



Town of Shelburne, Vermont

PLANNING COMMISSION AGENDA

Thursday, June 08, 2023

7:00 P.M.

Meeting will be hybrid: in person and via zoom

Join Zoom Meeting

<https://us02web.zoom.us/j/83789934283?pwd=SjJTUIVjVEVjMGVXMmtGSkVQMjdFZz09>

Meeting ID: 837 8993 4283

Passcode: BqcyW0

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|---|-----------|
| 1. Call to order/roll call | 7:00 P.M. |
| 2. Approve agenda | 7:05 P.M. |
| 3. Approve meeting minutes of May 18, 2023 | 7:10 P.M. |
| 4. Disclosure related to potential conflicts of interest | 7:11 P.M. |
| 5. Public comments on matters not on the agenda | 7:12 P.M. |
| 6. Discussion of consultant's report on the review of the bylaw cont. | 7:15 P.M. |
| 7. Other Business | 8:15 P.M. |
| 8. Adjourn | 8:30 P.M. |

Next Meeting: July 13 (Farmer's Market tabling on July 15)

TOWN OF SHELBURNE

**TOWN OF SHELBURNE
PLANNING COMMISSION
MINUTES OF MEETING
May 18, 2023**

***Hybrid meeting.**

MEMBERS PRESENT: Steve Kendall (Chair); Stephen Selin, Tom Karlhuber, Shawn Sweeney, Jeff Hodgson, Marla Keene. (Jean Sirois was absent.)

STAFF PRESENT: Aaron DeNamur, Planning Coordinator.

OTHERS PRESENT: Rowland Davis, Don Rendall, Dorothea Penar, Jim White, Persis Worrall, Fritz Horton, Rosemary Sadler, Donna Millay, Brandy Saxton, Rod Francis, Media Factory.

AGENDA:

1. Call to Order
2. Approval of Agenda
3. Approval of Minutes (4/12/23)
4. Disclosures/Potential Conflicts of Interest
5. Open to the Public
6. Discussion: Consultant Report on Bylaw Review
7. Update from Planning Coordinator
8. Other Business
9. Adjournment

1. CALL TO ORDER

Chair, Steve Kendall, called the meeting to order at 7 PM.

2. APPROVAL OF AGENDA

MOTION by Stephen Selin, **SECOND** by Shawn Sweeney, to approve the agenda.

VOTING: unanimous (6-0); motion carried.

3. APPROVAL OF MINUTES

April 12, 2023

MOTION by Stephen Selin, **SECOND** by Tom Karlhuber, to approve the minutes of 4/12/23 as presented. **VOTING: 5 ayes, one abstention (Marla Keene); motion carried.**

4. DISCLOSURES/POTENTIAL CONFLICTS OF INTEREST

None.

5. OPEN TO THE PUBLIC

Positive comment was made on working with Brandy Saxon.

Following a question on the opportunity for public input on the bylaw revision work by the consultants, Brandy Saxon explained the three phases of outreach: first, informing the public as to what is taking place, second, getting community feedback, and third, getting

feedback on the work that has been drafted. There will also be Planning Commission meetings where feedback/input will be welcomed.

6. DISCUSSION: Consultant Report on Bylaw Review

The consultants from PlaceSense, Brandy Saxon and Rod Francis, gave a progress report on the review of the town's bylaws, reported the website has been created, the email list has been started, and informal meetings scheduled beginning with the farmers market. The consultants noted the town plan was read against the regulations, the Homes Act, and the grant funding Shelburne received for the bylaw update. Key findings from the review included:

- The base density must be increased throughout the sewer service area (allow up to five dwellings/acre).
- Duplexes and multi-family housing must be allowed in more areas of town.
- Compact, walkable, connected development should be fostered in the growth areas (avoid “lollipops” and allow passage through open space between developments).
- Use of a complex approval process and excessive use of PUDs indicates problems in the bylaws (use Better Places Guide).
- The town has achieved its resource protection goals in the town plan, but needs to plan and regulate for the future.
- The regulations on stormwater management need to be updated (use GSI and LID techniques).
- In the form based code, duplicate modules should be eliminated and what the town wants to retain should be identified then integrated into the base zoning.
- Forward looking standards should be applied to site plan and subdivision components relative to vehicle use, multimodal transportation, allowing for expansion in housing choice, and minimizing impacts of future development.
- The town plan has many policy recommendations reflecting community expectations, but the scope exceeds municipal authority and capacity.

There was discussion/comment on the following:

- State requirements for wastewater and stormwater – The consultants noted the town can define where new sewer connections can be. That is a tool the town has. The Homes Act allows for increased density if sewer service is available, but a drastic increase in housing in Shelburne is not anticipated as a result of this. Cost to build/convert housing is a factor.
- Impact of subdividing a lot and creating a new lot without frontage, creating investment properties by allowing single family homes to convert to two unit rentals, short term rentals (Airbnb), duplexes, ADUs, all of which may not address the housing issue – The Planning Commission agreed further discussion is needed.
- The state altering the stormwater regulations if more lot coverage is being allowed with the new legislation – The consultants said it is unlikely the state will alter the regulations; it will be up to towns to manage their stormwater.

- Examples would be helpful when the consultants identify a problem, such as a purpose statement that can be improved.
- With regard to town staffing and resources, the town should not do less out of fear of not being able to achieve – Aaron DeNamur said staff has the capacity to achieve a lot if the bylaw is streamlined and simplified. Brandy Saxon added there are techniques and approaches available, such as third party review and streamlining the regulations, which help.
- Recommendations from the consultants getting the town closer to creating middle housing - Brandy Saxon pointed out zoning is not the only gate. There are other serious challenges so it is important the regulations are not creating a barrier and are doing all that can be done to get the desired outcome. The zoning document will guide how the community wants to move in a 20 year timeframe. Rod Francis added the regulations codify key quality of life amenity concerns along with responsiveness to environmental concerns such as stormwater and reducing dependence on single occupancy vehicle movements.

PUBLIC COMMENT

Rowland Davis urged keeping protection of natural resources strong in the new regulations. Rod Francis explained looking forward the town should think of resource protection from the standpoint of how the community will experience climate change including arrival of invasive species, and that should be in the foreground of what drives the resource protection effort.

Jim White stressed the importance of using the regulation revision to do what can be done to protect natural resources.

Dorothea Penar noted historic homes in the village should be protected from being torn down and replaced with higher density housing. Also, frontage requirements should be changed to allow houses to be built in a lot behind the historic homes, and an incentive could be given to preserve the historic homes. Runoff into the lake with greater housing density must be addressed as well.

Persis Worrall asked if the regulations are in compliance with the town plan on natural resources issues, and if the new housing bill conflicts with other legislation such as Act 171. Brandy Saxon said the town plan calls for expansion of resources protection and this needs to be upfront in the regulatory process.

Don Rendall suggested language/definition of open space and open space conservation land be clarified, distinguish between land with built characteristics on it and natural resources. The consultants agreed further refinement of terms is needed.

7. UPDATE FROM PLANNING COORDINATOR

- Planning commissioners are invited to join Aaron DeNamur at the table at the farmers market to discuss the zoning revisions.

- Planning staff will present the parade ground project to the Selectboard at the next Selectboard meeting.
- Forward any questions/comments for the consultants to Aaron DeNamur.

8. OTHER BUSINESS

Meeting Schedule

Next Planning Commission meeting is June 8, 2023

9. ADJOURNMENT

MOTION by Jeff Hodgson, SECOND by Tom Karlhuber, to adjourn the meeting.

VOTING: unanimous (6-0); motion carried.

The meeting was adjourned at 9:09 PM.

RScty: MERiordan

Hi Aaron,

I agree it was a great meeting last night.

A few of my thoughts to share going forward:

- As far as what kind of town we'd like to live in, I'd like to see the Bylaws somehow allow some more public development of waterfront in the Town.

We have untapped waterfront resources, not just the Town Beach, but the Laplatte River crossings and adjacencies on Falls Road, Shelburne Road, Bay Road, and behind the Shelburne Supermarket plaza;

Lake Champlain adjacencies on Harbor Road, Bay Road, and the neighborhoods north of Bay Road off of Shelburne Road;

the Bay Road boat launch;

around Shelburne Pond;

and why can't we have a waterfront restaurant at the Shelburne Shipyard or public swimming along that stretch of Harbor Road near the Shipyard (with parking)?

Rod used the analogy of "Goat Path" access to many of our conserved areas, and most of these waterfront areas have that same lack of access and lack of recreational and commercial development.

They are not considered anything close to highlights of our Town yet I imagine other towns would kill for them.

As was also noted last night, much of the Town's waterfront is not public, so maybe we can take better advantage of those pieces that are public already.

- I applaud the goal of streamlining the review process, yet with the increase in density we're talking about I feel that there is certain scrutiny that needs to be augmented.

I would like to see Design Review of all new and renovated construction, not just the historical structures. Done the right way, and with the right intent, I think this can help get a town we want to live in yet still not impede development.

I don't think the Bylaws alone can get us to buildings that are well designed, as we've seen with the somewhat architecturally dismal results from trying to expect Form Based Code to automatically do that with its very complicated set of rules.

There have to be "subjective" people involved still, and despite griping about it, honestly I do believe we all want the help that that Committee gives in tweaking projects to a better result.

- A stronger landscape requirement. Again, with the added density we're talking about I believe that landscaping can help relieve the consequences of more buildings that may not be so well architecturally designed.

I think we have a requirement for some types of projects or subdivisions, but let's look into that.

- As for Energy Efficiency, it is not very clear to me whether the Bylaws require that all completed residential projects require contractors to complete an RBES (Residential Building Energy Standards) form **and** file it with the Town in order to get a Certificate of Occupancy.

Filling out the form is required by the State, yet there is no mechanism to make sure anyone does it unless Towns require it for the C of O, and many do, like Charlotte.

The Town is not obligated to inspect or verify that the info is accurate, just to collect it with the application for C of O, so no additional burden on the staff.

Maybe it already is a requirement for a C of O, but it doesn't seem clear in the Bylaws so maybe it's not thought of until after the fact when it's too late to do any good.

Making it more clear would at least make people think about energy efficiency at the outset of a project.

Thanks.

Stephen

Hi Aaron,

Very late to the game here, my apologies. Here are some of my broader thoughts from the regulatory audit & presentation on 5/18. They're pretty scattershot. Note I haven't focused on things where I agree with the suggestion!

- I would like to push back on the suggestion to scrub our regulations of references to families and instead refer to "dwelling units." While I agree that using "family" has some potential issues, it is important for everyone to remember our regulations are affecting people, humans, not "units." May I suggest using the term "homes" instead of "units"?
- We should continually ask ourselves how likely something is to happen before we spend a lot of time regulating it. For example, there is a statement there is little large developable open space left in Shelburne in the audit, followed by a lot of discussion about how large lot development should be regulated. In this instance, I think there is actually quite a bit of large lot developable space remaining and so regulation makes sense, but if we are questioning whether something is likely to happen, how can we provide the DRB some discretion rather than playing the "what if" game in our regulation?
- I'd like to consider whether our regulations should new principal structures to face on a street or community open space. This wouldn't apply to SFHs on existing lots (by statute). What exceptions would we want to allow? Is this something that is already being done naturally (see above statement re: whether we need to regulate things)?
- Where possible, can we reference state statute "as amended" (for instance regarding appeal process or allowance of emergency shelters) rather than specifically regurgitating it? Adding it to our zoning rules introduces opportunity for error and legal challenge.
- I disagree with the reliance on things outside of zoning (like sewer capacity) to limit growth. Our municipal services should respond to the regulations, not act in their stead.
- Specific comments
 - Building frontage: what good is it, beyond a practical minimum to allow access (where buildings are not served by a rear alley) and a reasonable width structure?
 - Rural district: existing dimensional standards allow new principal structures "as would be allowed on their own lot." I think this is excellent language to preserve the character of the district. If separate detached principal structures were allowed on a single lot as Place Sense suggests, does that undermine the "ruralness"?
 - Village residential: front setbacks are huge. How many properties are currently nonconforming (few, some, many, most?) and would it be out of character to reduce it?
 - Village center: I'm interested in the suggestion to eliminate density cap and rely on other dimensional standards. Can Place Sense provide an example of where this change has been incorporated into the regulations and then built (ideally with google street view)?

- affordable housing density bonus: I am reluctant to incentivize housing development that is more than 50% affordable, but a 1:1 density bonus (above the base density) may be the right incentive. What does the housing committee recommend?
 - there is a note that statutes define "affordable" to include households earning up to 120% AMI. For bonus units, is it appropriate to allow 120% AMI? That doesn't seem affordable. Steve? Should we limit to 80% AMI for bonuses?
- ADUs & residential care homes: these uses (along with a few others) are protected by statute. Can we consolidate the regulations governing them instead of having them repeated slightly differently in every district?
 - similarly, our rules for admin review of subdivision should match state's recent changes
- Neighborhood Overlay: this a very small overlay on Shelburne Point. Does it really need to be an overlay, or are the standards effectively the same as one of the other districts that we could just have a "pocket" of on the point? it appears to affect <30 lots.
- traffic generation (1900.2): I disagree with the suggestion to eliminate the evaluation of traffic generation as part of site plan review, though the DRB's discretion as to what level of analysis is required should be broad depending on some defined factors such as impacts to adjoining intersections. I prefer it as written, and even suggest a lower threshold for detailed analysis, like 50 trips.

MEMO

To: Shelburne Planning Commission

From: PlaceSense

Date: 5 June 2023

Re: Preparation for June 8 Meeting

At the conclusion of our last meeting, we asked Planning Commissioners to look through the recommendations in the regulatory audit, identifying those items you were particularly interested in pursuing and flagging those that you had questions or concerns about. The agenda for this Thursday's meeting is to continue the discussion and move towards prioritizing the recommendations to guide development of revised regulations.

To further focus our agenda for Thursday, we think it would be helpful for Planning Commissioners to be prepared to discuss two topics in greater detail:

The Shelburne Road FBC Overlay. The process for developing the code began around 2010. The regulations have been in place since 2016. What elements of the code are working and remain effective? What elements are problematic? Only a few applications have been reviewed and approved under the code. Of the projects proposed to-date, which aspects met community expectations and which did not?

Resource Protection. The Shelburne Town Plan has a strong emphasis on resource protection. There are recommendations to add regulatory protections for resources including archaeological resources, scenic resources, agricultural resources in addition to strengthening existing regulatory protections for resources including surface waters and historic resources. The Shelburne Natural Resources and Conservation Commission is currently finishing up work on a project to map and prioritize forest blocks. What are your priorities (could be resource types or particular locations in town)? Are resources adequately documented to facilitate regulatory review of potential impacts? How does the existing amount and location of 'protected' land (not available for future development) influence the need and priorities for regulatory approaches?

Stephen sent us some initial thoughts and questions since the last meeting. He raised an interesting point about Shelburne's waterfront resources and the limited amount of public access to the water and lakeshore amenities like a waterfront restaurant, for example. He suggested broader use of design review given the 'somewhat architecturally dismal' results from the FBC so far. He also recommended a greater emphasis on landscaping – a comment we are very much in agreement with. He also asked about the filing of RBES certificates (certifying compliance with state energy code). Shelburne does issue Certificates of Occupancy currently and in accordance with statute an RBES certificate must be filed with the town before the CO is granted. There is no inspection, however. The process is not well explained in the current regulations as the language likely pre-dates the state making this a requirement.