

## WEST WINDSOR PLANNING COMMISSION

Draft Minutes

March 9, 2011

Present: Hal Pyke, Barbara Truex, Elvin Kaplan, Mark Isenberg, Martha Harrison

1. Call to Order – Chair Hal Pyke called the meeting to order at 6:35 PM.
2. Changes or Additions – None
3. Public Comment – None
4. Finalize section on accessory dwelling units (apartments) – The Planning Commission agreed that apartments associated with non-residential uses should not be addressed in the section on accessory dwellings. Martha suggested that the PC come up with a definition for “apartment” that is distinct from the definition for “accessory dwelling.” The PC noted that “mixed use” is a conditional use in the Primary and Secondary Growth districts. The PC agreed that Section 4.13 should include parking as an “applicable standard.” The PC also agreed that accessory dwellings should be a conditional use in the Light Industrial/Commercial district. The PC reviewed and approved the proposed definition of the word “occupy.” **Barbara made a motion to approve the draft language on accessory dwellings, as modified. Elvin seconded the motion, which passed unanimously.**
5. Discuss draft waiver language – Elvin said he is not in favor of waivers that allow a conforming structure, flanked by two non-conforming, grandfathered structures, to become equally non-conforming. Hal noted that a nonconforming structure destroyed by fire may be rebuilt on the existing footprint. Elvin said he thinks a property owner should be allowed to make a non-conforming structure more conforming; the choice should not be between rebuilding it on its original nonconforming footprint and rebuilding it in a conforming location. Barbara agreed. Martha said there have been a few court cases on nonconformities recently and the state seems to be interpreting the law in a way that indicates that they would like to see nonconformities eliminated. Martha said she doesn’t know if the state would allow towns to permit a reconstruction that was less nonconforming. Everyone agreed with Elvin that a conforming structure should not be allowed to become nonconforming based on neighboring nonconformities. The PC agreed that waivers should be allowed for fire safety, disability access, or other legally required improvements. The PC also agreed that waivers should be allowed for renewable energy structures as long as they meet the approval criteria. Hal said he thinks waiver applicants should be required to submit a survey of the affected property lines. The PC agreed although Barbara said it should be acceptable for an applicant to draw the proposed development on an existing survey map, as long as it’s drawn to scale. The PC agreed with Barbara. There was discussion about whether a wood shed is a renewable energy structure or not. The PC agreed that wood sheds are not necessary and should not be considered renewable energy structures. Mark asked why we would have both waivers and variances. There was discussion about whether or not it is necessary to have both. Elvin suggested that a waiver might be more economical. Martha said it could be more economical if the fees are lower but requiring a survey would increase the cost. Mark was concerned about unnecessary bureaucracy. Martha said the DRB is interested in waivers to give them a little more flexibility than they have in variance situations. Martha added that she’s not sure the draft language provides more flexibility. Barbara said she likes the waiver language better than the variance language. Hal said he thinks the waiver language provides more flexibility. There was discussion about recommending a \$75 to \$100 fee for waivers. Martha asked the PC if they would like the waiver language to be less strict. Martha said there are times when someone doesn’t qualify for a variance but what they’re requesting is reasonable and that may be why the DRB wants waiver language. There was discussion about whether waiver language would have been helpful in the DRB’s variance hearing last night. Martha noted that the list of “allowable waivers” in the draft language is pretty narrow. There was discussion about whether to include the word “necessary” along with “legally required” for the second “allowable waiver.” Martha asked if the PC

would prefer not to define “allowable waivers” and just require that the application meets the criteria. Elvin said he favors rigid waiver requirements. Elvin added that the purpose of zoning regulations is to set standards and if we’re just going to make the standards looser, why have them. Hal suggested leaving the waiver language in for now, as modified, since it will be reviewed during the public hearing process. Barbara agreed and suggested getting feedback from the DRB. **Elvin made a motion to approve the waiver language, as modified. Barbara seconded the motion, which passed with Mark opposed.** Mark said he feels the waiver language is redundant and confusing and, if it’s not clear what it’s for, it creates a moribund process for the administrator. Mark said he might feel differently if someone could clarify the rationale for waivers. The PC agreed to ask the DRB for feedback. Hal noted that the waiver language in the subdivision regulations is pretty broad and the PC might want to consider broader language, consistent with the subdivision regulations, for the zoning regulations. Martha said she doesn’t think broad waiver language is appropriate for the zoning regulations.

6. Discuss draft ridgeline language – The PC reviewed purpose statements and development standards from other Vermont towns. Barbara and Hal favored Westminster’s purpose statement. Martha explained the difference between “adverse” and “undue adverse.” The PC preferred “undue adverse.” The PC liked Elmore’s development standards. Barbara said she prefers a 250’ ridgeline buffer, as opposed to a 500’ buffer. Barbara added that she thinks it’s important to actually look at ridges before including them in the ridgeline district. Martha said Jason is working on a revised map. The PC members pointed out specific development standard language that they like from other towns. Mark said he thinks the language should allow development to achieve the desired results without getting too technical or specific about how that is done. Mark said he likes the beginning of Woodstock’s purpose statement and the end of Stowe’s. Mark said he also likes Elmore’s development standard language without the sentence about limiting or restricting the location of structures. Mark added that he does not like language that requires landscaping to conform strictly to the existing vegetation. Hal said the language has to be clear enough to enable the DRB to ensure that the development meets the standards. Barbara and Hal agreed that they prefer softer language and a negotiated process but it has to be specific enough to be enforceable. Mark suggested that any language about limiting or restricting the location of structures should be at the end of the passage. Elvin said he disagrees with Woodstock’s statement that the purpose of the regulations is to encourage development. Elvin said he is interested in protecting the ridgelines not developing them. Mark said if Elvin likes Stowe’s purpose statement better, he’s okay with that. Barbara said she thinks structures should not break the ridgeline or the tree canopy and, beyond that, we should encourage, but not require, the location of structures at the edge of fields. Hal agreed with Elvin that the purpose should be to protect while allowing development. Mark said he doesn’t like the term “uninterrupted skyline” because the interpretation depends on the vantage point. Martha said one of the towns does define “skyline.” Barbara said the term “skyline” is meaningful to her but it does not have to be included in the language. Martha said “tree canopy” is easier for her to visualize. The PC agreed. Barbara said the regulations could suggest various ways that are not too onerous in which the applicant might obtain the desired results. Barbara prefers the word “should” to the word “shall.” Martha said zoning regulations are not enforceable unless they say “shall.” The PC agreed that they do not want standards on building or roof color. Hal said glare and “undue adverse impacts” should be addressed.
7. Minutes – February 16, 2011: Consideration of the minutes of February 16, 2011 was tabled.
8. Adjourn - **Elvin moved to adjourn at 8:25 PM. Mark seconded the motion, which passed unanimously.**

Respectfully submitted,

Martha Harrison