

WEST WINDSOR PLANNING COMMISSION

Draft Minutes
January 19, 2011

Present: Hal Pyke, Elvin Kaplan, Barbara Truex, Mark Isenberg, Al Keiller, Tom Kenyon, Martha Harrison

1. Call to Order – Chair Hal Pyke called the meeting to order at 6:34 PM.
2. Changes or Additions – lighting and flags, if time allows
3. Public Comment – None
4. Develop work plan and schedule for revising the zoning regulations – The Planning Commission (PC) reviewed and approved the proposed Zoning Regulations Update Schedule after changing one meeting date. Tom said he's not happy that the zoning regulations don't reflect the Town Plan. Tom said he is also aware of problems with the present bylaws that the PC is not planning to address. The idea of the Selectboard hosting a couple of public forums on zoning was discussed. Tom said one of his concerns has to do with Certificates of Occupancy and Glenn has concerns about grading and slopes. Tom said the Selectboard is also concerned about the buffer regulations. Al asked if there would be any formal communication from the Selectboard to the Planning Commission. Tom said he will discuss this further with the other two members of the Selectboard. Tom said he also has questions about the definition of "undisturbed" with regard to vegetated buffers. Al said it would be helpful to get feedback from the Selectboard sooner rather than later. Tom suggested that Hal forward the PC's schedule to the Selectboard.
5. Discuss changes to zoning regulations on accessory dwelling units (apartments) – The PC talked about relaxing the restrictions on accessory dwellings and discussed the related statutes. There was debate on how relaxed the restrictions can be with regard to owner occupancy. The PC agreed to allow people with homes less than 2500 sq. ft. to build accessory dwellings up to 750 sq. ft. in size, and to allow people with larger homes to build accessory dwellings up to 30% of the size of the single-family home. The PC discussed the meaning of appurtenant and agreed to the following definition: "incidental, subordinate, or next to the primary dwelling but using the same highway access" which they agreed to include both in Section 4.1 and in the Definitions section. Tom suggested highlighting somehow the words that are defined in the definitions section, with an asterisk for example. Al suggested running a word search to make sure that all defined words are used as intended. In discussing "habitable" floor area, Hal said the Listers only consider finished living space to be habitable. For areas with slanted ceilings, the PC agreed that all living space up to the kneewalls, regardless of the height of the kneewalls, would be considered habitable floor area. The PC agreed that accessory dwellings have to meet all requirements with regard to fire code, ingress and egress, etc. With regard to an apartment over a business, Hal said in his opinion it would not be appurtenant to a single-family dwelling but could be considered a single-family dwelling in its own right and therefore could have its own accessory dwelling. Al asked if there are any restrictions now on putting apartments over businesses. Hal said he doesn't think so. The PC agreed that apartments over businesses are covered under the "Mixed Uses" section of the Zoning Regulations. Barbara suggested defining "mixed use." Mark said his question is about how the term "owner occupied" will be applied to subsequent owners of the property. Hal said he would interpret "owner occupied" literally to mean a Vermont resident who spends most of the year here. It was suggested that if the owner did not want to occupy the house or the apartment, he or she could apply for a change of use. Several hypothetical situations were discussed. Barbara said she doesn't think "owner occupied" should be taken literally; if the owner only occupies the house occasionally and doesn't sublet it, that should be okay. Martha said if the units were attached and the property owner wanted to rent both of them, he or she could change the use to a duplex but if the units were detached, that wouldn't work because you can't have two principal structures on one lot. The PC agreed to check with the Vermont

League of Cities and Towns (VLCT) as to whether or not a town can eliminate the owner occupancy requirement. Al noted that an owner occupant is more likely to maintain the property in good condition and asked if removing the owner occupancy requirement is desirable. Martha said removing the owner occupancy requirement opens up a can of worms with regard to minimum lot size, multiple structures on one lot, etc. Mark said the purpose of the accessory dwelling statute was to create affordable housing for working people. Mark said West Windsor's Town Plan also proposes to create more affordable housing. Al said he is in favor of requiring owner occupancy. Barbara agreed but said she is against putting a lot of restrictions on the meaning of "owner occupied." Mark said he is opposed to requiring owner occupancy. Martha said if the PC is 4 to 1 in favor of requiring owner occupancy, then maybe it's not necessary to check with VLCT on whether that requirement can be eliminated. After additional debate on whether to require owner occupancy or not and what "owner occupancy" means, Hal recommended that the PC adopt the latest proposed wording for now with the understanding that it can be revised after more input is received from VLCT. The PC agreed.

6. Continue discussion of additional changes to zoning regulations (if time allows) – Flags: There was discussion about whether or not to exempt flags from the lighting requirements of the zoning regulations and, if so, whether to exempt all flags or just the American flag which, if flown at night, must be lit up according to federal law. There was also discussion about lighting certain buildings in the village at night. Tom said he feels that lighting is only a problem if the bulb is visible. Al recommended hooded lights and said that he would be uncomfortable restricting the lighting of a flag that's flying. Martha said there are top-mounted down lights available for flags. Elvin said down lighting is less intrusive and protects the view of the night sky. Elvin said when the Resort was being built, there was a lot of discussion about ambient light and the Resort owners agreed to use down lighting. The PC discussed the meaning of Section 3.12(4) which states that "No direct light shall be visible from the property line" and agreed that it means that the light bulb itself shall not be visible. Hal read the American Legion's definition of "proper illumination." Mark noted that we're asking the Resort to down light the American flag, which is consistent with our lighting regulations, but we have a light on the church that is pointing up. Hal said we don't require down lighting, we just encourage it. Martha noted that our regulations also prohibit lighting beyond what is necessary for safety or security and lighting the flag does not make the property more safe or secure. **Al made a motion to allow appropriate hooded up lighting or down lighting of the American flag in accordance with federal regulations. Elvin seconded the motion, which passed with Barbara abstaining.** Church: Martha asked if the lighting of the church is beyond what is necessary for safety and security. Hal said the church has been broken into. Mark said he is in favor of lighting the church. Martha said she is not against it, she is just pointing out that it is inconsistent with the regulations. Barbara said being able to see the night sky is important. Tom said the church lighting is grandfathered and timer controlled. The PC agreed to revise Section 3.12(4) as follows "The use of motion-activated, infra-red controlled, timer controlled, and down lighting is encouraged."
7. Minutes: December 14th – **Elvin moved to approve the minutes of December 14, 2010. Mark seconded the motion, which passed with Al abstaining.**
8. Other Business - None
9. Adjourn – The PC adjourned by consensus at 8:27 PM.

Respectfully submitted,

Martha Harrison