TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

(802)674-2626 P.O. BOX 550 ASCUTNEY, VT 05030 landuse@weathersfield.org

Planning Commission Agenda

Martin Memorial Hall – 5259 Route 5, Ascutney, Vermont 05030

Monday, 8 March 2021 – 7:00 PM

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1. Call to Order
2. Agenda Review – 8 February 2021
3. Reorganization of the Commission
4. Comments from the Chair and Land Use Administrator
5. Comment from Citizens regarding items not on the agenda
6. Approval of Meeting Minutes – 22 February 2021
7. Hearing on Subdivision regulation amendment proposal re: statute of limitations for open subdivision hearings
8. Discussion 2017 Future Land Use definitions/zoning districts
    a. Industrial
    b. RR-1
    c. Perkinsville Village area
    d. Airport
    e. RRR 3-5
9. Discussion of Gasoline/service stations – conditional use Section 7.14
10. Discussion of Items for Future Agendas
11. Any other business that can be legally discussed
12. Adjourn

The next regularly scheduled meeting of the Planning Commission will be **Monday, March 22, 2021 - 7 PM**, Martin Memorial Hall.

Due to public demand and COVID-19; the Town has changed its public meeting platform from GoToMeeting to Zoom. For computer access, please go to this website, where you will find instructions and links to the meeting: https://www.weathersfieldvt.org/home/news/public-meetings-zoom

To join any public meeting via phone, dial (929) 205-6099. When prompted, enter meeting ID 542-595-4364. You will not have a participant ID. Please press # when prompted to skip this section. The passcode for all meetings is 8021.

State of Vermont

Transportation Board

February 10, 2021

Re: Permitting Helipads and Airstrips

Dear Municipal Manager & Planning Commissioner:

The Vermont Transportation Board serves as the state permitting authority for airports and restricted landing areas. Restricted landing areas include private helipads and airstrips but do not include regulation of drones. Over the last few years, the Board has seen a significant increase in applications for private helipads and airstrips, often serving a single home in an existing subdivision or neighborhood. These private facilities can dramatically change the character of an area and can have negative impacts while providing a private benefit to few.

The State, as part of its permit process, requires that a proposed helipad or airstrip first receive municipal approval. But in the vast majority of cases that come before the Board, the host city or town has no regulatory mechanism to review such applications. In these cases, court guidance tells us the State must accept the application and proceed as if municipal approval has been granted. While this allows the application to proceed, it essentially shorts the permit process because the Transportation Board has no authority to review land use. This means that private helipads and airstrips often gain approval without any kind of local process that determines whether the proposed location is compatible with the surrounding area.

In short, the State's permitting process for a helipad or airstrip is designed to have three review components: 1) the local municipality reviews land use, 2) the State reviews ground-related safety to determine if aircraft can take-off and land safely, and 3) the U.S Government reviews the airspace to ensure safety once the aircraft is airborne. Given this regulatory structure, if the host municipality has no policy language in its adopted plan or no established regulatory mechanism, such as zoning bylaws that deal with aviation or a stand-alone municipal bylaw that deals with aviation, land-use issues and neighborhood concerns go unchecked.

Realizing this, the Board convened a committee comprised of municipal planers, regional planners, VTrans staff and a representative of the Vermont League of Cities and Towns to develop guidelines to help municipalities understand what they can do to establish a local, regulatory mechanism that deals with helipads and airstrips should one be proposed within your municipality.

The committee, as well as the Transportation Board, encourages all Vermont cities and towns to consider adopting municipal plan policies and/or bylaws regarding aviation facilities as recent history shows that applications for private helipads and airstrips are increasing. Vermont is regularly seeing

TRANSPORTATION BOARD * 14 BALDWIN STREET * MONTPELIER, VT 05602 * TEL: (802) 828-2942 * FAX: (802) 828-2660

applications all across the state, and often for locations within or close to village settings or in existing residential neighborhoods in rural communities.

What follows are some suggestions on what to consider should your community wish to better prepare itself for such an application. Transportation Board Executive Secretary John Zicconi is willing to meet with any town (municipal manager, selectboard, planning commission, etc.) to discuss this issue further. Inquiries can be made directly to him at 802-343-7280 or at john.zicconi@vermont.gov.

MUNICIPAL PLANS

Municipal plans establish the policy basis for zoning bylaws, but they also have regulatory effect in state permitting processes, such as Act 250 (land use) and Section 248 (energy generation and transmission). Including explicit, prescriptive policy language in the municipal plan about where private helipads and airstrips are and are not allowed establishes a policy basis for municipal approval. Prescriptive policy language uses words such as will and must as opposed to more passive words such as consider, should, support, and encourage. If a municipality uses a municipal plan to either approve or deny a helipad or airstrip, the Transportation Board requires a letter from the municipality explaining its decision with reference to the section of the municipal plan used.

ZONING BYLAWS & ORDINANCES

Many Vermont towns have zoning, but not all zoning regulations capture helipads and airstrips. The Transportation Board encourages municipalities to review their zoning regulations to determine if they cover private aviation facilities which can be proposed in residential as well as commercial districts. Detailed zoning regulations may take the following tools into account.

Setbacks – establish a minimum for helipads and airstrips, which may vary depending on the zoning district. There is no magic number of feet a setback should be.

Lot Size – there is no common or recommended lot size. Helicopters can land in very small spaces. Appropriate lot sizes also may vary by type of zoning district as one size may be appropriate for a commercial district while a different minimum size may be more appropriate for a residential district. For airstrips, the U.S. Government sets minimum runway lengths necessary depending on the class of aircraft to be flown.

Noise – federal law prohibits states or municipalities from considering or regulating aircraft noise. Aircraft noise is the sole domain of the federal government. However, municipalities can regulate land uses and the character of an area so long as they are not used as a proxy for limiting aircraft noise.

For example, courts have held that regulating hours of an airport's operation is a proxy for regulating aircraft noise.

Permitted Use – if a community wishes to allow helipads and airstrips they can be allowed in some or all zoning districts.

Conditional Use – can address the character of the area, performance standards, and land uses so long as they are not a proxy for noise.

Accessory Use – helipads and airstrips can be allowed as incidental or subordinate uses to the property's primary use.

Prohibited Use – municipalities with proper regulatory tools can prohibit helipads and airstrips throughout town, or they can prohibit them only from specific areas of town or within specific zoning districts.

Exemptions – zoning can prohibit helipads and airstrips but also exempt certain aviation uses – such as crop dusting and insect control – from needing a local permit. The State and the U.S. Government may still be required to review such uses, but municipalities if they wish can exempt specific uses from needing local approval. None of this, however, would prohibit an aircraft that must land due to an emergency as federal law for safety purposes allows that to occur anywhere necessary.

Screening & Visual Impact – while planting trees and shrubs to screen certain development is commonplace within zoning, keep in mind that aircraft require specific glideslopes with specific ground-to-air clearance ratios (helicopters require an 8-to-1 horizontal to vertical clearance) to land and takeoff safely. Thus, trees or other structures cannot be placed too close to the actual landing facility. Also, zoning can establish how aircraft can be parked and other associated visual parameters.

Surface Type – certain aircraft can land on almost any kind of surface. Some towns require helipads to be paved and maintained free from dust, dirt and other loose material that could be blown onto adjoining properties by the air wash.

Runway Length – while helicopters can land in very small spaces – including on top of buildings – specific class of airplanes require specific runway lengths. As a result, zoning must understand what type of aircraft class is acceptable and then ensure the regulations allow for proper runway length.

Additional Permitting – Vermont statute requires that municipal approval be obtained prior to applying for a State Aviation permit, so local regulations should not require State approval be obtained

first. Local regulations can, however, require that obtaining a State Certificate of Operation is required prior to the commencement of local flights.

STAND-ALONE MUNICIPAL BYLAW

Municipalities that do not have zoning can still regulate helipads and airstrips. Statutes allow for a stand-along bylaw under Title 24 Chapter 117. As another option, statute allows for an ordinance under Title 24 Chapter 59. The above zoning guidelines also can be used to help guide communities wishing to establish such bylaws or ordinances.

QUESTIONS

In closing, the Transportation Board emphasizes that its executive secretary is happy to answer any questions you may have regarding helipads and airstrips, and is willing to meet with your local planning commission, selectboard or whatever other entity is responsible for drafting local zoning regulations and municipal ordinances. The Board has seen many examples of Vermont communities being caught off guard when application for a Restricted Landing Area is made and witnessed the shock local residents have when they learn the municipality has no way to determine for itself if such a facility is appropriate for their community.

As a result, the Board encourages all Vermont communities to discuss this issue and decide if its local permitting processes is adequate when it comes to siting helipads and airstrips. The Board hopes you find the enclosed information helpful, and it is happy to assist any city or town to help it better understand the issue.

Sincerely,

John B. Zicconi
Executive Secretary, Vermont Transportation Board

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Petition of Weathersfield Town Garage Solar LLC for a certificate of public good pursuant to 30 V.S.A. §§ 248 and 8010, authorizing installation and operation of a 500 kW (AC) photovoltaic group net-metering system at 483 Stoughton Pond Road in Weathersfield, Vermont	)	Case No. 19-2616-NMP

NOTICE OF MINOR AMENDMENT

On December 18, 2020, Weathersfield Town Garage Solar LLC (the "Applicant") submitted in ePUC a project amendment filing and requested the Vermont Public Utility Commission ("Commission") to waive the major amendment procedures and treat the changes as a minor amendment. The filing documents, which were mailed the same day to adjoining landowners and local and regional planning commissions and the local selectboard, included the following:

- Cover Letter to the Commission Clerk entitled "Case No. Petition of Weathersfield Town Garage Solar LLC, Case No. 19-2616-NMP – Supplemental Filing, Motion for Waiver and Notice of Minor Amendment"
- Service Mailing List of local and regional officials and landowners who were mailed copies of the filing on December 18, 2020
- Motion for Waiver
- Prefiled Testimony of Martha Staskus
- Resume of Martha Staskus (Exh. MS-1)
- Revised Site Plan (Exh. MS-2 revised)
- Affidavits of Martha Staskus and Dori Barton

On January 28, 2021, the Commission issued an order granting the waiver and deeming "that the proposed amended Project as depicted in exhibit MS-2 (revised) may be treated as a minor amendment."

On February 19, 2021, the Commission hearing officer issued a memorandum stating that the original amendment filing submitted in ePUC and mailed on December 18, 2020 was not sent by ePUC to all state agencies because it was filed under Document Type as a Motion and not Notice of Minor Amendment. The Memorandum further stated:

> "Although the Commission's 1/28/21 Order may have been unclear with respect to the necessary process for filing the Notice of Minor Amendment in ePUC, in order for the 10-business-day comment period to begin, the Applicant must take the following steps to properly notify all persons and entities who were entitled to receive a copy of the original application:
>
> 1. File a "Notice of Minor Amendment" document type in ePUC referencing all applicable supporting supplemental testimony and exhibits for the amendment as filed, and
>
> 2. File a Proof of Service of the Notice of Minor Amendment in ePUC for all persons and entities who were entitled to receive a copy of the original application pursuant to Commission Rules 5.107(E) and 5.108(A) and who were served outside of ePUC."

This Notice of Minor Amendment is being re-submitted in ePUC in accordance with the hearing officer's Memorandum and will be mailed today to those persons listed in the accompanying Certificate of Service. Any comments must be submitted to the Commission within ten (10) business days of the date of this Notice.

DATED at Burlington, Vermont, this 23rd day of February, 2021.

Weathersfield Town Garage Solar LLC

By: _____
PAUL FRANK + COLLINS P.C.
Kimberly Hayden, Esq.

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STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Petition of Weathersfield Town Garage Solar LLC (the "Applicant") for a certificate of public good pursuant to 30 V.S.A. §§ 248 and 8010, authorizing installation and operation of a 500 kW (AC) photovoltaic group net-metering system at 483 Stoughton Pond Road, Weathersfield, Vermont	)	19-2616-NMP

CERTIFICATE OF SERVICE

I hereby certify that on February 23, 2021, I mailed by first class mail, copies of a Notice of Minor Amendment on behalf of Petitioner in the above-referenced matter to the entities listed below.

Weathersfield Selectboard
PO Box 550
Ascutney, VT 05030

Weathersfield Planning Commission
PO Box 550
Ascutney, VT 05030

Southern Windsor County Regional
Planning Commission
P.O. Box 320
Ascutney, Vermont 05030

Richard A Jr & Bonnie Butler
379 Stoughton Pond Rd
Perkinsville, VT 05151

Teena R Fuller
327 Stoughton Pond Rd
Perkinsville, VT 05151

Marlo M & David K Mora
384 Stoughton Pond Rd
Perkinsville, VT 05151

Gerald E & Joyce E Balargeon
464 Stoughton Pond Rd
Perkinsville, VT 05151

Kai F Mayberger & Julia C Lane
5713 Us Rt 4
Bridgewater Corners, VT 05035

USA Corps of Engineers
98 Reservoir Rd
Springfield, VT 05156

Eugene G & Alice G Adams Life Estate
501 Stoughton Pond Rd
Perkinsville, VT 05151

Wayne A Beliveau & Diane A Rejniak
571 Stoughton Pond Rd
Perkinsville, VT 05151

Dated at Burlington, Vermont this 23rd, day of February, 2021.

Respectfully submitted,

Weathersfield Town Garage Solar LLC

By: _____
PAUL FRANK + COLLINS P.C.
Kimberly Hayden, Esq.

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Planning Commission
Martin Memorial Hall
5259 Route 5, Ascutney VT
Planning Commission Meeting Minutes
Meeting Moved to Online due to weather
Monday, February, 22, 2021 7:00 PM

Planning Commission Members Present:
Paul Tillman
Tyler Harwell
Michael Todd
Howard Beach
Chris Whidden, Zoning Administrator
Brandon Gulnick, Town Manager

1.) Call to Order by Chair, Paul Tillman at 7:02pm

2.) Agenda Review – February, 22, 2021

No changes at this time.

3.) Comments from Chair and Land Use Administrator

Chris Whidden wanted to remind everyone that he would not be available Monday, March 1, 2021.
ZBA hearing Thursday, February, 25, 2021 for the hotel at the former Yankee Village Motel location.
Grace Drive and Earth Ext. hearings were extended until February 25, 2021.
Chris is getting a lot of Bianchi requests. He would like to discuss charging $50-$75 for these requisitions as they are time consuming with the amount of research required.

4.) Comments from Citizens regarding items not on agenda.

None

5.) Approval of Meeting Minutes 2-8-21

Michael Todd made a motion to accept the minutes of 2-8-21
HB – 2nd
Discussion – Tyler Harwell noted that he had discussed some zoning districting of river frontage properties that was not listed in the meeting minutes from 2-8-21. Asked to have that updated.
Vote - unanimous

6.) Hearing on adoption of 2017 Future Land Use Map as the current Zoning Map, with definitions.

Continued to next Planning Commission Meeting, March 8, 2021

7.) Presentation by Howard Beach re: enabling better communities

Howard Beach had the opportunity to attend 2 different Zoom meetings on Enabling Better Communities in VT. Some things that they discussed:

- Rehabing older buildings
- Primary driver is affordable housing
- Increase density wherever it can be created
- Affordable housing and apartments

The majority of the meetings were geared towards larger population areas like Burlington or Montpelier.

Areas with public sewer and water.
Reasonable economic development in towns to help fund projects.

Chris Whidden noted that he would like to be involved in identifying grants and projects.

Brandon Gulnick worked with Steve Smith to update meters in Town. Currently it will cost approximately $260,000 to update and add meters. It will cost approximately $240,000 replace the water line that needs replacing.

Paul Tillman wondered if people in Town would be willing to pay more taxes to cover Town sewer.

8.) Discussion 2017 Future Land Use definitions/zoning districts

a. Industrial
b. RR1
c. Perkinsville Village area
d. Discussion and consider a vote re: Gasoline/fuel service stations conditional use subsection 7.14

Paul wrote an email to Jason Rassmuessen.

Chris Whidden found definitions for Hamlet vs. Village.

A hamlet can not be incorporated and has no specific size definition. They do not have and churches or government buildings. A village can be incorporated and has government buildings.

Continued discussion on definitions and zoning districts will be continued as the next Planning Commission Meeting.

9.) Any other business that can be legally discussed

None

10.) Adjourn

Howard Beach made a motion to adjourn the meeting.
Michael Todd– 2nd
No discussion
Vote - unanimous
Meeting adjourned at 8:19 PM

Next Planning Commission Meeting is scheduled for Monday, March, 8, 2021 at 7:00 pm at Martin Memorial Hall.

Respectfully,
Chauncie Tillman
Recording Secretary

Planning Commission

Paul Tillman, Chair

Howard Beach, Vice Chair

Tyler Harwell, Commissioner

Michael Todd, Commissioner

TOWN OF WEATHERSFIELD

OFFICE OF THE LAND USE ADMINISTRATOR

(802)674-2626 P.O. BOX 550 ASCUTNEY, VT 05030 landuse@weathersfield.org

MEMORANDUM

TO: Weathersfield Planning Commission
FROM: Chris Whidden, Esq., Land Use Administrator
DATE: 12/21/2020
RE: Amendment to Section 7.14 re- development of gasoline/service stations

The Planning Commission ("the Commission") has an open hearing regarding the adoption of the 2017 Future Land Use Map and accompanying definitions as the new zoning map and definitions as part of our bylaw update project. As part of this project, gasoline and service station construction and development in Weathersfield is being examined. During this discussion, the Commission determined that it would be necessary to include language that would require new gasoline and service stations to demonstrate a need for the creation of the new station as part of a conditional use review, as well as language that would allow normal development of existing stations (such as new signs, canopies, lighting, pumps, etc).

The intent behind this proposal is allow a vehicle for the Town to limit the number of new service stations in a given area so as to provide environmental, aesthetic, and Town Plan protections, and to prevent several service stations from changing the character of the Town and neighborhoods; while simultaneously allowing new stations to come to Weathersfield in appropriate areas and allowing existing stations to upgrade and develop their existing use.

Under our current bylaws, there are 11 standards for conditional use review for gasoline/service stations (See Section 7.14(a-k). To allow the previously stated goal of

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the Commission to include language requiring a demonstration of need and allowing existing stations to develop as they normally would, the Commission should consider adding two additional subsections to Section 7.14 to include subsection "l" and "m". Also, a potential issue that was not discussed in the Commission's recent meetings is the prefacing language of Section 7.14, particularly where it states "Gasoline/service stations are conditionally permitted in the *Highway Commercial* districts…". The Commission should review that language to ensure the application of this section applies to all zones where gasoline/service stations would be a conditional use under the proposed definitions.

Therefore, the Land Use Administrator proposes the following to be considered, discussed, amended, and added to Section 7.14 of the 2017 Weathersfield Zoning Bylaws:

> "(l) A new gasoline/service station shall be required to demonstrate a need for its existence at the proposed location. A need shall be deemed demonstrated when the applicant shows that a cluster of service stations does not exist in the same neighborhood, or they provide a service that is unique to the area in which they propose to serve.
>
> (m) Existing gasoline/service stations shall be allowed to develop their existing establishment, to include installation of additional pumps, canopies, signs, etc.; subject to review as outlined in these bylaws, State and Federal law, and other provisions contained in these Bylaws."

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If there are any further questions or concerns regarding this bylaw amendment proposal, you can contact the Land Use Administrator at landuse@weathersfield.org or by calling the Town office at (802) 674-2626.

Sincerely,

///original signed///
Chris Whidden, Esq.
Land Use Administrator