

Town of Hinesburg
Planning Commission
September 23, 2020
Approved October 14, 2020

Members Present: Maggie Gordon, Marie Gardner, Denver Wilson, John Kiedaisch, James Donegan, Barbara Forauer, and Dennis Place

Members Absent: Rolf Kielman and Dan Myhre

Public Present: Vaneska Litz, Jennifer Chiodo, Suzy M.

Also Present: Alex Weinhagen (Director of Planning & Zoning) & Laura Sau (Recording

Secretary) Maggie G. chaired the meeting, which was called to order at 7:04 PM.

- I. **Remote Meeting Connection & Procedures:** Meeting was held remotely due to the current State of Emergency in our best conformance with the Governor's executive order.
 - a. Mute/ unmute at lower left of screen with microphone icon. Alex W. will mute people if there are echoes.
 - b. Identify yourself when you start to speak since not all participants are on video.
 - c. This meeting is being recorded by VCAM
 - d. If there are bandwidth issues and audio is crackling, you can try turning off the video and using only audio.
 - e. Chat has been disabled.
- II. **Agenda Changes:**
 - a. None
- III. **Public Comments for Non-Agenda Items:**
 - a. None
- IV. **Contractor Yard & Vehicle Repair Regulations Revisions:**
 - a. Review 2019 draft language from PC subcommittee
 - b. Maggie disclosed her employment for a law firm that has been involved in 2 separate cases dealing with contractors' yards and has asked to not deal with those cases or be updated on those cases.
 - c. Maggie G.- Marie and herself were members of the subcommittee which created the draft and has requested that the Planning Commission goes back to considering the original 2019 draft, not the track changes made by Alex after hearing P.C. input.

Alex displayed the 2019 draft.
 - d. Dennis P.- questioned the specificity of vehicles in the draft.
 - Alex W.- The track change version specifies over 3 vehicles.
 - e. James D.- Confusion about items 5.3.1 and 5.3.2
 - Maggie G.- described thought of trying to leave room for small growing lawn mowing businesses.

- James D.- Reads it as 3 commercial mowers and no other equipment, then they're a contractor's yard.
 - Maggie G.- Yes
 - John K.- If you have 4 commercial mowers, would you be a contractor's yard?
 - Dennis P.- Yes if used off-site.
 - Maggie G.- If you have 2 commercial mowers and 2 trailers, you are not a contractor's yard.
 - Alex W.- If you have 4 or more of any, you trip line into contractor's yard if used off-site.
 - John K.- Have to specify that one has to state, that if they surpass any one of these, they're a contractor's yard.
- f. Alex W.- Will work on the construction of the document. Asked the board if they have comments after hearing subcommittees intent of triggers of contractor's yard classification.
- g. Dennis P.- Doesn't care about equipment specificities. If you do construction off-site, they should be a contractor's yard.
- Marie G.- Doesn't think small lawn mowing business should be included.
 - Dennis P. and John K.- Maybe use of separate category of lawn maintenance.
 - Barbara F.- Questioned definition of 'Tractor'
 - John K. and Denver W.- classification based on equipment weight
- h. Asked about weight limits on roads.
- Alex W.- will talk to highway foreman to see if it's a problem but believes they work with businesses in addressing when roads are too soft certain times of year or time of day.
 - Dennis P. "In excess of" applies to any equipment or just trucks?
- i. *Proposal:* Denver W.- More than 100,000 lbs of equipment = Contractor's yard
- To avoid specifying all equipment
 - People will know how much their equipment weighs due to VLT declarations
- j. Maggie G.- Enforcement?
- Alex W.- People still need to apply to be a home business. Would be self-reporting—can add onto home occupation application. Would be hard to enforce. Such as if someone got a new piece of equipment.
 - Marie G.- People are good at reporting for property taxes.
 - *Concern:* Maggie G.- Will people update when getting new equipment? Violations have been from drive-bys
 - Alex W.- If someone was captured, can't force them into a review. Would then be pre-existing and review would be optional. Think of things you don't want to capture.
- k. *Concerns:* Vaneska L.- Looked at adjacent towns. Number of towns don't even mention this. Some have revisions in Zoning.
- Those that do include in regulations: Simply worded.
 - What they have in common: Place where they store equipment or materials, used in construction. No mention of processing. Worried about if vehicles are specified to be under 4, if they have 3 big vehicles.
 - Keep in mind that these are in residential area.
 - Noise, Fumes, Screening, Change in character of neighborhood.

- Would like the wording to remain with only storage (equipment, materials, and vehicles), no processing of materials or active work site.
- No problem with hours of someone waking up early to start machine.
- l. Proposal:** John K.- Maybe Contractors Yard shouldn't be a Home Occupation- the same category as lawyers and such. Can people live in industrial areas?
 - Marie G.- Only if you were a pre-existing condition- grandfathered in Zoning
- m. Denver W.-** What if qualified by amount of profit by business
 - Marie G.- Don't have access to that information
- n. Barbara F.-** What does business operators want?
 - Marie G.- Probably Contractor's Yard. Big monetary step to move to heavy industrial site.
- o. Alex W.-** Current regulations are simple. Limit line - 3 vehicles flat. 5.3.4
Alex displayed current regulation
 - John K.- are current regulations not working?
 - Alex W.- point of revision was to address inability of creating new contractors' yards due to setbacks
- p. Dennis P.-** You can have 3 excavators if you don't use them off-site
 - Alex W.- Yes if you have a farm or forestry operation
 - Dennis P.- Okay to have all of this equipment parked in a development?
 - Marie G.- 3 acre minimum.
 - Dennis P.- If under contractor's yard minimum of vehicles, would be allowed?
 - Alex W.- Would have to be reviewed as Home occupation
 - *Proposal:* Dennis P.- Should be re-written. A yard will not be considered a contractor's yard if ____
 - Alex W.- Can work on simplification as board has displayed as a need.
- q. Concern:** Dennis P.- If based on weight—someone could have 14 mowers because they're lighter

V. Provisions

- a. Maggie G.-** Draft setbacks are different than current regulations.
- b. Alex W.-** biggest change--such as: 50' draft vs. 200' current regulation
 - Very limiting for applying for a new contractor's yard
 - 1 acre= 208 ft on side, 2 acres =300' on side
 - 2 acres- property would be possible geometrically if 50', draft says 3 acres minimum
 - Maggie G.- Says 2 acres is too small when combined with residence and other features such as screening.
 - Marie G.- Other towns state minimum of 5 acres
- c. Alex W.-** Existing Regulations- Min lot size- different by district --Ag-2 acre lot, RR1/2- 3 acre lot
 - RR1/2 – 3 acre minimum lot size in general to build, unless on town water, then it's 1 acre
- d. Barbara F.-** In favor of 3 acre min.
- e. Vaneska L.-** setback from other property lines
 - Currently 200'- understands might be excessive

- *Concern*- 3-acre lot with house and outbuildings, could affect neighbor if within 50'
- Effected by noise even further away than 50'
- f. Jenn C.- Consider excavating companies- number are currently excavating companies in town
 - What they store are dirt, soil, rocks
 - To access, they use noisy heavy equipment
 - Multiple trips during the day of loading materials

VI. Screening

- a. Maggie G.- Not just a fence, vegetation if possible, as much as possible
 - DRB review, this will come into play with neighbors
- b. John K.- 1st para, 2nd to last sentence "define as buffer"- define as screening
- c. Barbara F.- 5.3.6
 - Support to keep existing trees- minimum of changing landscape

VII. 5.3.7

- a. Maggie G.- Max equipment – 15, employee parking
- b. Alex W.- Same as current regulations

VIII. 5.3.9

- a. 2,000 sq ft., Draft increases to 4,000 sq ft.
 - Alex W.- Seems intent would be to have equipment inside
 - Marie G.- Thinks so but still has personal reservations
- b. Barbara F.- Adds to impervious surfaces
- c. John K. – Mention of height?
 - Alex W.- Not in this section. Overall regulation height is 35'. Impervious surface would be in 'Lot Coverage' section of zoning regulations. Probably would not be applicable here.
 - John K.- Concerned of 4,000 sq ft x 35', 50' from property line—Huge eye sore
 - Could turn a metal building a residence
 - Marie G.- Could shade neighbor
 - John K.- Could block breeze or view
 - Alex W.- Projects would be subject to Conditional Use Review-
 - sliver of home occupations--Currently no limit for 'larger home occupation'
 - Marie G- Tom Lyman wood working shop?
 - Alex W.- reason for change of regulation of size limit. Shelburne Falls Rd, ½ mile on left from 116, Red barn before Geprags
 - Barbara F.- Why were regulations changed if they could appeal to DRB
 - Impermeable fence?
 - Marie G.- Relative to situation of lot, and up to DRB.
 - Maggie G.- That's why review is required
- d. Dennis P.- has a couple large buildings

- Most people can't see it where he lives
- 50' from property line could still be 1,000' or 75' from closest residence. DRB would consider in review
- Fine with 4,000 for flexibility

IX. 5.3.12

- a. Barbara F.- Fuel storage- heating for what? Extra building/ garage?
 - Marie G.- Yes and next part is fuel for machinery. State rules which govern
 - Alex W.- To some extent.
 - Could make heating more specific for building
- b. John K.- *Referenced text in draft*--Concrete floor?
 - Alex W.- Doesn't specify floor—cement or similar barriers to prevent flow across the site
 - John K.- Knows of precast Concrete waste Blocks from concrete producers and stack them. 3'x2'x2' and store grain and hay inside with a cover.
 - Would that count?
 - Maggie G.- Yes- as long as keeps material from leaking into water shed
 - Would change cement to concrete
- c. Alex W.- Urged the board to talk to contractors about current/best/impossible practices
 - John K- mentioned addition of yellow book
 - Marie G.- would like to invite contractors to the PC meeting to comment

X. 5.3.13 – No Comments

XI. 5.3.14 –

- a. *Concern:* Jenn C.- Allowance and grandfathering of Non-conforming use- generally conceived as a step that enables someone to continue what they're doing with idea of ultimately bringing that property into conformance.
 - Draft seems opposite to that intent
 - Town needs to deal with when grandfathering ends
 - State laws identifies the need to address in zoning regulations in non-conforming spaces
- b. Alex W.- agrees with those comments
 - Section 5.10 deals with non-conforming uses and non-complying structures with a whole review protocol for the DRB when any alteration occurs
 - No intent in 1990's to force grandfathered yards to conform and comply
 - Doesn't align with state statute with non-conforming uses
 - HRG- Attorney argued pre-existing non-conforming use
 - *Proposal:* eliminate this sentence and add reference to Non-conforming section 5.10
- c. Marie G.- Where do they live?
 - Maggie G.- It wasn't added in this draft
- d. ***Commission members agreed to remove this section.***

- e. Vaneska L.- How are grandfathered yards defined?
 - Runs with land?
 - Alex W.- Should add a section on transferability
 - 5.1.2- it does address transferability
 - Vaneska L- Does need to be addressed
 - Marie G.- Doesn't think intent was ever to go with land
- f. Dennis P.- Problem with not being able pass business onto kid
 - Alex W.- *Urged to board to get legal opinion*
 - What if thought about in terms of not contractor's yards, but home businesses in general—believes regulations references to use, not owner.
 - Brought up General Store in town.
 - Because past regulations reference “grandfathering” would probably need to reference something about it.
 - Grandfathered only mention is this section of regulation, not mentioned in state statute.
- g. Jenn C.- Vermont Land Use Education and Training Collaborative – zoning required provisions and limitations specifically addresses ‘Grandfathered’- bylaws must address how grandfathered structures and lots which don't comply with newly adopted standards are to be regulated (doesn't think that Hinesburg made this up)
- h. Marie G.- If sell the house, does home occupation permit go with house?
 - Alex W.- Depends on type of home occupation – garden variety in house with zoning permit, then larger ones which require conditional use approval. Only conditional use approval ones are non-transferrable
 - Garden variety could theoretically transfer with ownership
- i. Jenn C.- Residency—Modern advent of LLC's
 - Consider percentage of ownership or decision-making authority? So someone couldn't give 1% to niece and have them live on the land, and technically comply when that person does not have decision making power in company
 - Marie G.- Interesting point. Company (LLC or LLP) can own land
- j. Alex W.- *Current language of regulations*--Contractor's yards can only exist where it is the primary residence of primary owner. Public comments are concerned with a way of skirting this.
- k. Vaneska L.- Wants to avoid going to lawyers, will always be better
 - If neighbors can talk to neighbors, there will always be a problem with a business if the owner does not live, or the person living doesn't have control over operations. Have to be neighborly
 - Maggie G.- How it should be- self-regulating.
- l. **Performance Standards** Alex W.- carry over from current regulations
- m. Alex W.- Rolf concerned about noise.
- n. Alex W.- Thinks it's stringent but in reviewing noise issues, difficult to talk about “unreasonable noise or disturbance”. In court, noise is hard to argue without specific decibel level and duration of time. Would be included in performance standards.

- Too soon to set a hearing, needs another pass
- Alex W. will present another draft for next meeting.

XII. Barbara F.- 5.4

- Maggie G.- Hasn't been reviewed by subcommittee. Should motor vehicle repair shop be viewed as separate section?

XIII. Minutes of August 26th Meeting

- Minor adjustments were made.
- Barbara F. **made a motion to accept minutes of the August 26, 2020 meeting.** Denver W. **seconded the motion. The board voted 7-0**

XIV. Other Business and Correspondence

- Barbara F.- Town website needs updating on Selectboard's List
 - Alex W.-Aaron Kimble- Webmaster has had less time to update
 - In process of re-doing website with another company
 - Will address concern
- John K.- Also contacted Hinesburg Record to update Selectboard
- Maggie G.- Documents concerning ambulance are now on website
- John K.- Illustration for design standards?
 - Alex W.- Brandy from Place Sense
 - First iteration Alex has already given feedback. Will share samples shortly
 - Public hearing on Energy Plan on October 2nd
- Agenda Items for October 14th Meeting**
 - Continuation of Reviewing Contractors Yards and Vehicle Repair Draft

The meeting adjourned at 9:14 PM.

Respectfully submitted,
 Laura Sau, Recording Secretary