



Town of Shelburne, Vermont

PLANNING COMMISSION AGENDA

SHELBURNE TOWN OFFICES, 5420 SHELBURNE ROAD

THURSDAY, JANUARY 27, 2022

7:00 P.M.

IN PERSON/HYBRID MEETING; ZOOM OPTION DETAILS BELOW

**PLEASE NOTE: WE STRONGLY ENCOURAGE REMOTE PARTICIPATION
TO LIMIT PUBLIC GATHERINGS IN LIGHT OF "OMICRON"**

THANK YOU

Join PLANNING COMMISSION Zoom Meeting

<https://us02web.zoom.us/j/89258533965?pwd=RVFwZlIHaUJhS25TYmJCCGw5OThhUT09>

Meeting ID: 892 5853 3965

Passcode: 4JhifY

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Passcode: 975262

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|--|------------------|
| 1. Call to order/roll call | 7:00 P.M. |
| 2. Approve agenda | 7:00 P.M. |
| 3. Approve meeting minutes of January 13, 2022 | 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. Updates: Meeting Protocol, Zoning Amendment Status, Virtual Meetings
Follow-up last meeting, Planning Commission terms, Regulatory Reform Summit | 7:15 P.M. |
| 7. Interim zoning bylaw Discussion | 7:45 P.M. |
| 8. Other business | 8:30 P.M. |
| 9. Adjourn | 9:00 P.M. |

A VIDEO RECORDING OF THE MEETING IN ITS ENTIRETY IS AVAILABLE THROUGH VERMONTCAM.ORG. THE WRITTEN MINUTES ARE A SYNOPSIS OF DISCUSSION AT THE MEETING. MOTIONS ARE AS STATED BY THE MOTION MAKER. MINUTES SUBJECT TO CORRECTION BY THE SHELBURNE PLANNING COMMISSION. CHANGES, IF ANY, WILL BE RECORDED IN THE MINUTES OF THE NEXT MEETING OF THE COMMISSION.

**TOWN OF SHELBURNE
PLANNING COMMISSION
MINUTES OF MEETING
January 13, 2022**

***Hybrid meeting held in-person and via teleconference.**

MEMBERS PRESENT: Steve Kendall (Chair); Marla Keene, Neil Curtis, Jean Sirois, Stephen Selin. (Deb Estabrook and Jason Grignon were absent.)

STAFF PRESENT: Adele Gravitz, Planning Director.

OTHERS PRESENT: Members of the public participating in the meeting included Gail Albert, Don Rendall, Chris Bademy, Joyce George, Debbie Van Buren, Jim White, Media Factory.

AGENDA:

1. Call to Order
2. Approval of Agenda
3. Approval of Minutes (12/9/21)
4. Disclosures/Potential Conflicts of Interest
5. Open to the Public
6. Updates
7. Priorities for 2022
8. Other Business/Correspondence
9. Adjournment

1. CALL TO ORDER

Chair, Steve Kendall, Chair, called the hybrid meeting to order at 7 PM and did roll call.

2. APPROVAL OF AGENDA

MOTION by Stephen Selin, SECOND by Jean Sirois, to approve the agenda as presented. VOTING: unanimous (5-0); motion carried.

3. APPROVAL OF MINUTES

December 9, 2021

MOTION by Neil Curtis, SECOND by Marla Keene, to approve the minutes of 12/9/21 as presented. VOTING: unanimous (5-0); motion carried.

4. DISCLOSURES/POTENTIAL CONFLICTS OF INTEREST

None.

5. OPEN TO THE PUBLIC

Chris Bademy, Palmer Court, asked if the Planning Commission would be discussing form based code. Stephen Kendall said a discussion of form based code is not on this meeting agenda.

6. UPDATES

Internal Process Changes

Adele Gravitz reported internal process changes include reinstating meetings on applications with Public Works and having all committees/commissions see applications before the DRB hearing with a timely deadline for

response. It was suggested the warnings for the application hearings be published in the *Shelburne News*. There was concern expressed about having a plan to protect the environment in light of the message being sent out that Shelburne is open to growth and development.

Grant Applications

Steve Kendall reported Shelburne's application for a bylaw modernization grant was not approved. Staff will gather more information on who offered the grant and the reasons for the denial.

Selectboard 1/25/22 Hearing on Zoning Amendments

The Planning Commission is hopeful the Selectboard will approve the bundle of zoning amendments that were submitted.

7. PRIORITIES FOR 2022

Following discussion, a list of items were identified as priorities to work on in 2022 including:

- Make permanent the temporary COVID bylaw changes relating to outdoor dining that will expire in June 2022.
- Weave bylaw changes with projects in town and the town plan goals and vision (staff is doing the analysis presently).
- Review the regulations and identify where to simplify/streamline.
- Review form based code and development impact on residential neighborhoods (staff to invite experts in the field to discuss zoning issues with the Planning Commission).
- Address the four items submitted by Shelburne Natural Resources Committee for consideration by the Planning Commission (the item of involving the committee early in the application review process is already enacted).
- Look at the regulations to determine what needs to be done to avoid fragmentation of the Rural District.

8. OTHER BUSINESS/CORRESPONDENCE

Next Meeting

January 27, 2022 is the next Planning Commission meeting.

9. ADJOURNMENT

MOTION by Stephen Selin, SECOND by Jean Sirois, to adjourn the meeting. VOTING: unanimous (5-0); motion carried.

The meeting was adjourned at 8:27 PM.

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MEMO

TO: SHELBURNE PLANNING COMMISSION
Adele Gravitz, Planning Director
Ken Belliveau, Interim DRB Coordinator

RE: COVID-RELATED INTERIM ZONING BYLAW

FROM: LEE KROHN, AICP, TOWN MANAGER

DATE: JANUARY 20, 2021

As we all know, when COVID first came to light, grave concerns arose about how businesses would survive as various mandates, closures, and other restrictions came into existence. As a Town response, we quickly adopted an interim zoning bylaw allowing greater flexibility for outdoor business activities than otherwise permissible. As the first year of COVID flowed into a second year, we readopted that interim bylaw for a second year.

This bylaw is reaching its legal end of life, and will expire on June 30, 2022. As there is no clear or unique statutory path to adopting an interim bylaw permanently, it must go through the 'normal' process starting with the Planning Commission and working its way back to the Selectboard. We had discussed this recently with the PC, which supported permanent adoption but likely in modified form. I believe that the Selectboard will also be very supportive of this, and I am bringing that question to them at their January 25th meeting to gauge that support to learn whether both PC and SB are on the same page.

Presuming mutual interest, and given the array of process and timing required for hearings, notices, and discussion, this will need to be fast-tracked if we wish to get something in place before the interim bylaw expires. To help that process along, please find attached the interim bylaw as it presently exists, and a separate set of notes or first working draft of this bylaw in modified form, reflecting suggestions made by several of us in those recent conversations and other questions.

I hope you find this information helpful; always glad to talk further.

Interim Bylaw Amendments
Town of Shelburne
Adopted by the Selectboard on June 30, 2020
Readopted/extended by the Selectboard on May 25, 2021

INTERIM BYLAW AMENDMENTS

A. Enactment and Authority

The Town of Shelburne has adopted these Interim Bylaws in accordance with and as authorized by the Vermont Municipal and Regional Planning and Development Act, 24 V.S.A. Chapter 117, §4415, Interim Bylaws.

1. Purpose

The purpose of these Interim Bylaws is to protect the general public health and welfare and provide for orderly physical and economic growth of the Town of Shelburne during the current period of the COVID-19 pandemic. These bylaws are intended to facilitate businesses to promote their services and products, and to support social distancing during the period of time covered by these bylaws.

2. Applicability

These Interim Bylaws shall apply to all restaurants, retail and service establishments and all other businesses that depend on walk-in customers throughout the Town of Shelburne.

3. Specific Provisions

- A. Restaurants currently approved for outdoor seating may increase the amount of outdoor seating and expand the area devoted to seating beyond the area previously approved on their property or another commercial property, including mixed use properties, without needing a permit; in order to support social distancing during the current period of the COVID-19 crisis. In addition, restaurants currently not permitted for outdoor seating, may provide it to their customers on their property or on another commercial or mixed use property with permission of the owner, without a permit during the effective period of these Interim Bylaws. Restaurants may also make use of food trucks to provide walk-up service on their property.

Outdoor seating is exempt from the setback requirements of the underlying zoning districts and may use the public sidewalks, but shall not interfere with pedestrian travel by maintaining a 5-foot wide continuous pathway; and shall not reduce the number of on-site parking spaces by more than 50%. At no time shall outdoor seating or food trucks interfere with pedestrian or emergency access.

- B. Outdoor Displays of Merchandise: Any business holding a valid permit to operate a retail store or restaurant may erect a display of goods offered for sale, or a display which is designed to promote the sale of goods, including produce, products, goods, equipment, prepared food or commodities, outside a building without meeting the area restrictions provided in the Shelburne Zoning Regulations. Outdoor displays of merchandise shall not interfere with pedestrian travel by maintaining a 5-foot wide continuous pathway and shall not reduce the number of on-site parking spaces by more than 50%. At no time shall outdoor displays interfere with emergency access.
- C. Temporary signs: Any business holding a valid permit to operate in Shelburne may put up temporary signs on their property for the duration of this interim bylaw with the purpose of promoting the business. This is in addition to any existing, permitted signs. No more than one sign per business up to 32 s.f. in area and 8' in height. Additional signs not to exceed 12 s.f. Temporary signs must not interfere with public access or safety and at no time shall interfere with emergency access.

- D. Outdoor Provision of Services: Any service establishment may provide their service outdoors on their property in order to support social distancing. Outdoor provision of services shall be permitted to use the public sidewalks but shall not interfere with pedestrian travel by maintaining a 5-foot wide continuous pathway and shall adhere to the setback requirements of the underlying zoning district; and shall not reduce the number of on-site parking spaces by more than 50%. At no time shall the provision of services interfere with emergency access.
- E. Temporary Tents for Outdoor Seating, Displays of Merchandise or Provision of Services: Temporary tents may be erected without needing a permit provided they comply with the following provisions:
 - a) Any tent erected shall not interfere with pedestrian or emergency access and shall not reduce the number of on-site parking spaces by more than 50%.
- F. In no case shall any combination of these provisions interfere with emergency services or reduce the number of parking spaces currently in existence by more than 50%.
- G. Any entity conducting business outdoors under this interim bylaw shall ensure that it has adequate and appropriate insurance coverage pertaining to this outdoor business activity.
- H. All other provisions of the Shelburne Zoning Regulations shall remain in effect during the period of these Interim Bylaws.

4. Effective Period

These Interim Bylaws shall remain in place from the date of adoption by the Selectboard and as permitted by Executive Order of the Governor of the State of Vermont until June 30, ~~2021~~ **2022**.

5. Enforcement

Enforcement of these Interim Bylaws shall be as provided for in 24 V.S.A. Chapter 117, §4451, and the Shelburne Zoning Regulations.

Possible permanent version of the interim bylaw allowing outdoor business activities
Early first draft, January 20, 2022

1. Purpose

The purpose of this bylaw is to protect the general public health and welfare, enhance community vitality, and provide for orderly physical and economic growth of the Town of Shelburne, by allowing commercial establishments to conduct business outdoors, and in more flexible manner.

2. Applicability

This bylaw applies to all restaurants, retail, and service establishments and all other businesses that depend on walk-in customers throughout the Town of Shelburne. NOTE: Do we need the “walk in customers” provision, or should this just apply generally?

3. Specific Provisions

Restaurants may create areas for outdoor, seasonal dining in front, side, or rear yard areas that do not conflict with adjoining land uses, public sidewalks, or other required parking spaces or traveled ways. Reasonable provision shall be made for separation between dining areas and areas reserved for motor vehicle travel. Dining areas shall not interfere with pedestrian travel or emergency vehicle access. No additional parking shall be required for outdoor seating beyond what is or has been required for regular, year-round indoor dining. Fees must be paid for water and sewer allocations for any additional outdoor seats, but pro-rated at 50% of the normal rates since these outdoor seats are only usable for roughly half of the year.

Minimum setback from property lines?

Suggest administrative permits be required, with simple, limited guidelines.

Outdoor Displays of Merchandise: Do we want to continue allowing this? Very few actually did this; not sure how practical it is for most retailers. Uniquely, Aubuchon does this all the time here and at all of their stores, whether actually permitted or by “creep”.

Regarding temporary signs: I suggest we re-examine existing provisions for temporary signs generally, to create a single set of appropriate guidelines/provisions/restrictions. Most sign ordinances (likely including ours) do not comply with the Reed decision of the U.S. Supreme Court, requiring that all temporary signs be regulated in identical manner, and not distinguish between owner/use/content/allowable timeframes for display. Whether we can or should do this now, or at another time, is up to you. For now, for purposes of this ‘outdoor business’ bylaw, I do not recommend maintaining special provision for temporary signs that’s different than our general provisions.

Outdoor Provision of Services: Similarly, do we want to continue allowing this? Not sure if anyone actually tried this. Some likely transitioned to Zoom; others requiring more hands-on approaches likely modified their spacing and safety practices.

If this and/or outdoor retail are thought helpful, I’m not opposed myself; and perhaps just allowing for it sends a positive, helpful message, even if used very little.

Temporary Tents for Outdoor Seating, Displays of Merchandise or Provision of Services: Temporary tents may be erected on site, as long as it does not interfere with required parking or pedestrian or emergency access. NOTE: This is a simplified version of this existing provision, if we wish to keep it.

All other provisions of the Shelburne Zoning Regulations shall remain in effect during the period of these Interim Bylaws.

Enforcement

Enforcement of these Interim Bylaws shall be as provided for in 24 V.S.A. Chapter 117, §4451, and the Shelburne Zoning Regulations.