

**TOWN OF KILLINGTON PLANNING COMMISSION**  
**Minutes from the Meeting of July 20, 2022**

Public meeting held at the Public Safety Building and remotely via Zoom teleconference

<b>PRESENT:</b>	Jennifer Iannantuoni, Chair	<b>START:</b>	7:02 p.m.
	Vince Wynn*	<b>END:</b>	8:43 p.m.
	Andrew Salamon		
	Young Namkung		
	Ricky Bowers		
	Jim Haff, Zoning Administrator		
	Lisa Davis-Lewis, Planning Consultant		
	Daryl Arminius, Planner		

**GUEST ATTENDEES:** Curt Peterson\*  
Ed Bove, Rutland Regional Planning Commission  
Lucrecia Wonsor (left the meeting @ ~7:36 p.m.)\*  
Andrew Gieda (arrived at the meeting @ 7:07 p.m.)

\*Participants who attended via *Zoom* teleconference

1. **Open Meeting**  
Jennifer Iannantuoni, Chair opened the meeting at 7:02 p.m.
2. **Approval of Agenda**  
Jennifer requested a motion to approve the meeting agenda as may be amended. Young Namkung motioned to approve the agenda with no amendments and Vince Wynn seconded. Motion passed unanimously.
3. **Approval of Minutes**  
Jennifer requested a motion to approve of the Draft minutes from the **July 6, 2022** PC meeting as may be amended. Young motioned and Vince seconded. Jennifer asked for any comments on the minutes. None were offered. Jennifer called for a vote to approve the minutes with no amendments. Motion passed unanimously.
4. **Citizen Input**  
No comments from members of the public.
5. **Public Hearing for the Proposed Zoning Bylaw Updates: *Parking, Dimensional Standards, and other minor modifications.***

Jennifer requested a motion to open the public hearing. Ricky Bowers motioned to approve. Vince seconded. Jennifer asked for any comments from the public. None were made. Jim Haff offered a comment from the Selectboard. Once the bylaw updates are forwarded to the Selectboard from the Planning Commission, the Selectboard may modify any of them and those modifications do not have to go back to the Planning

Commission. He wanted to be sure that no one in the meeting disagrees with this point, so that if this happens, no one will question why. Young asked for the extent of any of the proposed changes. Jim did not offer any specifics. The PC concurred they had clear understanding of this rule; however the Selectboard may elect to send the bylaws back to the PC if they so choose.

Jennifer enquired of Andrew Gieda if he had any comment to offer on the proposed changes to the parking of dimensional standards. Andrew responded that he had no comment to offer. Jim confirmed that the dimensional sideyard setback standards are proposed to be reduced to 25 feet.

Hearing no further comments on the proposed bylaw updates, Jennifer requested a motion to close the public hearing. Young motioned and Ricky seconded. Motion carried.

Jennifer requested a motion to forward the proposed bylaw updates to the Selectboard. Andy Salamon motioned in the affirmative and Ricky seconded. In the call for a vote, the motion passed unanimously. Jennifer thanked Lisa, Ed, and Daryl for their work on this. It was then clarified that the Selectboard will then have to warn their own public hearing to pass the bylaw amendments.

## **Updates and Reports**

- Final Review of Upcoming Round of Proposed Zoning Bylaw Updates: *Signage and Lighting* –

Commissioners reviewed the redline draft provided by staff. Vince indicated there was a typo in the item “Kelvins” in definitions section.

Lisa Davis-Lewis commented that she observed that lighting poles at the Grand Hotel and Northern Ski Works lots appear to exceed 20 feet in height. She wanted to know if these businesses apply for a Site Plan Review whether they would be protected as a preexisting nonconforming use, or if they would be required to swap out all of their poles for shorter ones. Jim responded that the poles owned by Green Mountain Power (GMP) over Killington Road seem to be greater than 20’ in height. When he asked the Town Manager about this, he was told that GMP has an exemption. It is worth reaching out to have a conversation with GMP about height restrictions, as the greater height may spreading light out over the road may be due to safety reasons. Vince stated that the State has expressed a preference to eliminate light pollution by using vehicle headlamps as opposed to street lighting, and that if you combine the lighting installed along the sidewalks in addition to vehicle headlamps and light spillover from the businesses on Killington Road, there is ample lighting. Discussion ensued amongst the meeting attendees recapping the question heights of poles in the Killington Village and how that might be enforced. Lisa stated that the 20’ is a great standard to reduce light pollution, but she is concerned about the enforcement of it and the potential to render businesses nonconforming. Even with preexisting nonconformance as a protected use, there may be unintended consequences. Jim concurred that it may be difficult to determine preexisting

nonconformance considering inconsistent historical bylaw interpretation and permitting practice. Daryl Arminius offered that the Town might try to make inroads to encourage current business-owners to lower their lampposts on their own by promoting Dark-sky by other means, ahead of any potential future regulatory action. Jim stated that there are a lot of properties with preexisting nonconformities and as Zoning Administrator, he does not have an issue enforcing the proposed regulation, but regulations need to be clearly articulated. He cited an example with current signage regulations; when a business closes, the nonconforming sign should be taken down. But this has never been enforced historically.

Andrew Gieda offered a comment on the “Killington Homes” development which he and his partner are renovating, where there is an old sign that he would like to change or move that he is concerned about. Jim and Jennifer responded that all he would need to do is submit a permit application to change the sign, as it is not a preexisting nonconformity. Jennifer asked Ed Bove if he had any comment to add on the proposed 20’ pole height restriction. Ed advised against the Town setting a sunset date to mandate property-owners conform with the new regulation. This happened in Manchester, VT and it did not proceed well for them. The PC affirmed that the Town is not doing that. Ricky asked if a business were to extend its parking lot, would it have to replace the poles on the existing portion of the parking lot. Discussion ensued amongst the meeting attendees on this question with no conclusive answer. However, the PC concurred that Dark night sky was an important goal. Jim reiterated his question on the GMP lighting. Ed responded with the distinction that the lights could be regulated on private property, but not in the public ROW where they have an easement. It was decided to approach the Town Manager to find the agreement on this and discuss further with GMP and ensure they are warned on the forthcoming public hearing on the proposed bylaws changes.

Staff presented a brief overview of the changes to the most recent draft of the signage and lighting bylaws, including added lighting-related definitions on pages 5, 6, and 8. A fifteen-minute long discussion ensued amongst the meeting attendees on the topic of what “Nuisance Lighting” is and how to possibly enforce it using the proposed bylaw language. Vince proposed the “*All exterior illumination shall employ full cutoff lighting fixtures*” provision currently proposed for only the Business (B), Commercial (C), and Commercial/Business (CB) zoning districts be moved from the **Section 427** “Application” item C. to item A., so that it will apply to all zoning districts. Hence, if you are building a new house, you will have to design it with exterior-cutoff lighting fixtures.

Andrew Gieda suggested that an exception be made for security lights which should be on a shut-off timer.

Jim asked how he might enforce the lighting standard after he has already issued a Certificate of Occupancy. Ed suggested that the standard be written as a condition of the permit. Jim suggested modifying the permit application to reference lighting requirements. Ed asked if the PC really wants their ZA responding to lighting nuisance complaints and then elaborated that a lot of nuisance issues are commonly handled

through lawsuits between neighbors. To push this all on to the ZA is onerous. What happens if someone installs a light on the side of their house (which does not require a permit) and it then shines upon their neighbor's house. Then that neighbor calls the ZA to enforce something that did not require a permit. This is straying far from what the intent behind having a zoning document should be. Vince asked if preserving Dark-sky has a place in the spirit of zoning laws. Ed and the PC concurred that it does, but they questioned whether the ZA should be enforcing it. The question was raised whether seasonal (i.e. holiday) lighting should be addressed. The PC declined to do so.

Discussion ensued amongst the meeting attendees on the matter of regulating all types of exterior light fixtures (garage lights, floodlights, etc.) being full-cutoff. Daryl suggested that a less stringent standard for residential lighting is to reference down-shielded fixtures, as opposed to full-cutoff lighting fixtures. Ricky suggested using a definition he found referring to "useful lighting"; where the angulation of the fixture determines the intended purpose of the light, and the spillover lighting is considered glare. All useful lighting should only remain upon the property. Discussion ensued amongst the meeting attendees on the topic of educating permit applicants via their zoning application intake form.

Jennifer then asked the PC if they felt comfortable invoking a down-shielded lighting standard for residential, as opposed to full-cutoff lighting. She requested staff add this provision to **Section 427** "Application" item A., to apply to all zoning districts. The Chair stated that both lighting and signage topics will be warned together. However, more time may be spent deliberating lighting at the next PC meeting on August 3rd, as the public hearing cannot be scheduled until August 17<sup>th</sup>. Staff agreed to warn the public hearing and reviewed what language will be changed in the draft document of bylaw changes, including that lighting fixtures shall be down-shielded along with lighting definition updates.

The Chair indicated that at the August 3<sup>rd</sup> and 17<sup>th</sup> PC meeting there should be added an agenda item for Short-term Rentals (STR) as the first topic of business. Jim agreed to summon counsel to attend via Zoom teleconference. The Chair requested a motion to warn for a public hearing on the proposed amendments to the zoning bylaws for signage and lighting to occur at the scheduled Planning Commission meeting on Wednesday, August 17, 2022. Young made the motion. Andy seconded. **The motion passed unanimously.**

Ed then asked how the following proposed standard under Section 440 (5) General Standards: would work.

- A. No signs or sign supporting structures shall be installed within or above the public roads ROW, except for signs within the Ski Village and Ski Village II zoning districts that have been approved by the Selectboard, Official Business Directional Signs (OBDS), official road-name or highway signs; or any other signs licensed, erected, maintained, or established pursuant to Chapter 21, Title 10, Vermont Statutes Annotated.

- i. Any signs installed within the public roads ROW within the Ski Village and Ski Village II zoning districts shall be approved by the Selectboard with a condition that the Town shall not be liable for any damage to signage resulting from maintenance or any other activities.

Staff answered that the PC's intent behind this language was to allow signage already within what will become the Town ROW within the Ski Village districts once the Town acquires it from the resort. Since the ROW is town land, which would normally preclude commercial signage within it, it may be more appropriate for the Selectboard to review the issue. Jim stated that the DRB would be the appropriate municipal panel to handle this, not the Selectboard. Lisa explained that the resort owns the road, but once it becomes a town road, it is unknown where the ROW ends or if any of the resort's signs will hence exist within it. She asked whether the Town would force the resort to take down or move any signs within the newly created ROW. Ed commented that, comparable to his earlier point about GMP lighting pole easements within the Town ROW, such a sign would be considered a public facility and have an exemption. Lisa stated that originally Daryl wrote the regulations to disallow any signage to exist within the ROW. Subsequently, she suggested the language be modified to relieve the resort of the requirement to move their existing signage out of the future ROW with the caveat that the Town would not be liable for damage in the instance of signage being hit by a snowplow, etc. Jim stated that the Selectboard will definitely want the resort to move their signs out of the ROW, as the rules should remain the same for everyone.

Jennifer stated that the provision for signage to be allowed within the ROW in the Ski Village zoning districts should be removed from the draft. It was affirmed that the most appropriate course for the resort (or any other entity) would be to apply for signage within the ROW from the ZA, not via the zoning bylaws. If the ZA denies the permit, the applicant may file an appeal to the DRB; which if denied again, an appeal may be made to the Environmental Court. In this case, the Selectboard may choose step in to evaluate the application. Otherwise, the only time the Selectboard would evaluate signage is if it is covered under a municipal ordinance (as it is with Banner signs). Jennifer thanked Ed for his input.

- VOREC Grant – Lisa reported that a member of the Recreation Commission informed her that they are moving forward with the work, even though the State has not yet authorized the funding. The environmental notice has been posted, as the project does occur upon State property. Development of the RFP is currently in progress.
- TA Grant – Daryl reported that he was just approved as the Municipal Project Manager (MPM) by VTrans. There is a requirement that a committee of at least 2 members (to include the Town Manager) will need to rate a list of VTrans pre-approved consultants to undertake the work, following the “At-the Ready” (ATR) process rather than the standard RFP/RFQ process. Young offered to serve on the review committee.
- Local Hazard Mitigation Plan (LHMP) – Lisa stated that there has not been a meeting since June 15<sup>th</sup>, but the next meeting will be held on August 4<sup>th</sup>. Jim added there had

been an LHMP meeting scheduled for July 14<sup>th</sup>, but it was cancelled due to an overrun of another meeting held in Burlington. Ed stated that the Local Emergency Management Plan (LEMP) has been submitted to the Regional Planning Commission.

6. **Commissioner's Concerns**

Young gave an update on 'The Bus' Rutland-to-Killington transit service. There are two new drivers, but driver shortage is still critical issue.

Jennifer asked Jim for an update on a two Notices of Violation that were issued about a year ago by Chuck Claffey. Jim stated that one has been partially resolved, and another is still in the process resolving a water supply issue. Jim added that the Town is grossly understaffed to respond to all outstanding violations, but he is prioritizing the work as best he can. He noted that decades-long Killington Automobile property nonconformance has been brought into conformance.

7. **Other Business** – No discussion

8. **Executive Session** – None

9. **Next Meeting: August 3rd, 2022** –

10. **Adjourn** – Jennifer requested a motion to adjourn the meeting at 8:43 pm. Vince moved and Young seconded. All in favor.

Respectfully submitted

Daryl Arminius,  
Planner for the Town of Killington, Vermont