory obligations and allow for public participation. It takes nothing away from the substance of the review process, but it cuts out significant time and expense for all parties: applicants, landowners, DRB, staff, and other interested parties.

Along with this would be our own internal restructuring, such that we, who are best positioned to do these tasks, will now identify adjoining landowners who must be notified, and will facilitate communication with our own department heads. These department heads, along with other committees such as NRCC, would be notified earlier in the overall process, and would be required to comment earlier in the overall process, -- again, for mutual benefit of all parties.

The hope is that this approach will also help us to break down the silos that we have created over time, and encourage/require greater levels of communication and collaboration between us all so that we're all working together toward the best possible outcomes overall.

There are many other process issues that also blend into matters of substance – not least of which is current consideration of a "sidewalk fund" or similar construct. The purpose of this would be to create a process by which developers could contribute to a municipal reserve fund instead of being required to build sidewalks that may be in inappropriate or unhelpful locations. This need not be complicated nor burdensome; it's just a matter of creating guidelines to help determine when it makes sense to require a sidewalk to be built, and when it makes better sense to allow funds to be given to the Town to help build sidewalks in locations where connectivity can better be achieved in the short or long term.

How do we accomplish these types of goals? Primarily, it means shifting our mindset from one of fear of what "might happen" to an outcome-based approach of what we would like to happen. Then, make it easier, rather than harder, for applicants/landowners to do what we'd like, and create the path to our own success. I know it's a big paradigm shift for some, but absolutely essential.

Recent examples include:

> Accessory dwellings: we expanded the allowable size to accommodate a greater range of eligible persons and dwellings, without worrying as much about downside risks.
>
> The aforementioned opportunities already in effect or conceptually approved for administrative review, lessening the burden upon applicants, DRB, and staff.

Do we even know why we have created some of the rules we have? Just a few examples… which admittedly cross the line from process to substance, but for which I feel it's helpful to sow seeds for future consideration:

Multiple pages of rules governing signs within baseball fields and on dugouts. These rules should be abandoned entirely, or replaced by a simple sentence or two allowing non-illuminated sponsorship and informational signs placed upon the inside of ballfield fences, and upon dugouts as appropriate to serve intended informational purposes.

Until recently, I was told that a zoning change would be needed if the Town were to install its own additional permanent signs on certain Town properties. Thus, we have temporary, A-frame signs on our lawn for public information. Is this really the aesthetic standard we wish to set for our community?

We say we like (or demand) that rural subdivisions be handled as PUDs; yet by definition and design, PUDs are really intended for larger projects where greater flexibility in overall project design may be advantageous. PUDs were never really intended for very small projects, yet we now make everyone go through this more complex and costly process – which ironically, was proposed as a "compromise" so that one landowner could finally subdivide their land in ways they could not before. Better might be to allow subdivisions by right based on our lot size, access, etc standards, or allow via PUD process at a landowner's discretion.

Ironically, requiring everything to be a PUD fails to acknowledge the fundamental reality - effectively an admission that normal zoning fails to give us the results we seek, yet we then create a more complicated process to try to achieve what we claim we want upon the land. If we truly want and like that flexibility, then make it the norm, but also make it easier to achieve. And you know my thoughts on what I consider the "taking" of 60% of every rural landowner's property in exchange for the 'privilege' of subdividing land.

Even the recent fence issue is paradoxical. The current concept would allow a 799-foot long fence without a permit, but 800 feet or more requires a permit. What's the rationale for that? And with no applicable criteria other than length, we simply create more work and cost for everyone to get a permit when we'd have no reason to deny it in the first place.

There are instances where the lists of permitted and conditional uses within certain zoning districts (like the Mixed Use district on Shelburne Road) appear curious at best, and where some conditional uses that arguably have less potential impact than permitted uses must go through more extensive review.

Similarly, we have multiple definitions, purporting to create distinctions that may be without actual differences. Is there really a land use impact difference between a business office and a medical office, since we don't actually regulate the number of persons/patrons/visitors that may come and go in either? Other examples exist of similar complexities that may not need to exist.

Similarly, Shelburne Vineyard is allowed to have a wonderful array of outdoor music, food, and other events, all of which are wonderful for them and for community vitality, yet the businesses at Shelburne Green across the street have no such express allowances. Why would we not make the same provision on both sides of the same stretch of roadway in the same part of Town for the same reasons of community and economic vitality? And if we truly want businesses to succeed, why do we prevent them from being able to advertise their existence in useful and appropriate ways? Why can they sell cookies in packaging with their own logo, but not hats, T shirts, or mugs with their own logo?

Form based code is another 'bigger picture' concern. As noted by one interviewee in the economic development report, you can't create another 150-page zoning ordinance and claim you made the process easier.

If more density is a good idea, then we should just allow it. If the real issue is architectural and site design, then a far simpler design review process would have solved that without the incredible complexity that we built into our own system.

FBC in its pure form dictates building and site design, and is not concerned at all with the uses that go into these buildings. Even further, if one designs and builds to those prescriptive standards, then pure FBC requires only administrative review.

Shelburne's FBC turns that on its head: not only do we prescribe building and site design, but we then regulate what types of land uses may occupy those buildings; we further differentiate what types of buildings are permitted in each of our multiple FBC subdistricts; the types of land uses that may occupy each of those different building types in those multiple subzones; and then still require DRB review for certain elements of these projects. And for all of the time, resources, effort, and expense put into creating our FBC, I have heard little or no praise nor excitement over the first building project created under that approach. While I personally find it hubris to think that we can prescribe in advance every single aspect of building design, that's a different matter for another day.

All that said, which I understand may not be received well by all involved, I do feel that these concepts need to be expressed. To paraphrase the age-old statement, we can't keep doing the same thing over and over and expecting a different result.

In conclusion for the moment, you will also see me continue to oppose adding yet more regulations until we get our house in better order and better understand and simplify what we already have. In my opinion, the end goal should be clarity, simplicity, and predictability in our regulatory system. Once we achieve these, then we can consider whether yet further restrictive regulation is appropriate or warranted.