

Richmond Planning Commission

Regular Meeting

December 5, 2012

Approved Minutes

Members Present: Mark Fausel (Chair), Lou Borie (Vice-Chair), Gary Bressor, Joe McHugh, Christy Witters,

Members Absent:, two vacancies

Others Present: Cathleen Gent (Town Planner/Staff to the DRB), Geoff Urbanik (Town Manager), David Raphael, Anne O'Brien, Mary O'Neill, Jack Linn, Lauke Parke, Bob O'Brien, Heidi Bormann, Ann Cousins

7:05 PM Call to order by the Chair.

Fausel began the meeting by recognizing Bressor's years of service as the Planning Commission chair. Fausel said that Bressor's approach to the public and general demeanor made him especially good as chair and acknowledged that, as chair, he is likely to express his opinion too often.

Public Comment – None.

Richmond Zoning Regulations

Request for re-zoning creamery parcel

Anne O'Brien and David Raphael addressed the Planning Commission. O'Brien acknowledged that she is looking at the zoning primarily in terms of their goal of placing the senior center on the creamery parcel. She said the senior center committee has re-grouped after the zoning vote loss. She added that the developers were prepared to move ahead with the project based on the proposed zoning and that the senior center committee is anxious to move forward with a mixed use. She asked the Planning Commission if her committee should ask for the creamery parcel to be zoned as the village mixed district in the proposed zoning or to be rezoned to the residential commercial district in the current zoning regulations. She specifically mentioned that a new definition for a community center use is needed, whichever zoning district is created. O'Brien said the senior center committee fears it will take two years for new zoning to be put in place and that it's difficult to wait that long. She asked if there is a way to move forward more quickly than that. O'Brien said it would help to get a density bonus, but acknowledged that is in a different section of the bylaws, so it would take additional work to revise the document.

Raphael said he appreciated the work, effort and time that the Planning Commission put into the zoning effort. He acknowledged that there was a time when he advocated for his client with the Commission in order to get as much flexibility as possible, but ended up embracing the proposed bylaws with the new village mixed zoning district. Raphael provided a brief update, namely that the senior center is still being discussed and that there have been initial discussions with Champlain Housing Trust for an affordable housing project there. Another developer is also interested. Champlain Housing Trust would want to own the land with the housing so there will be some type of a subdivision with a common area, where all would share in the fees for the common area. All the owners would have equity in the buildings separately. Raphael added that they have met with the Vermont Division of Historic Preservation and are making the case to demolish the historic building. He said that the Richmond Historical Society submitted a letter of support to do just that, with the understanding the use will be memorialized and there will be a permanent space for a historical society exhibit. Raphael said that saving the building is almost prohibitive. He concluded by saying the owner is ready to move forward, but cannot with the current zoning in place. The density is too low and there is no definitive place for the senior center. He said they would love to see the proposed village mixed zoning district in the bylaws. If that's not possible, changing to the current residential commercial district will require a number of other changes to the bylaws. Raphael referred to an email that he had submitted in advance of tonight's meeting.

Bressor asked about the subdivision with the Champlain Housing Trust. Raphael said there would be three residential buildings with 12 units plus 3 units for the density bonus in the northern part of the parcel. Gent noted that Richmond does allow for footprint lots subdivisions. Raphael said that they have not talked with Champlain Housing Trust about whether the lots would be footprint lots or traditional subdivision lots. McHugh said that he thinks a challenge is the density bonus in terms of making broader changes to the bylaws. The Commission also discussed the concept of spot zoning for a single parcel or owner. Raphael said he thinks there are unique characteristics associated with the parcel that

1 qualify it as not being spot zoning. Bressor suggested that changing the larger area into the village
2 mixed district may be an option, as he did not hear anyone complaining about that zoning district in the
3 proposed bylaws that were defeated. Cousins said she has long been an advocate for retaining at least
4 parts of the building, and that this proposal strengthens the village area economically and provides
5 housing close to the village center. She said she supports the village mixed zoning for the creamery
6 parcel. She said she thinks that pieces of the blue building or original building could be incorporated into
7 the design. Raphael replied that there could be one façade or section as an exterior remnant. Cousins,
8 who works for Preservation Vermont and lives in Richmond, said she is fine with the proposal even
9 though she would like to keep sections of the building. Raphael said he will get copies of the Richmond
10 Historical Society letter to the Planning Commission.

11
12 Fausel brought up the question about the time line for changing the bylaws in terms of the development
13 process for the project. Raphael said they plan to have the remediation plan for the brownfields area in
14 place by January 1st and will go forward with the senior center and the housing potentially in the spring
15 2013, with Act 250 and a traffic study. However, they are stymied because the building cannot be
16 demolished until they get the Act 250 permit. Even in an ideal world, the permitting will take about a
17 year and construction will probably not begin until 2014. O'Brien said the senior center committee is
18 poised for submitting a USDA application for preparing a fund raising plan. She said the next step is to
19 get the USDA application ready, however, they don't know what will happen with zoning. They like the
20 village location and want to move forward with the project at the creamery parcel.

21
22 Gent explained the potential time frame and process for modifying the current bylaws and that there is
23 not time to have the document ready for town meeting. Borie suggested there might be a benefit to
24 combining the creamery changes with the changes to the flood hazard district. Witters said she would
25 like the Planning Commission to dedicate time at the next meeting to look at all the aspects (tentacles)
26 of the bylaws that will need to be changed to decide how to move forward in terms of the village
27 commercial versus the residential commercial. Bressor said he thinks the Planning Commission needs
28 to decide whether to try to get through the zoning (including the comprehensive document) or whether
29 to move to the town plan. Borie added that the Planning Commission thought carefully about the village
30 mixed district and it's important to get all the changes done strategically. McHugh pointed out that the
31 PUD section needs to be considered to be sure there is a good integration of all the needed elements.

32
33 Bormann asked whether it has been considered that there is more potential for commercial than
34 residential on the creamery parcel, due to the unique aspects and commercial location. She said this is
35 the last vital piece of property in the village and the town needs the financial gains from the
36 development there. Fausel replied that the Planning Commission has considered that question from the
37 beginning and agree with her, but that they were advised by the owner that the project was not viable
38 without the residential development to recoup the expenses. Bormann asked about a density bonus for
39 commercial. Fausel replied that the problem is that they cannot make money on the commercial.
40 Raphael pointed out that there is still 18,000 square feet of commercial space in addition to the senior
41 center. The commission also discussed the type of commercial space away from the road, whether it is
42 office or some type of destination retail. O'Brien added that this land has been available for quite a long
43 time and that no one has come forward yet.

44
45 *Request for specific changes – Richmond Economic Development Committee*

46 Heidi Bormann said the Economic Development Committee is asking that the Planning Commission
47 change the parking allocation requirements for new business uses in the area from the railroad tracks to
48 the light on Bridge Street. In the current zoning map, this area represents just a portion of the village
49 commercial zoning district. Gent said there may be a way within the bylaw text to specify the
50 geographic area where the parking requirements would be eliminated for business uses. Bormann
51 added that there is a lot of support from the Economic Development Committee for honing in on the
52 creamery parcel, with its water and sewer availability. It would provide such an improvement for the
53 village.

54
55 McHugh posed the question as to which is the best way to get these changes (creamery parcel and
56 parking, etc) completed, either through the new bylaws or patching the existing bylaws. Gent added that
57 there are short term and longer term horizons for the changes and that the town plan update project
58 should be factored in. Witters said that they should move ahead with the changes to the floodplain and

1 perhaps a few other changes, like the creamery. A comprehensive approach is needed, but not
2 immediately.

3
4 *Non-Conforming Uses*

5 Bormann explained that she did not know that their use (auto repair) was non-conforming in the
6 Gateway district, even though the regulations have been in place for 16 years. Bormann and the
7 Commission discussed the new problems associated with lending underwriting criteria that sometimes
8 results in owners of nonconforming uses or structures not getting loans. Borie asked if there a limited
9 number of nonconforming uses to discuss. Fausel returned to the topic of the auto repair use and
10 whether it's nonconforming in the current regulations and said it appears to be so. The Planning
11 Commission requested that the economic development committee prepare a list of all the
12 nonconforming uses as a starting point to the discussion. Fausel said that the structure which houses
13 the Bormann business may be a nonconforming structure and the driveway width is not conforming. He
14 added that he thinks the boundary setbacks are reasonable and would not be ready to change those.
15 The Planning Commission asked Gent to arrange for a lender to come to a future Planning Commission
16 meeting to discuss the issues with nonconforming uses. There was a discussion about conducting a
17 survey of businesses as a mid-term item, in other words, nonconforming uses will not be taken up as a
18 fast-track item. Bormann confirmed that the priority of the economic development committee is the
19 parking in the business block. She said she owned the flower shop on Bridge Street and parking was
20 first-come, first serve. Fausel encouraged the economic development committee to reach out to
21 business owners to determine if they have a nonconforming use. O'Brien said the intention is to change
22 the uses and that it is worth assessing and discussing how to move forward with that separately as a
23 longer-term project.

24
25 Linn asked about home occupations being nonconforming uses. Gent said that home occupations are
26 associated with a residential use as the principal use and have to be compatible with uses in a given
27 zoning district.

28
29 *Potential changes for Section 6.8 – Flood Hazard Overlay District*

30 At 9 PM, the Planning Commission began this discussion. Due to the lateness of the hour, the
31 Commission decided to focus only on the Gent list of references in other sections of the bylaws and the
32 comments made by Ned Swanberg (in notes from a November 29th conversation with Gent).

33
34 Decisions regarding references in other sections of bylaws:

35 Section 5.2.1.c)vii.

- 36 – change from “any portion of the parcel” within the FEMA SFHA to “the areas of the parcel with
- 37 proposed development”
- 38 - Sub-section 1 – delete site plan requirements here and add reference to Section 6.8.16 for
- 39 application requirements.
- 40 - Sub-section 2 – delete requirement for ANR Project Review Sheet here.

41
42 Section 5.2.2 – refer to Section 6.8.16.b).

43
44 Section 6.8.15.e) – Change the reference to 6.8.15.e). Also, the Planning Commission asked Gent to
45 research whether the parking limit of 180 days is a FEMA limit.

46
47 Decisions regarding Swanberg comments:

48 Section 6.8.4 - Definitions

49 Substantial Improvement – decided the following:

- 50 - to keep the “cost over three years” provision since it is in the state model ordinance.
- 51 - to remove the “maximum 25% expansion” clause as it was well-intentioned but unnecessary
- 52 and is not part of the state model ordinance.

53
54 Section 6.8.7 – For the Letter of Map Change – remove address and simply add statement to visit the
55 FEMA web site for the latest information regarding how to obtain a Letter of Map Change.

56
57 Section 6.8.9 and Section 6.8.12

- 58 – change to \$500 threshold rather than \$1,000 because FEMA has already indicated they will
- 59 accept the \$500 threshold and will not approve the \$1,000 threshold. Also with the Richmond

DFIRM map adoption process underway, we want to avoid a situation where FEMA does not approved our bylaws. Ned Swanberg indicated to Gent that he will not recommend approval for the \$1,000 threshold since it is not consistent with what FEMA has indicated in writing that they will approve. If our bylaws are not approved by FEMA and the maps go into effect, Richmond may be suspended from the NFIP.

- remove the level of detail and use general categories only for specific types of repairs, so as to avoid the problem where certain repairs are not included in the list and to avoid confusion which emerged when the proposed bylaws included the detailed language.

- allow the zoning administrative officer to approve via a zoning permit any improvements other than a substantial improvement or damage, which would expedite the permitting process.

Section 6.8.15 – for new construction, decided to incorporate state model ordinance language to prohibit any enclosed area below the Base Flood Elevation, even for parking and storage. This is being done to avoid problems when people begin to use those spaces for things other than parking or storage (eg., utility locations).

General format change: move exempt uses to the first section, followed by zoning administrative officer-approved, then DRB-approved, followed by prohibited uses.

General Discussion

The Planning Commission returned to the discussion about the process for undertaking fast-track zoning changes and the town plan update. The commission discussed some additional reasons for the bylaws defeat beyond what they discussed during the last meeting, including the fact that there were enough flaws to make people hesitant to vote for it, that the PUD section was complicated, and that the opponents had a very good public campaign. The Commission agreed that the PUD section should be simplified and that more marketing is needed with the public. They decided to move ahead with three fast-track changes: Section 6.8; new zoning for the creamery parcel, and elimination of parking requirements in the central business block. Bressor suggested, and other members agreed, that moving ahead with those three changes will build good will. He added that he would like to revise the proposed unified bylaws and bring those back to the public as soon as possible. The entire process will take about six months. The Planning Commission agreed to that and to not proceed with the town plan update during that time. As a result, Gent will cancel the time with consultant Sharon Murray, who was scheduled to attend the December 19th meeting to talk about her town plan update report.

Richmond Village Center Designation Renewal

The Planning Commission briefly discussed the renewal designation process. The Commission asked Gent to find out if the state has any specific standards for determining what the boundary should be and suggested that she contact Ann Cousins, who has significant experience with the program.

Mail - Gent reviewed the mail.

Meeting Minutes & Town Planner Report

Meeting Minutes: For November 5, 2012

One amendment was offered. Motion by Bressor, seconded by McHugh, to approve the minutes as amended. Voting: 5 in favor; 0 opposed; 0 abstentions.

Town Planner Report

Gent provided the following updates to the report: there will be a small update in the cemetery area to the Bridge Street Streetscape Plan and the information will be provided to the Planning Commission; Gent attended a meeting to discuss how to move forward with the ECOS project to conduct the natural resources inventory in light of the fact that less money was received. She also said the VLCT Planning and Zoning Forum was very helpful.

Zoning Administrator Hiring

Fausel agreed to serve on the hiring committee for the new zoning administrative officer.

Gent referenced her memo to the Planning Commission regarding the fact that she cannot issue a certificate of occupancy for the new house that she is building and that she has arranged for Peter Erb,

1 the Town of Hinesburg zoning administrator, to serve as the second acting zoning administrative officer,
2 solely to issue a certificate of occupancy for her new home. The first step in that process is for the
3 Planning Commission to make a recommendation to the Selectboard that they hire Erb for that purpose.
4 Motion by Borie, seconded by Witters, to recommend to the Selectboard that the Selectboard appoint
5 Peter Erb as the second acting zoning administrative officer, solely to review and act upon any zoning-
6 related applications for Cathleen Gent at 174 Thompson Road, during this period of time when the
7 Administrative Officer position is vacant. Voting: 4 in favor (Fausel, Borie, McHugh, Witters); 0 opposed;
8 1 abstention (Bressor).
9

10 McHugh confirmed that this is his last meeting, per an email he wrote to the Planning Commission
11 earlier in the week in which he resigned. Planning Commission members thanked McHugh for all of his
12 contributions and wished him well. The Planning Commission then discussed the fact that there are
13 now just four sitting members on the seven-member board. They asked Gent to ask the Selectboard to
14 reduce the number of Planning Commission members to five, at least temporarily (until March
15 appointments), so as to help ensure that they can have a quorum for holding meetings. Borie indicated
16 that he will not seek reappointment in March.
17

18 **Adjournment**

19 Borie made a motion to adjourn, seconded by Witters. So voted. The meeting adjourned at 10:12 PM.
20
21

22 Respectfully submitted by Cathleen Gent, Town Planner/Staff to the DRB