

TOWN OF KILLINGTON PLANNING COMMISSION
Minutes from the Meeting of August 3, 2022

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

PRESENT:	Jennifer Iannantuoni, Chair	START:	7:01 p.m.
	Vince Wynn*	END:	8:39 p.m.
	Andrew Salamon		
	Young Namkung		
	Jim Haff, Zoning Administrator		
	Daryl Arminius, Planner		

GUEST ATTENDEES: Ed Bove, Rutland Regional Planning Commission
Kevin E. Brown, Esq. (left the meeting ~8:05 p.m.)

* Participants who attended via *Zoom* teleconference

1. Open Meeting

Jennifer Iannantuoni, Chair opened the meeting at 7:01 p.m.

2. Approval of Agenda

The Chair 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. Jennifer motioned to amend the agenda with an executive session to discuss legal matters. Motion passed unanimously.

3. Approval of Minutes

The Chair requested a motion to approve of the Draft minutes from the **July 20, 2022** PC meeting as may be amended. Young motioned and Vince seconded. Jennifer asked for any comments on the minutes. None were offered. She 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. Executive Session: Legal Discussion on Zoning Bylaw Updates for *Short-Term Rentals*

Jennifer requested a motion to include Ed Bove in the discussion. The recording was stopped when the executive session began at 7:08 p.m. and continued until 8:05 p.m. No action was taken.

6. Proposed Zoning Bylaw Updates: *Short-Term Rentals*

The Chair asked staff to prepare a draft bylaw amendment document with the current zoning bylaw language removed (e.g. Section 407), in favor of a new municipal ordinance that will be adopted by the Selectboard. She requested staff work in conjunction with the town attorney to see if there are any definitions or other information

that should be adjusted as part of the proposed amendments. She also requested that a public warning of the bylaw amendment be prepared in anticipation that there will be a short discussion on this topic at the next PC meeting on August 17th, where it is anticipated that the PC will recommend to the Selectboard the removal of the Short-Term Rentals (STR) regulations from the zoning bylaws. Staff concurred that the draft redline bylaw amendment and public warning documents will be prepared for the next PC meeting.

Ed Bove reminded the PC that one of the proposed updates within the ‘parking and dimensional’ bylaw amendments currently in the adoption process with the Selectboard (and approved by the PC at their July 20th, 2022 public hearing) pertains to STRs. A discussion on the possible consolidation of the three (3) redlined bylaw amendment documents took place that was inconclusive in determining whether the Selectboard would approve the three sets incrementally (i.e. 1. Parking & Dimensional, 2. Lighting & Signage, 3. Removal of the STR provisions). Jim stated that where an STR unit does not have a set parking requirement, it would be looked at during a review. Jennifer elucidated that PC had already developed parking requirements for residential zoning, which also apply to STRs. Vince concurred that the two uses are not mutually exclusive. Ed cited the proposed STR-parking bylaw amendment that was forwarded to the Selectboard:

“Parking requirements shall comply with the Short-Term Rental requirements of these bylaws.” (proposed update under Section 432 - Off Street Loading and Parking)

The discussion continued on whether a forthcoming STR ordinance would either copy this language, or if parking (as it relates to STRs) would be referenced to the zoning bylaws. Jennifer commented that parking regulations simply apply to a given use and are not related to STR regulations. It was concluded that this topic may be discussed further at the next PC meeting.

7. Updates and Reports

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

Staff provided a handout of draft of sample lighting bylaw language collected from other communities and regions. Vince (as the remotely attending participant) was directed to the planning and zoning webpage where this information is also linked. The topics covered are areas that the PC has covered in the past, such as: glare, lightbulbs not being visible over their property-boundary. Also included within the information were diagrams of a variety of down-shielded fixtures, etc. Vince asked why the PC is still looking at how other towns are wording their regulations, when the PC has already done this. Staff responded that the document was developed for discussion purposes, in response to the approved agenda item for the meeting. Comparative to other towns, Killington’s proposed regulation is minimal; however, it has been observed that residential areas in Town have many unshielded lighting fixtures, floodlights, etc. that are

actually screened by tree-cover. Vince asked if the PC should propose a diagram that indicates what lighting fixtures are acceptable and which are not. Young offered that the bylaw language alone should be sufficient if it states that lighting shall not trespass over the property-line. Vince stated that it is helpful to have the images referenced in the Sandisfield, Massachusetts regulations, which indicate how a so-called “down-shielded” conical light fixture could be considered unacceptable when the light source protrudes below its shielding. Staff asked for opinion on the efficacy of the definition of “down-shielded lighting” in the draft bylaws amendments and then continued that requiring certain types of fixtures would potentially add to the regulatory burden on the town.

Proposed bylaw definition for ‘Down-Shielded Lighting’:

“Lighting fixtures where the light source (e.g. the bulb) is recessed within an opaque canopy or shielding that prevents light from shining upward and aims it toward the ground to minimize **Nuisance Lighting**. Down-shielded lighting does not necessarily limit the illumination extending below the 90 degree horizontal plane of the fixture (as occurs with **Full Cutoff Lighting** fixtures).”

Further, the town manager advised that already proposed lighting bylaw provisions for the residential areas will set up a lot of legal conflicts for the town. He may advise the Selectboard to drop the down-shielded lighting provision during their bylaw amendment proceeding. Jennifer stated that where the diagrams may be helpful, she is worried about houses using “non-compliant” fixtures, which are not causing nuisance to their neighbors. Vince responded that there are mitigating factors such as grandfathering (i.e. preexisting nonconformities) and prosecutorial discretion (e.g. we don’t have to pursue every single violation). Jennifer indicated concern for residents on whether neighboring lighting is distracting or obtrusive, but was unsure about the ZA dealing with potential lighting violations where there is no leveled complaint. Young stated that it is important to strive for Dark-sky, but every complaint that references the bylaws will require an enforcement action. A discussion ensued amongst the meeting attendees that distinguished a ZA’s duty to proactively enforce the rules rather than waiting for complaints to be reported. Of any observed violations where there is no complaint leveled, Jim asked if the ZA would just look the other way. Vince disagreed, responding with an analogy to law enforcement, where a vehicle exceeding the speed limit by 5 mph would not necessarily prompt a police officer to issue a ticket. Vince continued that bylaw enforcement would not be undertaken retroactively; the employment of this new regulation is a process of education for the PC; and thus, in enacting the provision, there is the declaration of Dark-sky as an aspirational goal of planning and zoning; that there are included pictures or graphic examples to help guide in regulating fixtures; and that where there are problems, the PC will step in as needed. Jim concurred agreement on the educational part. Ed stated that aspirational information belongs within the town plan. Jennifer stated that it would be better to employ graphic examples for inclusion with the permit application, rather than within the bylaws. Ed stated that it would have to be a bylaw requirement. Further discussion concluded that a “guidance” sheet could be attached to a permit application. Vince indicated support to keep the down-shielded provision and encourages the Selectboard to approve it.

The Chair asked what the schedule of the public hearings for the bylaw amendments for the PC and the Selectboard. It was discussed that any further adjustments to the proposed bylaw language may be made at the public hearing currently warned for August 17th, before pushing the draft on to the Selectboard for adoption.

A discussion ensued among the meeting attendees that Dark-sky may be attained via non-regulatory means, such as working with businesses to promote it, or publishing articles in the Mountain Times on the benefits of the practice. The Chair confirmed that no further action is proposed for this agenda item.

- VOREC Grant – No discussion
- TA Grant – Preapproved consultant ranking forms have been sent to Young and Chet. It was clarified that within each consultant spreadsheet, there is a linked portfolio of projects which may be reviewed. One may further investigate other projects that the consultant has undertaken for other municipalities. Young asked if he should be waiting for a presentation from consultants. Staff explained that with the VTrans’ “At-the-Ready” approval process, there are six pre-approved consultants; and the Town is only reviewing three of them. The ranking results produced between the three submitted forms will result in a preferred candidate that will be brought in to discuss their proposal.
- Local Hazard Mitigation Plan – There is an upcoming meeting for the LHMP Planning Team. The date was not confirmed.

6. **Commissioner’s Concerns**

None

7. **Other Business**

None

8. **Next Meeting: August 17, 2022 @ 7:00 p.m.** – Jennifer thanked staff for their work.

9. **Executive Session: Personnel**

Jennifer made a motion to go into executive session at 8:36 p.m. Ed Bove was asked to leave the meeting. The recording was stopped when the executive session began at 8:36 p.m. and continued until 8:39 p.m. No action taken.

10. **Adjourn** – The Chair adjourned the meeting at 8:39 p.m.

Respectfully submitted

Daryl Arminius,
Planner for the Town of Killington, Vermont