

TOWN OF ESSEX
PLANNING COMMISSION
MINUTES
MARCH 10, 2022

Note: *This meeting was in-person and virtual on Teams.

PLANNING COMMISSION (PC) PRESENT:

IN PERSON: Dustin Brusco, PC Chair Ned Daly.

VIRTUAL: John Mangan, Clerk; David Raphael; Johnathan Schmacher; and Tom Furland.

OTHERS PRESENT:

IN PERSON: Sharon Kelley, Zoning Administrator; Darren Schibler, Planner; Al Senecal; Henry Hayes; Sharon Hayes; Hans Huessy; Paula Duke; Frances Huessy; Mike Wager; and Kevin Collins.

VIRTUAL: Patty Davis; Chelsea (Unknown); Kendall (Unknown); Mike Smith; Nick Martin; Sharon Irene; Steve Duett; Jennifer Churchman; Ashley Wager; and Mark Huessy.

The meeting was called to order at 6:31 p.m. Chairman Brusco called out the amendments to the Agenda and announced the meeting was in person and on Zoom. Instructions on how Zoom works was provided to the public. Chairman Brusco stated that if the public provides any testimony, they are acknowledging that it was truthful to the best of their ability.

AGENDA ITEM 1: PUBLIC COMMENTS:

Chairman Brusco informed the public that if any person wanted to discuss a topic not listed on the Agenda or comments relating to the Consent Agenda, the time to speak was during this Agenda Item.

Chairman Brusco noted that Agenda Item 8, 'Other Business' was a notification of an appeal of a previous Planning Commission approval, therefore if anyone was present to comment on the appeal, the PC would entertain comments under this Agenda Item.

Henry & Sharon Hayes, 14 Hampshire Court, Essex, VT reported that their attorney then filed a 'Motion to Stay' on the appeal so that they do not lose their rights of appeal. They stated their intent was not to hold the process, rather to preserve their right of appeal in the future if appeals are still needed after preliminary and final review.

Mr. Hayes read the following statement into the record:

My wife Sharon and I, through our attorney Mark Hall, filed an appeal with Environmental Court once we received the Planning Commission's findings from the sketch plan meeting in December. The right to appeal is time sensitive, and we filed the appeal so that we would not relinquish our rights. After filing the appeal, our attorney then filed a stay of that appeal, which is where it stands as of this meeting.

48 *Our intent is not to halt the process, but merely to preserve an appeal to be combined with*
49 *appeals of preliminary and final plat approval in the future, if appeals are still warranted*
50 *at that point.*

51
52 *We understand this planned development still has a number of particulars to be addressed*
53 *prior to being finalized. We also note that the original sketch plan requested a number of*
54 *waivers to current Town zoning regulations.*

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56 *As we and many of our neighbors articulated in the public comments at the sketch plan*
57 *meeting, the sketch plan, as proposed, was intent on maximizing density at a level that is*
58 *out of character with the surrounding homes.*

59
60 *I can't speak for all of my neighbors. However, Sharon and I feel that if two of the*
61 *buildings were removed (#s 9-10 and 11-12) and if the planned private road on the sketch*
62 *were shortened accordingly, this would create a reasonable set-back from the Shillingford*
63 *Crossing neighborhood. This, along with adequate screening between the two*
64 *neighborhoods, if done right, could create a suitable buffer.*

65
66 *The Westons are currently requesting a seven-unit density bonus as part of their original*
67 *design. The removal of units 9&10 & 11-12 would allow for the construction of 27 new*
68 *units to be built, and with the existing house, a total of 28 units.*

69
70 *There is plenty of profit to be netted from 28 units.*

71
72 *28 units is still a meaningful amount of new units, in what we know is a tight housing*
73 *market.*

74
75 *We think this compromise is reasonable and would represent a win/win for the Town of*
76 *Essex, the Westons and the adjacent neighbors.*

77
78 *Thank you for your time.*
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80 Mike Wager, 12 Hampshire Court stated that the initial plan stated that there was a capacity issue
81 to the Pinecrest sewer connection. The Town Planner, Darren Schibler, stated that the issue is
82 where the new sewer lines would be routed. Schibler stated that the lot in question did not have
83 the required capacity at the time of Sketch approval, however the Selectboard has since approved
84 such capacity for this project. The issue remains as to where the sewer lines will be routed.
85

86 Chairman Brusco stopped the conversation and cautioned that the PC needs to be careful not to get
87 into specifics of the project as there is no application before them. Mr. Wager asked if more
88 details would be provided at preliminary review. Chairman Brusco said yes, that is when a very
89 detailed review occurs.
90

91 Kevin Collins stated that the Zoning Administrator brought up his request to allow for a
92 caretaker's apartment to be allowed where the former 'Powell's Place' is located. He stated that he
93 owns and works on the premises and would like to live in the former structure. He asked if the PC
94 received his request and when the best time would be to discuss this in more detail. Sharon Kelley
95 noted that she brought this to the PC at an earlier meeting and it went on the PC worklist.

Chairman Bruso stated that the PC was working on its list at this meeting and informed Mr. Collins that the planning and planning updates is not a rapid process. Kelley stated that they will try to make the posted agenda topics as specific as possible.

Al Senecal stated that an email was sent to staff just prior to the start of the hearing which reinforced topics that he requested the PC to consider. He noted that he spoke about one of the items, uses in the RPD-I zone, at a recent PC workshop. However, he had a few other requests that he hoped the PC would consider. Acting Chair Knox stated that they would take those comments during its workshop. Darren Schibler forwarded the email to the PC.

There were no other public comments.

AGENDA ITEM 2: CONCEPTUAL DISCUSSION: Mariot G. Huessy Life Estate, c/o Hans Huessy: Request for waivers to proceed with a simple-parcel subdivision application allowing the creation of one new lot without road frontage and allowing a third lot to utilize one driveway for property located at 1070 Old Pump Road in the Conservation (C1) Zone. Tax Map 12, Parcel 28.

Sharon Kelley reported that Commissioner Raphael has recused himself from the Huessy Conceptual Discussion and therefore will not be joining the meeting.

An informal discussion took place to determine if the Planning Commission would entertain a formal subdivision application which would require waivers. Mr. Huessy explained that the waivers would allow to maintain forest blocks and allow for a better development.

Chairman Bruso asked the PC for its thoughts, reminding that Commissioner Raphael has recused himself. Commissioner Schumacher stated that he should probably recuse himself as he has known the family personally for years. He questioned if he understood that this review was not binding or under statute. Chairman Bruso stated that this was only a discussion. Commissioner Schumacher said, "If it is okay with the rest of the Commission, maybe I will just listen in or step out, whatever you want me to do." Chairman Bruso stated that would be up to him and/or Mr. Huessy. Mr. Huessy had no objections. Chairman Bruso asked the Commissioners if they had any objections to Commissioner Schumacher participating in the conceptual discussions. The Commissioners in attendance did not have objections. Chairman Bruso stated that the decision was up to Commissioner Schumacher. Commissioner Schumacher stated that he would sit in on the conceptual discussion.

Sharon Kelley read into the record the following from Commissioner David Raphael,

Commissioner Raphael has recused himself from the Conceptual Discussion: Mariot G. Huessy Life Estate c/o Hans Huessy and therefore will not be joining the meeting.

Chairman Bruso asked for staff comments. Darren Schibler stated that his comments were listed in the memo previously provided to the PC and to the applicant.

Hans Huessy stated that he understood that the PC received his memo and Darren's memo. Huessy was requesting a waiver from the contiguous road frontage requirement and a recommendation from the PC for the 3-lot requirement on a private drive so that he can put forth a waiver request

before the Selectboard. Huessy believes both waivers would make sense to the Town and to him as it would allow him to put the house where he wants it located on the lot. He stated if the waivers were not granted, the house would be moved 500-feet closer to the road and would be served by a separate driveway. He noted this scenario would require significant clearing of a wooded area and would require a separate driveway and power line, that would otherwise not be there. Huessy believes this does not serve the conservation purposes of the zoning district, which is to preserve natural resources. Huessy noted that the planner noted that the existing cleared area would grow back, however he informed the PC that the area has been an open field for the last 50 years, or more, and would be unlikely that it would return to timber. Huessy stated that he understands the concern over setting a precedent, however he believes the facts of his particular situation are distinct and if the waiver was granted carefully with findings of fact, it would be difficult for other properties to match the same findings.

Schibler read a comment from the chat on Zoom, from Mark Huessy, as follows:

This is a note in support of Hans Huessy's request at 1060 Old Pump Road. We are Hans' closest neighbors. Until her death, my mother, my brother Hans, my wife and I lived off the driveway at 1070 Old Pump Road. My brother operated a bed and breakfast. Neither any of us nor the guests had trouble with other cars on the driveway. The driveway has turnouts to use in emergencies, but we have not been forced to use them. With care, two cars can pass one another on the road.

Schibler stated that he has been back and forth with the applicant on this matter and does not agree that it is a legally developable lot as it requires waivers. He noted the applicant could proceed with a 2-Lot PUD, however the driveway still remains an issue. He noted the private driveway would remain private but it would still need to be upgraded to the Public Work Specifications.

Chairman Bruso asked for the Commission's thoughts.

Commissioner Daly stated that he likes the idea of the development, however it was not up to the PC to convenience Public Works or the Fire Chief.

Commissioner Schumacher feels similar to Commissioner Daly. He stated that because he has known the family it is hard for him to be pragmatic about his thinking.

Commissioner Furland asked how likely the existing B&B operate. Huessy stated that the house will be going on the market in a couple of months and he does not know what future owners may do with the premises.

Commissioner Mangan is in favor of Staff's recommendation. He said setting a precedent is a "show stopper"; and the PC needs an answer to the driveway.

After discussions with the Planning Commission, Chairman Bruso informed Mr. Huessy that the PC cannot grant waivers that deal with the Public Work's Specifications – only Public Works can grant a waiver to its requirements. Chairman Bruso suggested that the applicant set up a meeting with staff and Public Works to discuss the waiver for a third house or lot utilizing one driveway. If the feedback was positive, then the PC would consider the second waiver regarding frontage.

Chairman Bruso stated that the issues were not yet “cooked enough” for the PC to provide a positive or negative for a formal application.

Commissioner Furland said, “Ditto” to the comments.

Chairman Bruso stated that the overall goal is positive however the applicant is looking for 3 major exceptions, including Public Works. He recommended the applicant talk with Public Works and then come back to the PC. It was decided that staff will work on setting up a meeting.

AGENDA ITEM 3: Continued From 1/27/22 & 2/24/22 – Finalizing the Planning Commission Workplan: Planning for future projects, including but not limited to developing regulations for the ETC|Next plan; updating zoning and subdivision regulations; Town Plan updates, etc.

Chairman Bruso stated the goal of this workshop was to review the finalized workplan and decide how to divide the work up between themselves and/or working with other boards and committees.

The PC packets included memos from Darren Schibler regarding Permitted and Conditional Uses; ETC|NEXT; and Bylaw Modernization Grant.

Sharon Kelley read Commissioner Knox’s email into the record, as follows:

Here are some quick comments that I have for the work-plan discussion, in no particular order:

1) For Old Historic Center Placemaking, I think the Historical Society, Essex Free Library, Essex Center United Methodist Church (where I go), and the Memorial Hall Committee would be good partners to figure out which places could/should be given signage and of what sort. The church, library, and Memorial Hall are all at least 150 years old, and the burial ground is over 200 years old. These places should be knit together.

2a) I support the Nov. '22 deadline for a Town Plan Amendment, specifically for the ability to apply for state planning designations in a timely fashion. I think this is doable if we as a PC are clear in our directives. Speaking of:

2b) I think we should create new zoning districts with specific standards within the ETC, and I like the idea of form-based code, provided it is restricted to the ETC at this stage in the process.

3) Since I took big swing for 3a) above, I support the recommendation "Addressing ETC|NEXT as a full Commission, informed by working groups specific to other projects" in terms of how we organize the work. I believe John Alden and I worked quite well together to help massage ETC|NEXT as a working group in the first instance, and that model could work again.

Naturally, I will defer to whatever the Commission as a whole determines tonight, but those are my thoughts.

Chairman Bruso reiterated the idea to invite chairs to the PC meeting and what they would like to help with on the topics. He noted that ZBA Chairman Nick Martin was in attendance and asked for this thoughts on this idea. Martin suggested having groups and/or subcommittees instead of 1 chair or 1 individual at a time. He agreed that moving forward with regulations is always important. Chairman Bruso suggested the ZBA take an active role and look at the list of performance standards or the uses in all zones. A brief discussion ensued on a timeline.

Chairman Bruso stated that the PC received a letter from the member of the public and he felt it was inappropriate to share it in the public arena. Bruso suggested to staff that if they receive future commentary to have the person bring the issue to the PC as it is not right for staff to try to field these issues. Bruso stated that the PC is above-board and has been transparent. He noted that in the future, he will read these letters into the record.

Chairman Bruso summarized the following with going forward with the work plan:

- Reach out to other Boards and Commissions;
- Chairman Martin will vet the idea to the ZBA;
- The PC will focus on the first 2 or 3 items on the workplan, develop work groups, splinter off once there is an understanding of the tasks, and then come back to the PC;
- Attempt to include specific items on its Agendas, as much as possible; and
- Note that workshops will include a period for public comments.

Al Senecal offered his services as he felt it was important to have and be specific with their requests and opinions from the other side of the table. Chairman Bruso acknowledges Senecal's expertise but the PC must maintain proper distance. Senecal understands but stated that all viewpoints should be considered. Commissioner Daly agreed, noting that sometimes the PC gets tunnel vision. Chairman Bruso stated a forum would engage all parties.

The PC instructed staff to bring the previously developed ETC|NEXT regulations back to the next PC meeting.

Commissioner Schumacher liked the idea of a metric; likes Schibler's brief memos; likes the way the PC is going; feels it is important to get other stakeholders involved; noted that plans change as the reviews continue; and is interested in forest blocks with the 2024 Town Plan update.

Nick Martin asked Kelley to invite 1 ZBA member to the PC meeting.

Paula Duke is supportive of the aforesaid planning.

AGENDA ITEM 4: MINUTES 2/24/2022:

Commissioner Daly MOVED and Commissioner Furland SECONDED a MOTION to approve the 2/24/2022 minutes with small grammatical corrections, and the added statement on Line 83: *Chairman Bruso reiterated from the last hearing that future regulation/planning discussions should determine how other groups (such as the ZBA, Housing, Energy, Conservation and Trails, etc. be included as port of the working groups. The PC agreed.*

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The MOTION passed 6-0.

ITEM 5: OTHER BUSINESS: None.

The meeting adjourned at 8:08 p.m.

PLANNING COMMISSION

By: _____
Dustin R. Brusco, Chair