

**TOWN OF UNITY
LAND USE REVIEW COMMITTEE MEETING MINUTES
MARCH 5, 2014
LOCATION: UNITY MASONIC HALL, UNITY, MAINE**

MEMBERS IN ATTENDANCE: Jim Kenney, Randy Reynolds, Barry McCormick, John McIntire

MODERATOR: Jim Kenney

OBSERVERS: None

RECORDER: Sherry Powell-Wilson

18:34:38 Jim Kenney: You have the Minutes? Any comments or thoughts?

18:34:41 Randy Reynolds: I make a motion to accept as read. [Accepted.]

18:35:13 Jim Kenney: Any thoughts before we get started?

18:35:22 John McIntire: [Copies of Unity's Planning Board Ordinance passed out.] I would like to take a minute and read the Planning Board Ordinance.

18:36:12 Jim Kenney: This came out at the beginning of the Planning Board back in the 90s. There are some rudimentary basics that have to be abided by. Randy has gone through and found some things that need refinement (referring to the Land Use Ordinance). Has anyone else found anything in the new format? After last week's decision that we're going to do separate documentation, we need to decide reasonably soon what comes out of this to go into the new.

18:37:06 Randy Reynolds: Into the subdivision? [Yes] None. We're going to change it to bring it to current standards. As far as taking out of development review and putting it into subdivisions, you don't need to. Subdivision is standalone. As soon as my wife gets done with what she's doing right now, I can take this and put it all on the computer and each one can print out their own.

18:37:40 Jim Kenney: The key is we don't need to rush directly into it.

18:37:54 Randy Reynolds: I don't think there's going to be much change in the subdivision.

18:38:02 Barry McCormick: Are we still planning to try to get something in front of the people at Town Meeting?

18:38:12 Jim Kenney: We have a letter but not this document. What I said in the letter, which you saw, is that we've made progress.

18:38:25 Randy Reynolds: What we can do is take this document as far as we've got it, except for Development Review, and put that out to the Selectmen and Planning Board.

18:38:36 Barry McCormick: I think we ought to start getting it out.

18:38:42 Randy Reynolds: I'll read it over again and if I come up with anything, I'll talk to you before we put it out.

18:38:45 Jim Kenney: I don't think we want anything going in front of the citizens at Town Meeting. That's only two weeks away. Clem has read through...

18:39:05 Randy Reynolds? He has too.

18:39:05 Jim Kenney: Clem just raised a question, does he need a permit he's building out in the woodlands and the answer is, of course you do.

18:39:16 Randy Reynolds: If it's over 100 square feet.

18:39:16 John McIntire: If anyone sees it!

18:39:22 Barry McCormick: I have a question which was asked of me last night at the TIF meeting. We talked about this so long ago, if somebody has a property on the lake, that the sewer is inadequate, did we have it so it has to be upgraded before they sell it?

18:40:03 Randy Reynolds: No, we didn't get into that.

18:40:09 Jim Kenney: We talked about it. I don't this has the authority to do that.

18:40:15 Barry McCormick: We have suggested that they can get an easement to a piece of property that doesn't have to meet the minimum standards.

18:40:26 Jim Kenney: We gave them a route to a solution. That's grandfathered. Even if you sell it it's grandfathered. We gave them to path on how to acquire land to come up with a solution.

18:40:59 Barry McCormick: Personally, I think something should be in there somewhere. We've got to clean that lake up. It should be up to the seller and not the buyer.

18:41:08 Randy Reynolds: You're in a legal part. We can't do that. The best thing to do is talk to either one of the selectmen and ask them to check with MMA and see what is possible.

18:41:22 Barry McCormick: You guys keep telling me that, and you're probably right, that it's illegal, that this document doesn't have the authority to tell them to do that but, this whole book is full of things that you're telling them people to do and not do...

18:41:37 Jim Kenney: Going forward. It starts out by saying it's not applicable for those things in existence as of the adoption of this ordinance.

18:41:50 Barry McCormick: But we're making changes or suggesting changes that do affect what was in here before. What's the difference?

18:42:01 Randy Reynolds: Let's go back and review it right now.

18:42:05 Barry McCormick: To me, a big issue in the Town of Unity is cleaning that lake up. If we're telling them they have to put the well here, they have to do this, their driveway has to be there, why can't something be put in there also.

18:42:24 Jim Kenney: Find the section that says anything in existence as of the adoption of the ordinance, and that ordinance goes all the way back to the 90s, is not subject to this.

18:42:33 Barry McCormick: I disagree with that because a lot of stuff we're doing has changed what was in this document.

18:43:08 Jim Kenney: Read the words, paragraph 1.7, this Ordinance becomes effective as of the adoption of this Ordinance. This Ordinance repeals and replaces the Unity Minimum Lot Size Ordinance and the Unity Building Permit Ordinance.

18:43:40 Barry McCormick: So anything we put in here, repeals and replaces what was said before.

18:43:40 Randy Reynolds: Hold on, no, it repeals the ordinance.

18:44:06 John McIntire: I'm looking at page 20, nonconformance.

18:44:06 Jim Kenney: The law of record may be built upon. It has to meet the performance going forward, that's not going backwards. You cannot touch a lot with a structure on it that existed the day before.

18:44:32 John McIntire: When a nonconforming lot changes hands, changes ownership, at that point you need to bring into compliance.

18:45:13 Barry McCormick: We can call MMA and see if we have any jurisdiction to do something like this.

18:45:22 John McIntire: Page 18, 3.2, transfer of ownership, it says that a new owner may continue the nonconforming use. That would have to be modified and could we get that through the Town?

18:45:51 Jim Kenney: I don't think you'd get it through the courts.

18:46:10 Barry McCormick: I think a lot of people feel the same way we do about it. The only ones who would disagree probably are the owners themselves.

18:46:25 John McIntire: This would say that the new owner would have to upgrade. It's going to be difficult to get the existing owner to upgrade. That I don't think we'd ever get through town. But a change in ownership means they would have to upgrade it.

18:46:49 Jim Kenney: That would have to be applicable throughout every piece of proper within confines of Unity and not directed to any specific property. You're going to go down and talk to Sue and charm her. She's busy right now trying to get the Town Warrant out.

18:47:11 Randy Reynolds: She was busy today getting up-to-date on auto registrations.

18:47:20 Jim Kenney: They want to go electronically. It's hard to say because the courts are saying the right of eminent domain covers everything now. You can build a Wal Mart on his lot. He didn't want to sell the lot so they're going to offer him a dollar for every thousand it was worth and he has to accept it.

18:47:54 Randy Reynolds: Page 28, 5.3, camp owners and leach fields.

18:48:30 Barry McCormick: If it's not conforming, then the lot owner may be required to purchase or lease adjoining property (or distant property) to accommodate an adequate leach field.

18:48:47 Randy Reynolds: We played around with that word may too.

18:48:53 Jim Kenney: May is quite broad, it is not shall.

18:49:10 Barry McCormick: At the appropriate time will see if I can get an answer to that.

18:49:18 John McIntire: That would go a long way to cleaning up.

18:49:25 Randy Reynolds: If we learn we can do it from the MMA, we'll address it and take care of it.

18:49:37 Jim Kenney: What drives this is two-fold. One is if the property record today wants to dress up and be part of the solution, or if the plumbing inspector fails their septic system. When they do fail, update their current system. I thought we did a good job there.

18:50:28 John McIntire: The Lake Owner's Association may not appreciate it.

18:50:38 Jim Kenney: This is going to sound silly as heck but one of the driving factors is the railroad bridge. Take the railroad bridge out and take it back to natural grade there, increases the discharge flow.

18:50:49 Randy Reynolds: It will also increase the height of the water table.

18:51:39 Randy Reynolds: Some of the biggest things I've found that haven't been adhered to are the minimum people there to have a quorum. At many meetings they have one person show up and handle the whole Planning Board alone. You have to have a minimum of I think it's four people and if two vote for and two vote against, it fails. That's not the way it's working now.

18:52:52 Randy Reynolds: Development review, section 13. I don't think there is anything that we've got to be concerned with on this upfront stuff. Most of it meets what we've already done in the rest of the ordinance.

18:53:29 Jim Kenney: John, you've been with the Planning Board as a member for some time.

18:53:34 John McIntire: No, I'm not a member of the Planning Board.

18:53:41 Jim Kenney: What was in this section that was bothering you? I know that it has been a burden on quite a few applicants.

18:53:51 Barry McCormick: I have told you my experience several times.

18:54:06 Barry McCormick: I can clarify my feelings on this. It isn't what it says so much but how it is interpreted and manipulated. I don't have any problem doing what it told me to do. It's just the reasoning behind it and the extent of what you had to do. There are no limits on what certain things within this. Shrubbery, for example.

18:54:47 Jim Kenney: Do you find that still here? Our mission was to take that ambiguity out and make it understandable to the applicant.

18:55:10 Randy Reynolds: How the Planning Board interprets this, we have no say.

18:55:24 Barry McCormick: But what I have suggested is right here, right at the beginning of this, these should be voted on one at a time, either it's a yes or a no, w does it trigger it. The way it's been treated is they go down through all of them and they sell, well, it might trigger this one and we'll talk about it. It's very simple, either it does or it doesn't.

18:55:42 Randy Reynolds: We can make that right up front. Just right under 13.2, applicability, development review is required for any development, just before that, write a sentence right in there.

18:56:04 John McIntire: Does it have to meet all of these qualifications or any one of them?

18:56:08 Barry McCormick: What it does is any one of these trigger that development. In my case, is it going to generate 100 cars or more, no, so that was off the table.

18:56:20 Jim Kenney: Let's pause a moment and hold just a second. I think it would be clear that we can write in where it shall be considered one by one. If any one of these has an answer yes, then it kicks off to a subdivision, right?

18:56:50 Randy Reynolds: Right under applicability.

18:56:53 Barry McCormick: The reason I say that is the applicant knows immediately what triggered it. It's not all jelled in with something else. Do them one at a time, clearly stated that it does or does not trigger it. That was a big issue with me.

18:57:58 Jim Kenney: I'm going to throw out a sentence, development review is required for any development if each of the following items individually is yes.

18:58:17 John McIntire: I like it. I think rereading that whole thing, there are two things here. One is a subdivision which immediately kicks it out, but the second one is high impact and that's where that laundry list comes in.

18:58:50 Jim Kenney: In consideration of each of the following items individually is yes.

18:59:04 Randy Reynolds: Go 13.2.1 and take out qualifies as a subdivision under land use law.

18:59:15 John McIntire: If you take out the idea of a subdivision it doesn't automatically set it aside. I think that is where 13.2.1 really sets that subdivision out separately. I like having that in there. But the modification to say that you need to consider these things individually and any one triggers a development review.

19:00:17 Barry McCormick: Quick story, now that I'm on the Planning Board the college came down and I didn't insist but we went at these one at a time and it went so smooth.

19:00:37 Jim Kenney: I'm going to craft that page to be fenced with, to get it wrapped and I'll send it out electronically.

19:01:06 Barry McCormick: Question, on the front page, if you have 100 cars per day, on the next page it says if it has 50 cars. Why even in there?

19:03:27 John McIntire: Here's my guess. Under 13.2.2, they're talking about new development. Under 13.3, the word is expansion of existing.

19:04:45 Barry McCormick: But it says also high-impact activity if built new.

19:04:45 Jim Kenney: One, if built new, it kicks off these standards. If it is existing and it's now being expanded, it kicks off to a development review of these considerations.

19:04:54 Randy Reynolds: We could leave that 13.3., and then go 13.3.1.

19:04:56 Jim Kenney: It's not redundant, you're missing the word expansion.

19:04:59 Barry McCormick: But it says right here, the definition of a high-impact activity if built new. What's the difference.

19:05:01 John McIntire: It starts to look redundant and not consistent.

19:05:09 Barry McCormick: If I recall, the old one had this as a tier 1 development review, and tier 2 was this one.

19:05:22 Jim Kenney: I'm going to try to answer. I want you to look at 13.2.2A and come over here and look at 13.3.1. The existing parking lot has 25 cars in it. You go into development review if you're going to increase that to 50 cars. That's what that's about. You have to go back and consider it's an increase.

19:06:01 Barry McCormick: But if the increase triggers this, it's the same exact things.

19:06:12 Randy Reynolds: It is. If you 13.2.2A, is estimated to generate over 100 cars. That's in the future, that's not created already. All of this is creation new.

19:06:30 John McIntire: I think what would help me is if we did something with first paragraph under 13.3 so that it differentiates those from the other one.

19:07:04 Barry McCormick: This one here triggers a major development review.

19:07:17 Jim Kenney: This is hypothetical. Three years ago the Planning Board approved a 25-car parking lot. Now, I've come back and I want to do an expansion. Do I need to come back and get a permit? This says if I'm going to build that parking lot larger by 50 cars I need to get a permit and have a development review.

19:08:04 Randy Reynolds: The numbers are off but it says is estimated to generate over 100 cars. This is all in the future.

19:08:14 Jim Kenney: I think the words are confusing us. If it is the mission to have a development review I'm going to make a big expansion onto something that I've already had approval of, this is what kicks that review off:

19:08:34 Randy Reynolds: It's almost as if this piece here should go into type 2 development too.

19:08:45 Barry McCormick: I think it's just the opposite. If we look at the other old ordinance, you're going to find two different reviews.

19:09:19 John McIntire: If we're confused...

19:09:19 Jim Kenney: This is what we need, to be confused and sort it out.

19:17:14 Barry McCormick: It just doesn't make sense to me.

19:19:21 Randy Reynolds: Type 1 is the easiest one to get through, type 2 by far being the worst. The only thing I can't figure out is that 13.3, where that belongs.

Jim Kenney: Read to the 4th paragraph to get a definition. That can be moved to the beginning as classification of projects.

19:23:11 Randy Reynolds: When you read down through it you want to know if you're in type 1 or 2 though.

19:23:16 John McIntire: What would help me is if you went back to 13.2, I want to see a clear dividing line. Development review is required for any new development that that falls under this category, 13.2 would be new development, and 13.3 would be expansion of existing development.

19:23:57 Randy Reynolds: It still doesn't tell you whether it will be in type 1 or type 2.

19:24:05 Barry McCormick: It's not meant to tell you whether it's in type 1 or 2, it's meant to tell you if it triggers development review and then you have to go look to see which one it is.

19:24:29 Randy Reynolds: That would work that way.

19:27:54 John McIntire: I would think putting that in the 13.2, if it said development review is required for any new development put that in there.

19:28: Barry McCormick: Existing expansion or however you want to word it. That makes a little

19:28:34 Jim Kenney: Why don't you take it home, scratch it out and send me a note.

19:28:56 Randy Reynolds: The biggest thing, if someone is coming in and they don't know zip, when they get this they'll say what does that mean?

19:29:30 Barry McCormick: You have to find out if it triggers a review before even look at it. That's what these two sections are telling you.

19:30:51 Jim Kenney: What you get is the yes then you have to decide what yes you're in. That makes sense in my mind.

19:31:42 John McIntire: That begins to make sense when it is like that.

19:32:07 Barry McCormick: We can put new on 13.2.

19:33:45 Randy Reynolds: Let's do 13.4, classification of types. No problems with 13.4.

19:34:37 John McIntire: Just for ease of reading, I would make each one of those under 13.4.1 a separate line rather than putting in a paragraph, like 13.2.

Jim Kenney: Here is something, what came out of the process after your initial meeting. What did you walk out with? Did you have a physical piece of paper which described what you needed to have that was agreed to by you the recipient and the Planning Board.

19:36:26 Randy Reynolds: No, you have to write your own notes.

19:36:31 Jim Kenney: Should you have had something.

19:36:34 Randy Reynolds: Yes, if not then within a few days.

19:36:38 Barry McCormick: If the Planning Board follows the process, it works fine. That's the kicker.

19:36:47 Randy Reynolds: Anytime I've been before the Planning Board you follow down through each one of these and you can pick a new one for every project. You down through and check they don't want this, they want this.

The checklist is already there. You have to make your own notes.

19:37:18 Barry McCormick: They verbally tell you.

19:37:33 Jim Kenney: My question is what should you have as an applicant coming out of that meeting?

19:37:47 Barry McCormick: Something in writing stating what I need to do after presenting them with all the information they wanted.

19:38:47 Randy Reynolds: Also note on there all the stuff you supplied for that first meeting so you don't have to duplicate it.

19:43:13 Barry McCormick: As long as the procedures are followed and any questions answered, and things that need to comply with the Planning Board and this Ordinance need to be in writing.

19:43:27 Randy Reynolds: I've been to probably 40 different planning boards and I've never once gotten anything in writing from them.

19:43:30 Jim Kenney: I think we can make a suggestion to the Selectmen that such a thing be developed to be part of the operating procedures of the Planning Board. That would help the Planning Board too.

19:44:08 Barry McCormick: We've got to keep in mind the people on the Planning Board. They are citizens doing this for nothing, so it has to be easy for them as well as the applicant. It can just be one piece of paper.

19:44:12 John McIntire: I'm looking at this application procedure 13.5, page 48. I'm trying to follow this. It's taken several readings. I have an idea of what they're saying but only because I've been looking at the rest of the stuff. And 13.5 assumes that they're going to have to undergo development review.

19:45:33 Randy Reynolds: If you don't meet everything on these other two pages.

19:46:40 Barry McCormick: I would just like to point out that the Development Review is seven pages.

19:46:46 John McIntire: Are we willing to leave 13.5 the way it is?

19:46:49 Jim Kenney: That's the question on the table. I guess we have no answer.

19:46:47 Barry McCormick: I have a little bit of concern under 13.5.2 were it says the granting of waivers, I'll read it, the Planning Board shall restrict its submission requirements to those that are relevant to determining the project's compliance with the provisions of this Ordinance. The granting of a waiver of a submission requirement does not, however, prevent the Board from requesting the information at a later stage of development review, if the Board finds that the information is, in fact, relevant to the proposed project.

19:48:34 Randy Reynolds: That makes it difficult for the developer. It's also hard for the Planning Board.

19:48:52 Jim Kenney: There's a question being asked here. You've made a plea to the Planning Board. Your request is not relevant and then, I'm not challenging you, and then somewhere along the line something reveals that it is relevant. What they're saying here is we have to take it into consideration if in fact it's relevant.

19:49:21 John McIntire: Shouldn't they be allowed to give waivers for anything? If you think at some stage it's irrelevant, in the paragraph before it says specific things can be waived where the applicant shows that it's irrelevant.

19:49:43 Randy Reynolds: That's usually pretty cut and dried when you go in and look at the first page, that list, and you go down through it. Some projects are worse, like if you get into a big project like a Wal Mart. There are a lot of things that you might run into later on that you can't be ready for, although you try to be ready for everything.

19:50:20 Barry McCormick: Just for talk here, I've got a building, I build my finances to finance a project and I think well it needs to be sprinkled and they tell me, no it doesn't. I just saved \$20,000. Then, all of a sudden, I've got my financing in place and down the road as things are progressing, well, you know

what, we need to have that sprinkled. I'm just using that as an example. Like down here it says they may bring any one of those back.

19:51:11 Jim Kenney: If it is determined in fact that it is relevant.

19:51:19 Randy Reynolds: There are certain things that you're going to get out of up front like you don't need a road, or culverts or telephone poles -- that doesn't get you away from future stuff that may come up.

19:51:35 Jim Kenney: You're saying it belongs there.

19:51:46 Randy Reynolds: Yes, you need a reason why.

19:52:52 Meeting closed.

**Respectfully submitted,
Sherry E. Powell-Wilson, Notary Public
Approved:**