

**Royalton Planning Commission
Minutes
Monday, April 28, 2008**

Members Attending:

Barcelow, Brandau, Goldstein, Judge, Levasseur, Ranney, Turner

The meeting was called to order at 6: 35 PM

Clavelle Driveway Application #08-01:

Turner motioned to recommend to the Selectboard that they accept the driveway application of Sandy Clavelle as submitted including the recommendations of Road Foreman Roger McCrillis. Goldstein seconded. Yes - Brandau, Goldstein, Judge, Ranney, Turner; No – Barcelow The motion carried

Motion to the Selectboard:

Judge motioned that our Chairperson write to the Selectboard reminding them that driveways are not to be installed until the applicant has gone through the entire approval process which culminates with the approval of the Selectboard. Barcelow seconded the motion. Yes - Barcelow, Brandau, Goldstein, Judge, Ranney; No – Turner The motion carried.

Kenny Driveway Application #08-02:

Brandau motioned to recommend to the Selectboard that they accept the driveway application of James Kenny as submitted including the recommendations of Road Foreman Roger McCrillis. The vote passed unanimously.

Adjourned:

The meeting adjourned at 6:55 PM

Respectfully Submitted,
Jerry Barcelow, RPC Clerk

**Royalton Planning Commission
Minutes
Monday, April 14, 2008**

Royalton Planning Commission (RPC) Members Attending:

Barcelow, Beguin, Brandau, Goldstein, Judge, Levasseur, Ranney, Turner

Guests Attending:
Royalton Selectboard (RS) Members: Peggy Ainsworth, Ernie Amsden, John Dumville, Peg Trombley

Two Rivers-Ottawaquechee Regional Commission (TRORC): Peter Gregory, Sally Hull, Rita Seto

Other Guests: Frank Berk, Nathan Cleveland (RS Administrative Assistant), Randy Leavitt (Reporter, the Herald of Randolph), Melissa Mooza (RPC Note Taker), and Tim Murphy. Meeting came to order at 7:01.1. March 31, 2008 Minutes:

Levasseur asked that the March 31, 2008, minutes be changed to exclude Barcelow's name from the list of members attending. She also noted that it was she who made the motion to adjourn. Brandau moved to accept the March 31, 2008, minutes as corrected. Judge seconded. All in favor of accepting the March 31, 2008, minutes, with Ranney and Beguin abstaining.

2. Town Selectboard:

a) Times & Seasons Supreme Court Decision

Brandau briefed the Selectboard on the RPC's March 24, 2008, meeting with Attorney Geoffrey Hand, during which Hand discussed the status of the Times & Seasons case. Brandau explained the Court's holding, which is detailed in the RPC meeting minutes from March 24. He also noted that Lefgren has filed a motion to reconsider. Brandau added that Hand said that he would represent the Commission pro bono if Lefgren's motion is granted.

Ainsworth expressed her concerns about the town's continued financial involvement in the case now that the Criterion 10 (conformance with town plan) issue is off the table. Brandau and Turner queried

what the town and state will do if Lefgren uses the structure in a way that is not clearly allowable. Ranney expressed his belief that, with respect to the case, the ball is now “out of the RPC’s court” and it is time for the Selectboard to “make some noise.”

b) RPC Appointments

Trombley announced that Barcelow, Leighton, and Ranney will all be up for reappointment in 2008, with their current terms ending in July. Ranney stated that he does not wish to be reappointed. RPC members shared with the Selectboard their ideas concerning RPC staffing. Barcelow suggested switching from 4 to 3 year terms. Levasseur confirmed that the length of term may be determined by the town legislative body. Levasseur also expressed disfavor for previous suggestions by the Selectboard that the RPC be composed of fewer members. Trombley suggested that at a future meeting sometime before June 1, the RPC make a motion to the Selectboard with respect to its wishes concerning the number of members and length of term.

c) Upcoming Planning Grant Deadline

Trombley stated that the Selectboard received a letter informing them that the close-out report for the RPC’s planning grant must be submitted by mid-May. Gregory offered clarification. He explained that the requested deliverable is simply a draft of the town plan, together with which the town must submit financial information for the grant. He also added that the town will have 30 days after the end of the grant to package up these materials. Gregory said that TRORC will work with Cleveland to prepare and submit the report.

d) Request re: April 28 Training Seminar

Levasseur asked Cleveland to warn the April 28 Training Seminar and also to put an advertisement about the seminar in the newspaper. Levasseur will contact him with details.

3. Draft Town Plan (TRORC Staff):

Beginning at 7:41pm, RPC members began discussing the draft town plan with TRORC staff. They first discussed some of the issues raised during the RPC’s review of pages 6-17 on March 31. Discussion then moved to review of pages 18-28.

Recapping Select Issues Raised During Review of Pages 6-17:

Access Ordinance & Highway Plan: Levasseur provided TRORC staff with a copy of the access ordinance and said she would try in the future to provide them with a copy of the highway plan.

Deeryard Mapping: Noting the deer maps currently in the draft are very inaccurate, Levasseur asked TRORC staff 1) whether the deeryard maps could be excluded and 2) how the RPC might go about correcting them. Gregory stated that the deeryard maps do not need to be in the town plan; he also noted that the state deer yard maps would be used in review of an Act 250 application.

Turner asked how the town might go about more correctly identifying critical wildlife habitat. Gregory suggested that the town could apply for a municipal planning grant to do so, possibly in conjunction with a Vermont Department of Fish and Wildlife program (contact person: Jens Hilke). Levasseur suggested that it might be appropriate to involve the Royalton Conservation Commission. Hull noted that such an activity would be consistent with the goals for natural and historic resources on page 16. She also observed that a point related to inventorying important natural resources might be included among the recommendations in that section. RPC members agreed to edit the fifth bullet point under section 2 on page 17 to read: “Critical wildlife habitat should be protected from incompatible use. Brandau queried whether it was better to have no map or to have an inaccurate map. Gregory noted that the town could use the inaccurate map, but do so with a disclaimer.

At the end of the meeting Turner moved to omit the deeryard maps from the plan. Beguin seconded. Turner, Beguin, and Ranney in favor of omitting the deer maps. Judge, Barcelow, Brandau, and Levasseur opposed to omitting the deer maps. Goldstein abstained. Motion to omit deeryard maps from the plan failed.

Assumption that Town is Growing: Judge noted the contradictions between graphical data and the stated general assumption (e.g., page 8) that the town is growing quickly. He said he didn’t think that conclusion could be reached based on the graphs. Judge requested that population data be presented in absolute numbers and not % change. Seto said that she could oblige the request. Levasseur and others emphasized the importance of how the town might still be growing if not in terms of residential

population. Turner shared his opinion that presenting so much data in the body of the plan might impede residents' review of the document and suggested that graphs be included in an appendix.

Review of Pages 18-28:

Page 18: Judge asked that the highlighted text be clarified, specifically how "continued use of agricultural and forestry land..." might be promoted. Move the highlighted text from its current position to second place in the same list on page 17 (after point about clustering).

Page 19: Barcelow noted that the second sentence of the second paragraph should be changed to read: "Of these, 22 farms were located on less than 50 acres..."

Turner asked that the name of the section "Forests and Secondary Soil Lands" be changed to read: "Forests and Secondary Agricultural Soil Lands": Turner questioned the accuracy of the data and nomenclature presented in the second paragraph under the "Forests and Secondary Soil Lands." He asked that "woodland" be defined. TRORC staff said they would confirm data and definitions with the Listers. Turner said that the second sentence of the same paragraph should be edited to begin "As of (___ year)..." That same sentence should end with "in that year", thereby deleting "though there are no restrictions on use of..." Do not include "old estimates" (NOTE: not clear if this means to delete the entire sentence.

Goldstein asked that the last full paragraph on the page be changed to include information about how levels of employment in agricultural professions have been changing; she said merely providing a snapshot of current levels without adding historical context/trends doesn't tell the readers much. Judge noted that it would also be interesting to see changes/trends in farm type and size. Delete the last sentence of the last full paragraph (beginning "In order to protect...")

Page 20: Barcelow noted that the Crawford pit, mentioned on the sixth line of the page, might be closing down.

Page 21: Delete the second yellow paragraph on the page, beginning "Eighty percent of..." Turner suggested expanding the list of "scenic areas" to include the entire I-89 corridor, including views of the river and views of South Royalton village from I-89. RPC members indicated that "Sawtooth Mountain" may not be the official name of that mountain.

Page 22: No comment.

Page 23: Levasseur noted that that Rescue Squad (highlighted in yellow) is still no cost.

Page 24: After some discussion, Ranney expressed his opinion that Policy 9 (on internet access) is OK as it is currently written) TRORC staff should check highlighted data in "Public Lands" section. They should also look for the "Sarnov" description. (?)

Page 25: The question highlighted in yellow on the second line of the page was answered in the affirmative.

TRORC has been working with the Fire and Water district to update the numbers on this page and Hull distributed a revised draft of page 25, which reflects those changes. Hull suggested moving the first paragraph of the green-highlighted text to beginning of the "Public Services" section on page 24.

The "Telecommunications..." sections should be reviewed to ensure compliance with the town's current telecommunication's ordinance. Hull observed that the town's telecommunication ordinance should be added to the list of town regulations on page 10. Turner asked that more specific reference be made in the "Telecommunications..." section to "energy towers".

Page 28: Barcelow noted that, in the second line of the "Recreational Facilities" section, "access" should be changed to "accessed."Miscellaneous: Turner asked that text about groundwater depletion be added to the draft

4. April 28 Training Seminar

The Vermont League of Cities and Towns will be conducting a planning training seminar for the RPC and guests on April 28, 2008, at 7:00 pm at the Academy Building. The workshop will cover 2 topics: 1) Role and Responsibility in Local Land Use and 2) Effective Enforcement. Levasseur requested that RPC members bring cookies and/or juice to the training.

MEETING ADJOURNMENT:

Barcelow moved to adjourn the meeting. Judge seconded. All in favor of adjourning. Meeting adjourned at 9:09 pm.

Respectfully Submitted,
Melissa R. Mooza
mmooza@hotmail.com

**Royalton Planning Commission
Minutes
Monday, March 10, 2008**

Members Attending:
Barcelow, Goldstein, Judge, Levasseur, Ranney, Turner

Guests Attending:
Melissa Mooza.

Meeting came to order at 7:07.

1. February 25, 2008 Minutes:

Barcelow moved to accept the February 25, 2008, minutes. Ranney seconded. All in favor of accepting the February 25, 2008, minutes.

2. Upcoming Training from the Vermont League of Cities & Towns

Levasseur announced that the Vermont League of Cities & Towns training will be held on April 28, 2008, at 7:00 pm at the Academy Building. The training will take the place of the regular RPC meeting that evening. Levasseur will draft and send a letter to surrounding towns inviting their attendance.

3. Town Plan

RPC members briefly reviewed revisions to the Town Plan which were proposed by colleagues at TRORC. Review was somewhat impeded by the fact that not all RPC members had yet received their copies of the document, while others had only just received it and had not had the opportunity to give the document close review. Based on their preliminary examination during the meeting, a number of RPC members indicated their belief that the scope of the proposed revisions exceeded what they thought was necessary for present purposes. A number of RPC members also expressed interest in hearing more from TRORC about the value added by the extensive proposed revisions. RPC members agreed to come to the next meeting prepared to review the document in closer detail and share comments. In addition, Turner reported, with some frustration, that neither he nor Brandau were able to arrange a planned meeting with TRORC staffer Sally Hull to discuss the consolidation of some of the districts/areas in the Town Plan.

4. Next Meeting

The next RPC meeting will be held on March 24, 2007. The meeting will take place at the new select board office, known as "Knights Opera House", the old Grange building across the road from the present Town Clerk's office. Attorney Geoffrey Hand will attend the March 24 RPC meeting to discuss the Times & Seasons case.

MEETING ADJOURNMENT:

Meeting adjourned at 8:50 pm.

Respectfully Submitted,
Melissa R. Mooza
mmooza@hotmail.com

**Royalton Planning Commission
Minutes
Monday, February 25, 2008**

Members Attending: Barcelow, Beguin, Brandau, Goldstein, Judge, Levasseur, Ranney, Turner

Guests Attending: Kevin Geiger (TRORC), Sally Hull (TRORC), Rita Seto (TRORC), Ernie Amsden, Melissa Mooza.

Meeting came to order at 7:02.

1. January 28, 2008 Minutes:

Barcelow moved to accept the January 28, 2008 minutes. Goldstein seconded. All in favor of accepting the January 28, 2008 , minutes, with Raney abstaining.

2. New Business

Upcoming Training from the Vermont League of Cities and Towns

Levasseur reported that the Royalton Planning Commission received a grant from the Vermont League of Cities and Towns for a planning workshop to be conducted by Jim Barley. The workshop will cover 2 topics : 1) Role and Responsibility in Local Land Use and 2) Effective Enforcement. Barley suggested 3 dates for the workshop – April 14, April 28, or May 12 – of which RPC members indicated a preliminary preference for April 28. Once the date is confirmed, the RPC will invite surrounding towns to attend. Levasseur will look into reserving the Academy building for the event.

Public Inquiry about Mechanism for Adopting the Development By-law

Barcelow reported receiving an email message from a community member asking about the mechanism for adopting the development by-law, i.e. whether the town select board can adopt it without taking it to the town for a vote. Geiger stated that there is currently is a “black hole” in the law that would permit the town select board either to adopt it or to send it to the town for a vote. Geiger added that if the by-law is sent to the town for a vote, then it would have to be adopted/approved by town vote from that point forward. He said that there is a bill in the legislature now that would modify that. Brandau noted that the current town select board would not act unilaterally on the by-law and would certainly put it to a vote. He added that this has been the position of previous town select boards as well; Brandau likened this position to a “gentleman's agreement.”

3. Times & Seasons, Motion to Reconsider

Levasseur reported that on February 1, 2008 , the Supreme Court of Vermont handed down a decision in the In re appeal of Times & Seasons, LLC and Hubert K. Benoit. The Court affirmed the Environmental Board's conclusions with respect to Criterion 8 of Act 250 (that the project would have an undue adverse aesthetic effect) and Criterion 9(B) (that the project would significantly reduce the agricultural potential of primary agricultural soils). The Court, however, reversed the Environmental Board's conclusion with respect to Criterion 10 of Act 250 (conformity with a town or regional plan). The Supreme Court concluded that the provision cited by the Board is too ambiguous and uncertain to be enforceable under Criterion 10. Levasseur reported that appellants want to apply for a motion to reconsider. She also noted that Attorney Geoffrey Hand has offered to attend the March 24 RPC meeting to discuss the case free of charge. Levasseur encouraged the meeting and indicated her hope that Supreme Court will have come to a decision on appellant's motion by then.

4. Proposed Land Development Bylaw and Town Plan (TRORC)

The RPC continued its discussion of the Proposed Land Development Bylaw. Geiger led the Commission in a review of Draft #9 of the document. Comments of note follow below.

- Posting draft on Internet for Public Comment: RPC members revisited their previous discussion about posting a draft of the bylaw on the Internet for public comment. Judge noted that the Commission had previously decided to post a draft when one would be sufficiently finalized.
- Official Development Map (page 4, Sec. 1.2) : Geiger noted that the “official development map” must be a map that is separately designated and adopted by the RPC as such.
- Future Development Map (#2 of 5 prepared by Seto, predominantly pink and blue in color): RPC members commented that this map is very hard to read because the colors in the legend are difficult to distinguish on the map. They also observed that it does not reflect the number of districts currently in the bylaw.

- Consolidation of Districts in the Town Plan : Geiger noted that Royalton has, in its Town Plan, twice as many districts as other nearby towns. This, he said, is attributable to the fact that the Town Plan adopted the Exit 3 Study “whole hog.” Levasseur expressed her belief that there are too many districts in the Town Plan. Turner proposed organizing a committee to pare down the number of districts.
- Home Occupation Not a Conditional Use (pages 8-10, Sec. 3.1.1- 3.1.4): Barcelow identified 3 places in the document where home occupation is erroneously listed as a “conditional use”. These appear on pages 8-10, in the following sections: E3F, LDSO, and WIND.
- Right of Way Requirement (page 12, Sec. 4.1(k)): Tuner questions the use of a 30 foot minimum requirement, noting that this would be a problem when people create new lots where the existing right of way had been 20 feet wide. Judge and Brandau proposed including a provision for waiver when the existing right of way is deemed adequate.
- Sign Standard (page 13, Sec. 4.2(m): Judge noted that it appears that signs are a conditional use only because they appear in the bylaw under “conditional use approval” only. Geiger noted that the regulation of signs is usually best done in a separate ordinance. He also noted that all of Sec. 4.2(m) should be moved over to Sec. 4.1. Barcelow asked if there should be a reminder that businesses on state highways are governed by state laws as well. RPC members agreed to table discussion of signs.
- Earth Resource Extraction (Page 13, Sec. 4.3) : Turner recommended specifying that this section applies to “commercial” extraction.
- Deer Yards (Page 17, Sec. 5.5.1) : Turner observed that the State deer yard map is not accurate. Geiger noted that the map was based on aerial photos of tree cover and have not been adjusted. Geiger noted that it may be possible to reference another map.
- Scenic Resources: (Page 17, Sec. 5.5.1) : Turner expressed concern about the imprecision of the language “obscure the view”. Hull suggested specifically listing scenic resources in the Town Plan.

5. Next Meeting

The next RPC meeting will be held on March 10, 2007 . The meeting will take place at the new select board office, known as "Knights Opera House", the old Grange building across the road from the present Town Clerk's office.

MEETING ADJOURNMENT:

Barcelow moved to adjourn at 9:06 pm. Judge seconded. Meeting adjourned at 9:06 pm.

Respectfully Submitted,
Melissa R. Mooza
mmooza@hotmail.com

Royalton Planning Commission

DRAFT - Minutes

Monday, August 13, 2007

Members Attending: Beguin, Goldstein, Judge, Leighton, Levasseur, Ranney

Guests Attending: Bruce Burbine, Bud Burbine, Melissa Burbine, David Carr, Brenda Carson, Ronny Carson, Lashia French-Dyer, Travis French-Dyer, Bruce Jones (town reporter for Herald of Randolph), David Lyman, Melissa Mooza, Buddy Severance, Larry Severance, Penny Severance, Cody Schellong, Connor Schellong, Dana Schellong

Meeting came to order at 7:01 .

1. July 30, 2007 Minutes:

Having reviewed the draft minutes from 7/30/07 , Levasseur identified the following points for change:

- a. Page 1: Add Walter English to the guests attending.
- b. Page 2: In the first sentence of the second question, delete the second “this”.
- c. Page 3: In the last sentence in the comment under point 2, change the text to read: “...also send it over as is and they can make the desired...”
- d. Page 4: In the last sentence of the last answer, change “topography” to “topographical”
- e. Page 5: Delete Point 6 and renumber subsequent points.
- f. Page 6: Delete “Town Select Board Members Attending”
- g. Page 7: In the first section of the motion under point 4, delete “other” and add “distance” after “structures” and before “soils”.
- h. Page 8: In the last sentence under point C, change the text to read: “...RPC will discuss possible changes to the...”

?Ranney moved to accept minutes with the aforementioned changes. Judge seconded. All in favor, with Leighton abstaining. Motion to accept minutes carries.

2. Floodplain Hearing Follow-Up

Levasseur shared with RPC members a letter drafted by Kevin Geiger from TRORC to the Select Board about what in the draft floodplain regulation can be changed.

3. Reorganization and RPC By-laws

A. Election of Officers

Judge moved to keep the officer positions as they currently are: Levasseur as Chair, Brandau as Vice Chair, and Barcelow as Clerk. Beguin seconds the motion. All in favor. Motion carries.

B. Review of By-laws

The RPC members discussed whether the Commission should be comprised of fewer people. This discussion was prompted by Selectman Trottier's concern that it has been difficult to find enough people to fill the commission's positions in the past. Ranney noted that there have been no problems in the last 3 years and that the RPC was not shy of applicants on this occasion. Beguin and Leighton supported maintaining membership as is, so that a broader range of viewpoints is represented. Judge observed the importance of keeping the same number of commissioners for the sake of being able to reach a quorum (sometimes difficult given occasionally sporadic attendance).

Judge moved to readopt the by-laws. Ranney and Leighton seconded. All in favor. Motion carries.

4. Dirt Bike Track Near the Cul-de-sac at Tortalano Road

A large group of community members appeared before the commission in a show of support for the continued operation of the dirt bike track on the Lyman property. The track is the subject of a petition (signed and submitted by a number of Lyman's neighbors, who are concerned about the noise) that will be before the Select Board on August 14.

Judge explained to the group that the RPC has no authority over this matter; the only thing it can do is ask people at Act 250 Section 3 out of Springfield whether there is an Act 250 violation. Levasseur noted that Jackie Higgins had informed her that she had responded to similar complaint in the past, but learned that Act 250 wasn't an option because that case wasn't a commercial venture.

Lyman expressed his disappointment about his neighbors going to the town with a petition rather than coming to him directly. Lyman said he felt that he had been doing the town a favor by offering this family-oriented activity. Parents present attested to the importance of the activity for their children.

One community guest asked if this is something that the town must get involved with. The RPC agreed to listen to the community members' concerns as a matter of courtesy, but reiterated that it had

no authority over the issue. Another guest noted that she couldn't find either the RPC agenda or minutes on the town website. Levasseur said that the RPC will do its best to get that addressed.

5. Melissa Mooza , Vermont Law School (VLS)

Mooza informed the RPC about the Citizen Planners Conference, planned to take place on Saturday, November 3, 2007 , at VLS. The conference will be hosted by the VLS Land Use Institute, the Upper Valley Housing Coalition, and the Vermont Housing Finance Agency. She distributed a brief questionnaire to RPC members intended to identify interests and solicit contact information. She will follow up by emailing the survey as well.

6. New Business

A. Kevin Rogers Jurisdictional Opinion

A jurisdictional opinion was issued concerning Kevin Rogers' expansion of his business parking lot. The construction has caused contamination of neighbor Ernie Amsden's water supply. An Act 250 permit is required for the construction because the property owned for house and business are closely related. Levasseur reported that there was nothing for the RPC to act on right now. The next step is that Rogers will need to apply for a permit to park his business vehicles there.

B. Announcement of “Community Matters” Conference

Levasseur reported having received information about an upcoming conference supported by the Orton Family Foundation. The “Community Matters” Conference will be held October 24 & 25. Judge took the flyer.

7. Zoning/Subdivision Draft Review

Ranney expressed his desire that the draft be submitted to the Select Board soon. He suggested that the RPC establish deadlines by which it will read certain segments of the draft and see how it fits with the town plan.

RPC members agreed to read Articles 1-3 (pages 1-13) for the next meeting. They will highlight anything that they don't understand and make notes on how it coordinates with the town plan. They agreed that density remains a hot button issue.

Judge noted that he has enforced many zoning by-laws and that this one is very complicated. He said that some of those by-laws were just 5-10 pages and still contained all the necessary information. Judge also noted his belief that one thing people really want to see is a clearer definition of mixed residential and business use.

8. Next Meeting

The next meeting will be held August 27, 2007 . Members should come having read Pages 1-13 of Draft 5 of the Subdivision Draft.

MOTION: Ranney moved to adjourn. Beguin seconded. All in favor.

Meeting adjourned: 8:36 .

Respectfully Submitted,
Melissa R. Mooza
mmooza@hotmail.com

**Town of Royalton
Planning Commission Meeting
Royalton Planning Commission
Hearing on Proposed Flood Plain By-laws & Regular Planning Meeting
FINAL – Minutes
Monday, July 30, 2007**

I. Hearing on Proposed Flood Plain By-laws

Town Planning Commission Members Attending:

Barcelow, Beguin, Brandau, Hobart, Judge, Leighton, Levasseur, Ranney, Turner

Town Select Board Members Attending:

Peggy Ainsworth, Ernie Amsden, Larry Trottier

Guests Attending:

David Ainsworth, Paul Anderson, Walter English, Kevin Geiger (TRORC), Bruce & Sue Jones, Nelson Lyford, Melissa Mooza (notetaker),

Hearing Convened at 7:05 .

A. Introduction

Levasseur welcomed guests to the hearing and stated its purpose. She offered a brief summary of the changes proposed to Royalton's current Flood Hazard By-law, which dates back to 1991. A document listing and explaining these changes was made available to all individuals attending the hearing. Levasseur explained that the primary reason for the revisions is that the 1991 by-law references a map that will cease to exist on 9/28/07 . If the by-law is not revised before then, it will become invalid and no one in the town will be able to carry flood insurance.

Levasseur also noted two additional minor modifications to the proposed by-law that were not included in the hearing draft. These changes, both characterized as being editorial in nature, were:

1. On Page 2, Sub-Section B, First Paragraph, Fifth Line: “one channel width” should be stricken to read “one and one half channel widths”. Levasseur noted that the RPC voted to enact this change during its 6/25/07 meeting, as is evidenced in the minutes for that meeting.

2. On Page 8, Section VI, Sub-section C: This sub-section refers to undesignated “A zones”. Without the A zones, it appears that it is intended to apply to all of the rest of the town.

B. Question, Answer, and Comment

During the question, answer, and comment portion of the hearing, the following topics were discussed:

1. Proposed Permit for Minor Improvements and Cumulative Substantial Improvement

Q: Ainsworth questioned how the 50% cumulative substantial improvement would be calculated.

A: Several people commented on how this calculation should be made. The idea that seemed to have the most resonance among hearing participants was that proposed and illustrated by Turner. Turner explained that the calculation should be made not in terms of dollars, but in terms of a percent increasing over time. In this regard, the market value of reference should not be the market value of the structure at the time the ordinance is passed. Rather, it should be the market value (i.e. most recent town assessment thereof) at the time of the start of each successive renovation or construction project. The percent ratio would be tallied over time until the owner breaks the cumulative 50% mark.

Q: Ainsworth asked how this provision would be implemented and enforced. She expressed her opinion that if there is no way to implement it, it should be removed.

A: Brandau conceded that it would be difficult to track over decades' time. Judge, who mentioned that he had many years' experience working to enforce floodplain violations, observed that there is no mechanism in place to enforce the “cumulative” aspect. He remarked that such a provision is designed for a municipality that has building permits, which Royalton currently does not. He said the only way to track this would be if neighbors complain or construction is obvious. Judge recommended removing the “cumulative” language. Beguin also supported this idea. Ranney noted that most enforcement of this by-law will likely be prompted by citizen complaints. Levasseur remarked that the term “cumulative” could hypothetically be removed, leaving the federal regulation,

“substantial improvement”, but she noted that variant would also leave the issue of tracking and enforcement unaddressed.

Q: Amsden questioned the purpose of the “cumulative” provision and suggested that it was just an excuse to “levy some bureaucracy.”

A: Levasseur responded that the RPC proposed adding the term “cumulative” in an effort to clarify the current federally required language, which references only “a substantial improvement.”

Geiger illustrated the functional significance of “cumulative” by explaining that as the ordinance is currently written (without “cumulative”) a person could increase the value of his house by 49% every year and still not come under the federal requirement to flood proof or elevate.

Levasseur explained that the overall purpose of the provision is to help keep flood damage to a minimum. Turner articulated an interest in preserving value and not burdening the system. He said that we don't want to see projects go forward where we know that they will be subject to flooding. Hobart expressed two concerns: 1) prohibiting the constructions of mansions that will be flooded and 2) eliminating uses in the flood area that might send debris downstream. Ranney commented that the intent is to minimize the footprint standard.

Q: Amsden asked how “current” (with reference to the start date of renovation/construction) a structural appraisal must be. He added that leaving the proposed language as it is would be like leaving “a can of worms” in the ordinance. Ainsworth added that the Select Board could not pass the ordinance with a “can of worms.” She suggested keeping only what is federally required and taking everything else out.

A: Geiger noted that the current ordinance does not clarify this point; it, too, says only “before.” The only change to the proposed ordinance is the addition of “cumulative”. Turner suggested clarifying by requiring the most recent town appraisal.

2. Procedure for Making Changes to the Proposed By-law

Comment: Geiger offered a brief overview of the mechanisms by which the RPC can, based on points raised at today's hearing, make changes to the current draft of the proposed by-law. The RPC can try to vote changes in tonight, the evening of the hearing. It can send the ordinance over to the Select Board as is and let them deal with it. It can also send it over as is and they can make the desired changes before the Select Board hearing gets warned.

3. Proposed Addition of Lateral Erosion Hazards

(Page 2, Sub-Section B, First Paragraph)

Comment: Amsden remarked that the lateral erosion hazard (1.5 channel widths on either side from the centerline of the channel) is “unnecessary, ridiculous, and should be removed.” He expressed concern that it would bring a lot of properties into the flood hazard zone that are not currently there. He also expressed his opinion that many of the houses that are in that zone are not actually at risk of either flooding or erosion. He also requested that a statement be added to the effect that currently existing structures won't be affected by the addition of this provision. Finally, he suggested taking the lateral erosion hazard provision out altogether.

Response: Geiger explained that although this not a federal requirement, there is good reason for it. He cited two publicly available documents, which he could provide to people, that support the inclusion of this provision. He said that science says that in a floodplain environment, a river needs 4 channel widths to meander, while it would need 6 channel widths in an unstable environment. He also remarked that a town would be one hundred times more likely to be sued for permitting construction in the wrong place (even if that site is acceptable by federal standards) than it would by prohibiting construction somewhere. He also commented that waivers can be granted to lessen the required lateral distance under certain conditions, such as if there is a ledge or armored channel.

Turner admitted that the 1.5 channel width provision is arbitrary, but noted that the RPC could have, consistent with the science, chosen a larger distance of 4 channel widths (i.e., two channel widths on each side of the center).

Comment: Lyford expressed his concern that the 1.5 channel width requirement seems extreme. He questioned the necessity of “putting a blanket on the entire river” without first studying the river piece by piece. When Geiger mentioned the waiver process, Lyford remarked that it would be very involved. After some discussion, he suggested that “this late in the game, maybe we should just do what's needed to get the insurance in place and then do a little more later on to get all the details in place.”

Response : Geiger again said that there is a waiver process. He also explained that the 1.5 channel width is being used as a default because there is no fluvial erosion hazard map. Geiger said that as soon as a new map is created, the 1.5 channel width will no longer be in place. He also emphasized that the map on the table, which people were consulting, is not a new flood map, but rather old data that's been digitized.

Q: Lyford asked what will happen to existing developments that are located within 1.5 widths of the center of a channel.

A: Geiger replied that they would be grandfathered in.

Q: Lyford asked if developments within 1.5 channel widths that are currently permitted but not constructed would also be grandfathered in.

A: Hobart said that if a person has a permit but hasn't spent a significant amount of money or otherwise demonstrated reliance, then s/he will probably not be grandfathered in. Hobart said that there is not a lot of case law in Vermont on vesting.

Q: Lyford wanted to clarify that the proposed 1.5 channel requirement is above and beyond what is required for flood insurance (i.e., the 100-year-flood line).

A: Geiger confirmed that, yes, which is correct. He said that “this language takes a cautious approach in the absence of good information.” Geiger added that there is a big difference between preventing harm and allowing development. He said that the RPC fiddled with this, and that's why they incorporated the waiver.

Q: Lyford asked how often the flood maps can be changed.

A: Geiger said every ten years. He said that it is quite a process to change them. You can get topographical data from FEMA and they make a note.

4. Extent to Which the Proposed By-law Exceeds Minimum Requirements for Federal Flood Insurance, Generally

Q: Amsden asked how much further beyond what is necessary for federal flood insurance the proposed by-law goes.

A: Geiger explained that the proposed by-law goes beyond the minimum federal requirements in 4 ways, by: 1) adding lateral erosion hazards; 2) adding sediment transport; 3) permitting small structures as long as they meet certain conditions; and 4) regulating “substantial improvements” cumulatively.

5. Proposed Addition of Sediment Transport as a Concern

(Page 12, Point 10)

Q: Ainsworth suggested that the term “watercourse” be defined. She also requested an explanation for how a watercourse might “be maintained.”

A: Geiger explained that the term “watercourse” refers to whatever watercourse is in the area subject to the regulation. i.e. the White River , First Branch, Second Branch, and Broad Brook (not the tributaries). He added that you would probably see someone triggering this regulation on Broad Brook. Turner proposed omitting the term “watercourse” and simply naming the specific bodies of water affected.

Concerning the maintenance process, Geiger explained that this would entail building a large enough

pipe or bridge to ensure that the water and the sediment will be able to pass through.

6. Waivers Granted to Lessen the Area to Which the Regulations Apply

Q: Lyford asked what the waiver process entails.

A: Geiger explained that it's up to the select board to determine. Every permit that goes through needs to go to the state for comment, and they can theoretically go to FEMA. Levasseur added that the waiver process is definitely subjective.

Comment: Turner remarked that the text of the proposed by-law concerning the waiver process is “too strict and doesn't give enough latitude for consideration of individual sites. He suggested that the Select Board change the text to “unlikely to move” and that is add “due to ledge, preexisting structures, soil, topography.” Levasseur said that the RPC will discuss Turner's suggestion after the hearing.

7. Reference to Recreational Vehicles

(Page 3, Sub-section A, Point 3; Page 3, Sub-section B, Point 3; & Page 11, Point 6)

Q: Ainsworth asked whether the RVs located at the Henderson 's Hideaway campground would be grandfathered in.

A: Levasseur explained that the mobile homes would be exempt from regulation if they are mobile (i.e. licensed and highway ready). Turner noted that mobile RVs may be placed on sites within the special flood hazard area for up to 180 consecutive days. Geiger added that if the vehicles are not mobile and are on slab, then they would be subject to the regulations as structures in the flood plain. In that case, he said, they probably would be grandfathered in.

Hearing adjourned : 8:57 .

II. Regular Planning Meeting

Town Planning Commission Members Attending: Barcelow, Beguin, Brandau, Hobart, Judge, Leighton, Levasseur, Ranney, Turner

Guests Attending: David Ainsworth, Paul Anderson, Kevin Geiger (TRORC), Bruce & Sue Jones, Nelson Lyford, Melissa Mooza (notetaker),

Meeting came to order at 8:58 .

A. Discussion of Possible Motions Related to the Hearing

RPC members discussed moving on the following four issues:

1. Omit the term “cumulative” from the definition of “substantial improvement”:

Motions: Judge moved to omit the term “cumulative” from the definition of “substantial improvement”. Beguin seconded the motion.

Discussion:

Judge said that, in general, enforcement should work because there are trigger mechanisms in place. In this case, however, he noted that there is no process to alert people to problems. Potential violations would be discovered only by the floodplain administrator just driving around. Judge also remarked that it is bad PR to have an unenforceable regulation. Turner, who is for keeping the term in but wanted to play devil's advocate, said that “cumulative” shouldn't be put in until enforcement mechanisms are in place. Beguin expressed her opinion that enforcement of the “cumulative” component is “not realistic.”

Both Turner and Levasseur retorted that enforcement is realistic. Hobart said that once people start seeing substantial changes, they will start complaining to the administrative officer. Brandau remarked that even if you were to take out “cumulative”, you'd still be left with an unenforceable provision (i.e. “substantial” => 50%)

Vote:

Three (Judge, Beguin, Ranney) in favor of omitting the term “cumulative”. Five opposed to removing the term “cumulative.” Motion did not carry. The term “cumulative” remains in.

2. Add a definition for the term “watercourse.”

Motion: Hobart moved to add the definition and authorize Kevin to prepare and submit it to the Select Board. Judge seconded the motion.

Vote: All in favor. Motion carries.

3. Modify the definition of “substantial improvement” to add “as determined by the most recent town assessment.”

Motion 1: Brandau moved to change the definition of “substantial improvement” such as to read: “...exceeds 50 percent of the most recent town-assessed market value of the structure.” Hobart seconded.

Discussion 2: Geiger said that “you can't move ‘market value’ around.”

Motion 2: Brandau moved to amend his motion to reflect Geiger's comment. All but Leighton in favor of amending Motion 2. Motion carries.

Vote : All in favor of passing Motion 2. Motion 2 carries.

4. Modify the language about waivers at the bottom of page 2

Motion: Turner moved to modify the language about waivers at the bottom of page 2 to read: “...site conditions are such that the channel is unlikely to move into this area due to ledge, preexisting structures, distance, soils, or topography. Hobart seconded.

Vote : All in favor. Motion carries.

Following discussion of these issues, Hobart moved to accept the changes made tonight and submit the by-law to the Select Board. All in favor. None opposed. Motion carried unanimously.

*Prior to the vote, Judge again expressed his concerns about the 1.5 channel width lateral erosion hazard zone along the White River . He wanted to go on record with his opinion that this particular provision “is Draconian, particularly where the channel is 600 feet wide.”

B. Minutes:

July 9, 2007 :

?Barcelow moved to accept minutes as written. Beguin seconded. All in favor, with Ranney and Turner abstaining. Motion to accept minutes as written carries.

C. Appointments and Scheduling for RPC Re-organizational Meeting

Levasseur reported that the Select Board made its selection to fill Hobart 's slot. The new RPC member will be: Joan Goldstein. The re-organizational meeting will be held on August 13. The RPC will discuss possible changes to the Commission's by-laws, including decreasing the number of planning committee members.

D. Next Meeting

The next RPC meeting will be held August 13, 2007 .

MOTION: Barcelow moved to adjourn. Judge seconded. All in favor.

Meeting adjourned: 9:27 .

Respectfully Submitted,

Melissa R. Mooza
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