

**Planning Board Meeting –
January 21, 2014
Minutes**

Members Present: Betsy Rountree, Ruth Van Der Grinten, John Underhill, Bob Mancuso, Larry Vaughan, Errol Briggerman

Members Absent: Charles Kramer, Joe Sparacia, Judy Silver

Others Present: Glenn Strickland

Staff Present: Planner David Bergmark

1. Meeting Called to Order

Mr. Underhill called the meeting to order.

2. Welcome and Recognition of Guests

Mr. Underhill welcomed all guests.

3. Chairman and Board Members' Comments

Ruth Van Der Grinten said she wanted to congratulate Mr. Bergmark on his 'Employee of the Year' award. She said she was also sorry to hear about Ms. Rodriguez leaving the Town as Planning Director.

4. Adjustment and Approval of Agenda.

Mr. Mancuso made a motion to approve the agenda. Ms. Rountree seconded the motion. The motion passed unanimously.

5. Public Comments

None.

6. Approval of Minutes

Ms. Rountree made a motion to approve the minutes. Ruth Van Der Grinten seconded the motion. The motion passed unanimously.

7. Discussion, Consideration, and Action on the Following Items:

Item 7A: Zoning Text Amendment to increase the permitted size of accessory structures in the Residential Agricultural (RA) zoning district.

Mr. Bergmark said he did not plan on recapping the entire staff report presented at the last meeting unless requested to by the Planning board. He said Section 4.4,b of the Town of Wendell Unified Development Ordinance (UDO) currently placed the following limitations on the number and size of accessory structures:

- “Accessory structures shall be limited to two per lot, except in the RA District.”
- “The aggregate floor area of all accessory use structures shall not exceed 50 percent of the floor area of the house.”

Mr. Bergmark said that under the current standards, a property owner with a 2000 square foot home in the Residential Agricultural (RA) district may have any number of accessory structures so long as their combined square footage does not surpass 50 percent of the square footage of the principal structure. He said in this scenario, the accessory structures’ combined square footage would not be permitted to go beyond 1000 square feet. He said the property owner could have two 500 square foot accessory structures, or four 250 square foot accessory structures. Mr. Bergmark said that a typical detached 2 car garage (20 x 24) is approximately 480 square feet.

Mr. Bergmark said the applicant had submitted a text amendment to amend Section 4.4,b,5 of the UDO to read as follows:

“5. For all zoning districts except Residential Agricultural (RA), the aggregate area of accessory use buildings shall not exceed 50 percent of the floor space of the principal use building. In the RA zoning district, the aggregate area of accessory use buildings shall not exceed 100 percent of the floor space of the principal use building.”

Mr. Bergmark said that the proposed change would increase the allowed aggregate size of accessory structures in the RA district from 50 to 100 percent of the floor space of the principal use building. He said this change would apply to both residential and commercial accessory structures.

Mr. Bergmark said at the December 16, 2013 Planning Board meeting, Planning Board members discussed the possibility of varying the size standard for accessory structures in the RA zoning district according to the size of the lot. He said planning staff was asked to investigate the current breakdown of lot sizes in the RA zoning district. Mr. Bergmark said Attachment B of the report illustrated the size and location of parcels currently within this district. He said anything that showed up in color on the map was zoned Residential Agricultural (RA). He said parcels were divided into the following size categories: 0-1 acres, 1-3 acres, 3-5 acres, 5-10 acres, and 10 acres or more. Mr. Bergmark said more than half of the parcels in the RA district were less than 3 acres in size.

Mr. Bergmark said if the Planning Board opted to allow larger accessory structures for certain parcels in the RA zoning district, the Planning Board could also consider limiting the height of the accessory structure to be no taller than the principal structure.

Mr. Bergmark said that any recommended change, if deemed necessary, should be accompanied by a statement explaining how the change is consistent with the comprehensive plan, and is reasonable in nature.

Mr. Bergmark said staff recommended denial of the proposed zoning text amendment. He said it was staff's opinion that the existing size regulations adequately accommodated the need for accessory structures. He said if the proposed text amendment was approved, it was staff's concern that the new standard could result in an increased use of accessory structures for prohibited commercial activity. He said that the proposed language could potentially allow significantly larger accessory structures on commercial lots in the Residential Agricultural (RA) district.

Mr. Bergmark said Mr. Strickland was present to answer questions if necessary. He asked if the Planning Board had any questions of staff.

Ruth Van Der Grinten said she wanted to confirm that the text amendment could apply to commercial uses as well. Mr. Bergmark said that was correct. He said the Planning Board could make a recommendation which would make the change only apply to residential, but the language as stated by the applicant would apply to both commercial and residential. Mr. Bergmark said the commercial use he referred to was not for a home occupation where a house was the primary use. He said the accessory structure rule would also apply to a new commercial lot for a new business, such as a veterinarian. He said there were not many commercial uses allowed in the RA zoning district.

Mr. Briggerman asked what other commercial uses were allowed in the Residential Agricultural (RA) zoning district. Mr. Bergmark said animal services were allowed in the RA zoning district. He said he did not know if the Planning Board would consider it a concern that a veterinarian's office could have a larger accessory structure, but he wanted the board to know the proposed amendment would affect both residential and commercial structures. He said government services and equine facilities were also permitted commercial uses in the RA district.

Ruth Van Der Grinten said she was still undecided. She said looking at the map provided by staff, there were many properties zoned RA that were close to downtown. She said she could see a reason to create a scale. She said to her it might make sense to make a different standard for properties of 5 acres or more. Mr. Briggerman said 5 acres was a lot of land. He said he was not sure the acreage requirement should be that large. He said he did not think the Town should

penalize people in the RA district who want a larger building for a personal use or hobby. He said if he lived in a different area, he might want a large accessory building to work on collectible cars.

Mr. Briggerman asked if this text amendment would apply to Wendell Falls. Mr. Bergmark said this amendment would not apply to Wendell Falls.

Mr. Mancuso asked if the Planning Board was discussing making an amendment to the Text Amendment proposal. Mr. Mancuso asked if the Planning Board should be focusing exclusively on the language of the text amendment as it currently stood instead of discussing what the Planning Board could amend it to.

Mr. Bergmark said the Planning Board could recommend approval or denial of the current language of the text amendment, or recommend alternative language. He said if the Planning Board's recommendation included significant modification, he might feel uncomfortable trying to make that change during the meeting. He noted that smaller changes could be accomplished by simply adding one or two sentences to the current text. Mr. Bergmark said staff's recommendation was that the proposed text amendment be denied.

Mr. Mancuso asked if the Planning Board had wide latitude to recommend changes to the proposed text amendment. Mr. Bergmark answered in the affirmative.

Mr. Underhill said he had come up with a couple of ideas. He said you could create a sliding scale in which the amount of accessory structure space allowed in the RA district went up with the acreage of the lot. He said the proposal could look as follows:

0-1 acres of land – 50 % of the primary structure

1-2 acres of land – 60 % of the primary structure

2-3 acres of land – 70% of the primary structure

3-4 acres of land – 80 % of the primary structure

4-5 acres of land – 90 % of the primary structure

Over 5 acres of land – 100 % of the primary structure

Mr. Underhill said another idea was to allow an additional 50 square feet of accessory structure space for every acre of land you had, in addition to the square footage you would be allowed under the current language of the UDO. He said the size of the accessory structure would still be capped at a maximum of 100% of the size of the house.

Ruth Van Der Grinten asked how many accessory structures you could have. Mr. Bergmark said in the RA district, you could have any number of accessory structures so long as their combined square footage did not exceed 50 % of the size of the dwelling.

Mr. Bergmark said one thing he wanted the Planning Board to keep in mind was that just because a property owner had 10 acres of land, it did not mean that the accessory structure would not be close to the road.

Mr. Underhill said he saw the Town's standpoint. He said it does not look good when there was a 1000 square foot house with a 2000 square foot accessory structure behind it.

Mr. Mancuso said he had read Mr. Gay's comments in the minutes. He said Mr. Gay commented on how residents in the RA zoning district needed more space to store their personal possessions. Mr. Mancuso asked if that was the basis of the text amendment. He said Mr. Gay indicated a lot of these personal possessions were being stored outside. Mr. Mancuso said he saw this as a behavioral problem.

Ruth Van Der Grinten said she thought any amendment needed to be straight-forward and simple. She said when someone had a large enough plot of land, she could see allowing the accessory structure to be equal to the size of the house.

Mr. Vaughan said he thought the code should assume residents would make a rightful use of their property. He said it was someone else's responsibility to determine if someone was carrying out an unlawful use. He said the property which instigated this text amendment did not look bad in his opinion. He said he did not know that all properties of this size would look as appropriate if they were allowed a similar sized accessory structure.

Mr. Briggerman said any accessory structure build would have to meet certain standards. Mr. Bergmark said the structure would have to meet state building code standards, but that would only assure that the structure was safe and structurally sound. He said if the accessory structure becomes the same size as the house, the relationship between a primary and secondary structure starts to go away.

Mr. Underhill asked if you had a two story, 2000 square foot house, you could have up to 2000 square feet of accessory structure space if the Planning Board granted the applicant's request. Mr. Bergmark said that was correct. Mr. Bergmark said you could even have a two story accessory structure behind a one story house as long as the square footage met the standard. He said any enclosed square footage on the house counted, including the garage. He said it was not based on the heated square footage.

Mr. Bergmark said for a normal sized house, say 1500 square feet, you would have 750 square feet of potential accessory structure space. He said staff's position was that was adequate. He

said you could have a detached garage and another decent sized storage shed with that much space. He said even with a 1000 square foot house, you would still have enough accessory structure space to build a reasonably large detached garage.

Mr. Mancuso said the Town had been fighting some people in town to clean up their property. He said the Town did not have the muscle to do it. Mr. Bergmark said it was generally a matter of whether the Town wanted to get the attorney behind them to help enforce an ordinance if the property owner did not cooperate.

Mr. Briggerman said he did not think we should overly concern ourselves with the chance that someone might do something illegal in their larger accessory structure. He said he built an accessory structure on his lot that is still less than half the size of his house, but he could have gone larger.

Mr. Mancuso made a motion that the planning board accept staff's recommendation of denial of the text amendment. Ms. Rountree seconded the motion. He said the existing language in the UDO was consistent with the comprehensive plan.

Mr. Underhill asked if there was any discussion on the motion. Mr. Briggerman said he disagreed that the size limit should stay at 50 percent. He said he had seen some homes, such as one in Archer Lodge, where the property owner built a very nice detached garage as big as the house. Ms. Rountree said sooner or later property in the RA zoning district would be taken into the corporate limits. Mr. Mancuso called the question.

The motion to recommend denial of the applicant's request passed 5 to 1.

Voting in favor of the motion: Betsy Rountree, Ruth Van Der Grinten, John Underhill, Bob Mancuso, and Larry Vaughan.

Voting against the motion: Errol Briggerman

Mr. Underhill said he did not think the planning board meeting was a good forum to make changes to the UDO. He said at one time the Planning Board had sub-committees to discuss things at more length and brainstorm.

Mr. Bergmark said there had not been a sub-committee under the Planning Board since he started working with the Town. He said the Planning Board could look at having a sub-committee to further discuss a complicated issue. Mr. Bergmark said in this case it was a little bit different since staff's recommendation was denial.

Mr. Vaughan said there used to be an attitude of live and let live. He said there was no flexibility. Mr. Bergmark said when the UDO was adopted, the Town actually did become more

flexible on this issue. He said prior to the adoption of the UDO, you were limited in the number of accessory structures you could have in the Residential Agricultural (RA) zoning district. He said there was also an exception for bona fide farms.

Mr. Mancuso said he did not feel like the Planning Board had the resources to make a decision often. He said you need data to make a decision. Mr. Bergmark said with a text amendment, the planning board should not focus on an applicant's particular situation, but rather evaluate how the change would impact the entire zoning jurisdiction. He said the applicant could use their case as an example, but it should not be looked at as the sole reason to recommend a change. Mr. Bergmark said the Planning Board could look at setting up a sub-committee when needed, but he would not recommend setting up a sub-committee to meet on every agenda item.

Mr. Bergmark said sometimes he felt like the Planning Board looked for staff to create a solution to an issue that staff did not view as a problem. He said that could make things difficult. Mr. Bergmark said if there were specific answers that a Planning Board member needed, to please contact staff before the meeting and they would attempt to address them.

Mr. Bergmark said the original purpose behind having accessory structures rules was to establish a primary, prominent structure and use on the lot – the dwelling. He said anything outside of the home should be clearly secondary in nature. He said that was the main reason for having a standard stating that accessory structures should be smaller than the home and that is why it was staff's opinion that the existing standard was adequate.

Mr. Bergmark said he realized the Planning Board was considering specific cases in which a larger accessory structure might be okay. He said in some cases they might be okay. He noted that when creating standards, you still have to have a rule that applies to everyone. He said that rule could have categories, but it still needed to be clear and apply across the zoning jurisdiction. Mr. Bergmark said it was rare even with a multi-faceted rule that you would capture every possible scenario. He said you had to try to create something that was balanced and fair.

Mr. Briggerman asked if someone would have to move out of Wendell to have an accessory structure which exceeded our rules. Mr. Bergmark said that was possible. He said the property owner could ask for a text amendment or a variance, but they may have to adjust their expectations, expand their home, or look elsewhere.

Mr. Vaughan asked if the Town could require that accessory structures be removed if the property was rezoned away from RA, or if the dwelling was removed. Mr. Bergmark said the town's current ordinance would not allow that. He said if the accessory structure were abandoned for a certain amount of time, it may not be able to be used again for that purpose. Mr. Bergmark said it would be a politically difficult position to make such a requirement.

Mr. Underhill said he wanted to discuss the possibility of creating a subcommittee at their next meeting.

8. Adjourn to Next Regularly Scheduled Meeting

Mr. Mancuso made a motion to adjourn. A Planning Board member seconded the motion. The vote was unanimous. The meeting was adjourned at 8:00 p.m.