

WATERBURY PLANNING COMMISSION, SELECT BOARD, TRUSTEES
SPECIAL JOINT MEETING
Wednesday, May 13, 2015

Planning Commission: Rebecca Washburn, Chair; Mary Koen, Judi Kamien, Ken Belliveau, Jeff Kampion

Trustees: Skip Flanders, Chair; Lawrence Sayah, Natalie Howell-Sherman

Selectboard: Chris Nordle, Chair; Chris Viens, Mark Frier, Don Schneider, Jane Brown

Staff present: Steve Lotspeich, Community Planner; Bill Shepeluk, Municipal Manager; Patti Spence, Secretary; Alec Tuscany, Public Works Director

Public Present: Roy Lloyd, Jeff Larkin, Bob Grace, Kathryn Grace, Carlton Anderson

Rebecca Washburn opened the Planning Commission (PC) meeting at 7:30 pm

Skip Flanders called the Trustees meeting to order at 7:30 pm.

Don Schneider called the Select Board meeting to order at 7:30 pm

AGENDA REVIEW

No changes to the agenda were made.

COMMENTS FROM THE GENERAL PUBLIC

Kathi Grace commented that the Planning Commission (PC) has spent over two years working on the rewrite of the Flood Hazard Area regulations. The rewrite has been reviewed by many experts in the field. In light of the research that was done she said it was disappointing to see the draft regulations rejected by the Select Board and Trustees.

DISCUSS NEXT STEPS FOR AMENDING THE FLOOD HAZARD AREA REGULATIONS

Steve Lotspeich circulated the Flood Hazard Regulations dated March 30, 2011 that were in effect prior to Tropical Storm Irene. These will go back into effect on May 21, 2015, until either the Interim Flood Hazard Area Regulations are adopted as "permanent", or another amended version is adopted.

The following comments were made:

1. Skip Flanders, Village Trustee, expressed concern that the section on the requirement for a property owner to get a variance, or be required to elevate a home, was too restrictive. The variance could be waived for "extreme hardship", which is not explained or defined. 28% of households in the flood hazard area would be required to apply for this variance should the situation of a major flood event occur and their homes are declared substantially damaged.
2. Referencing pages 8 & 9 of the proposed regulations, Mary Koen, pointed out that the opportunities for flood mitigation included more than the option or need to elevate the building.
3. In rewriting the regulations the PC wanted a balance of considerations regarding real estate values and property improvement costs. Real estate is problematic in the Flood Hazard Area (FHA). The reality is that the FHA will not get any better. The PC proposed regulations considers ways to be proactive for the FHA to remain a valuable area in Waterbury within financial ability.
4. The Central Vermont Regional Plan expresses concerns that are in line with the concerns addressed by the PC when they drafted the proposed regulations.
5. A question was asked: "Do you have to have a variance structure in order to be in compliance?" Answer: "The Increase Cost of Compliance (ICC) is tied to substantial damage. If there is no flood, or 4 years have passed since a flood, and a building is substantially improved, the building is no longer eligible for the ICC funds."
6. Concern: If a property owner had to go through a variance process and couldn't afford the repairs of elevating that was required, they might walk away and abandon their property. It is possible this could happen in many cases, especially after another flood.

7. Comment: The current draft FHA regulations are written to protect the Village at large but may not consider the reality faced by the current property owners in the FHA.
8. Comment: The reluctance to push these regulations at this time is the thought that maybe this type of flooding event will not happen within the next 50 years.
9. The practical impact of what is being proposed was discussed. How many households would have \$100,000 +/- or could get a loan for that amount to elevate their home?
10. Waterbury doesn't have local building code so that is a reason why the variance process may be required to require that historic buildings become more flood resilient when they are substantially improved.
11. Currently historic buildings are exempt as a structure, including utilities.
12. Question: Can the DRB grant the variance for not elevating the house but require the utilities to be elevated? Answer: Under this draft is yes - one can be granted without the other.
13. Question: Would ICC funds be available if only the utilities were raised, as in #12 Answer: Yes, funds could be available if there is a federally declared disaster and the building is determined to be substantially damaged.
14. Comment: Requiring the majority of property owners to get a variance, potentially all at the same time and in a short time frame seems difficult. Reply: The PC replied that it was the best option considered and recommended.
15. Comment: Complying with the minimum standards may be the best way to go.
16. Comment: After a flood such as Tropical Storm Irene, property owners may be considering protecting their houses from problems such as remediating mold and getting electricity turned back on, that require action in a short period of time vs. getting the house occupied again in the long term.
17. Educational process - this is a time to educate property owner's vs. putting restrictive regulations in to effect.
18. Page 10, draft regulations, #6 - a change is suggested to say "non-historic" residential structures only. ACTION: consider this change
19. Page 15, draft regulations - section 610 - ACTION: clarify what historic structures are required to do regarding 24 V.S.A, Section 4469 a & d
20. Comment: Making individual voluntary choices vs. being forced to make choices needs to be considered; being at the federal minimum standards or just above allows individual choice - the more restrictive regulations being proposed restrict individual choice.
21. Comment: Being responsible for the common good may mean introducing the new regulations.
22. Comment: Insurance costs will be a big driver as the responsibility and burden that may get transferred to home owners via insurance rates.
23. Question: What is the specific height that utilities would need to be raised - is it specified in the draft regulations? (ref. page 9, 4b) - Answer: it is not specified at this time. Utilities can either be flood proofed or elevated as part of the substantial improvement criteria.
24. Question: How many households have already raised their utilities, subsequent to Tropical Storm Irene? This number is unknown but this can be researched.

Request is in place from the Select Board and Trustees for the Planning Commission to:

1. Warn a public hearing and recommend that the interim Flood Hazard Area Regulations be put in to effect permanently
- or,
2. Revert back to the pre-Irene regulations, March 30, 2011 - which will happen after May 21, 2015.

ACTION: The Select Board and Trustees are recommending that the interim Flood Hazard Area regulations become "permanent" while we continue to work on long-term amendments.

PROCESS: Changes can be made to any set of regulations before the public hearing is warned. If substantial changes are made after a public hearing, another public hearing has to be warned on the revised amendments.

REQUESTS:

- The Select Board and Trustees feel a need for some additional input from stakeholders in the community especially given the scope of the changes that the draft regulations make. It was acknowledged that it is a challenge to keep the community interested and involved.
- The Planning Commission would like to have one or two representatives each from the Select Board and Trustees to assist with developing the Flood Hazard Area regulations. It was suggested to involve Jeff Larkin when issues that would involve the DRB are discussed.

At 9:15 pm the Select Board adjourned their meeting.

At 9:15 pm the Trustees re-located their meeting to the Municipal Manager's office.

After leaving the joint meeting with the Planning Commission and Select Board, the trustees remained in session to meet with the municipal manager to attend to two items that had been discussed at previous meetings.

Attendees: P. Howard Flanders, Village President; Lawrence Sayah and Natalie Howell-Sherman, Trustees; William Shepeluk, Municipal Manager

1. The manager presented to the trustees the draft 99 year lease between the village and Chad Rich, which allows Mr. Rich to build and maintain a ramp into 3 Elm Street that encroaches on a small portion of the Elm Street parking lot owned by the village. The lease was prepared by Jeff Kilgore and included all the insurance provisions required by the village. The fee of \$99 (\$1 per year for 99 years) will be paid by Mr. Rich when the lease is executed. The manager recommended approving the lease. **L. Sayah made a motion to approve the lease as recommended. N. Howell-Sherman seconded the motion and it was approved unanimously.**
2. The manager presented to the trustees for their consideration an agreement between the Village of Waterbury, Village of Waterbury Solar I, LLC of Delaware and HAT OBS II OP A, LLC of Maryland. This agreement assigns the responsibilities of Village of Waterbury Solar I, LLC to AES Distributed Energy, Inc. of Colorado. The obligations of the Village of Waterbury remain unchanged, except that payments are due to AES Distributed Energy, Inc. Jeff Kilgore reviewed the document for the village and recommends its approval. **Natalie Howell-Sherman made a motion to approve the agreement, which was seconded by L. Sayah. The motion was approved unanimously.**

L. Sayah made a motion to adjourn at 9:55 p.m. Seconded by N. Howell-Sherman and approved unanimously

Approved on: May 27, 2015

P. Howard Flanders
P. Howard Flanders

Lawrence Sayah
Lawrence Sayah

Natalie Howell-Sherman
Natalie Howell-Sherman