

Elmore Planning Commission Meeting  
Meeting Date: September 26, 2012  
Meeting Commencement Time: 6:10 pm

Meeting Participants: Steffany Mosley, Shelia Rysz, Sue Cano, Whit Hartt, Roy Marble, Paul Gillies, Terry Boyle, Craig Richardson, Rick Barnett, Ted Barnett, Meghan Rodier.

The following left the meeting at 7:10: Roy Marble, Paul Gillies, Terry Boyle, Craig Richardson, Rick Barnett, Ted Barnett

The following left the meeting at 7:20 Whit Hartt

The following left the meeting at 8:00 Steffany Mosley

Agenda Items:

Item #1: Roy Marble, Ted Barnett, Paul Gillies and Terry Boyle Address the Planning Commission

Item #2: Minutes Approval from July 25, 2012

Item #3: Housing and Economic Development Chapters

Item #4: Staying Connected Town Event Recap

Item #5: Mail

Item #1: Roy Marble, Ted Barnett, Paul Gillies and Terry Boyle address the Planning Commission

Paul Gillies, attorney representing Ted Barnett, addressed the Planning Commission. Paul has been studying the Elmore Zoning Bylaws, the Elmore Town Plan and the 1990 FLESA Report. Current zoning regulations limit building at the maximum of 1500 feet. He has reviewed ridge line zoning in other towns, comparing other similar towns around the Green Mt. Ridgeline. He looked at 42 towns. He lives in Berlin, where there are no ridge line regulations. Elmore's zoning regulation is one of the more restrictive. 24 of 42 towns have no restrictions in elevation. He suggested Elmore moves to a conditional use requirement where the developer of a single family dwelling must meet sewer, plowing concerns and assurances that the goals of FLESA are respected. Let FLESA apply.

Terry Boyle is with us tonight. He is an expert in aesthetics and responsive architectural landscaping. He has done a lot of work with Act 250.

Terry designs homes to be invisible. There are plateaus that are suitable for

development with relatively flat slopes. Some of our subdivision slopes are reasonable, such as limiting to 20%. Tree cover is at least 50 feet or more. Building heights are 35 feet. He presented a visual representation for development of homes less than 35 feet. Cut and fill on moderate slopes could fit in. Vegetation is on the front and back slope of developed lots. Irregular scallop outline and maintenance of tree heights in the lower slopes would create sight lines, but maintain cover. Houses have been historically sighted on these types of slopes and can be sighted on these slopes. Staffs from FLESA are willing to come and speak with us. Ted has developed homes on ridge lines in Worcester with property that has private roads. They would be expensive lots and homes which would be of some value to the town.

Paul stated if we were to go ahead with this there would be virtually no impact on the town and we would not be putting town resources at risk. Towns like Underhill have little or no restriction. The focus there is proving that the land can support the development. Our current 1500 foot by law allows for no flexibility.

Terry shared Act 250 identified steep slopes that put a prohibition on development above 2500 feet and this is the standard. Paul shared the Killington prohibition of development is consistent where there are ski trails.

Whitt had questions. He asked Terry regarding sight lines and removing trees through selective cutting. It is private land and the Town would not be able to monitor what private land owners cut against the regulation. How do we protect the view shed for others?

Terry shared there are bylaws in the two developments of Ted's that protect against this. The bylaws and community understanding or development bylaws would address this. Ted's land being considered for development is a very small portion of the land and could address this concern.

Paul shared money can be put in escrow through the establishment of systems associated with the development through the permits or covenants to restore unauthorized clear cutting. Waitsfield's subdivision required a low percent of building visibility, use of earth tones for colors, etc.

Ted indicated he began to tackle this about 50 years ago. I learned about protective covenants, an example is Sterling Ridge and Worcester Ridge, each has restriction assigned as a part of the deed. If owners do not abide, litigation can be used to force it. Back in the 1960's we protected meadows. They are still open today because development occurred around the perimeter. Hill sides need to require

earth tones and screening plantings so no one can see the building. We can take you around to see this in place. A good example is the Keith Farm and the Sterling View Development. I feel good about how we have developed in a way that protected nature and aesthetics.

Whit had a second question: He asked what they would like to see in zoning bylaws or a process that would guide this.

Paul suggested a change in the Town Plan. Conditional use standards can be developed beyond the typical four. He suggested criteria were added for the Forest Reserve District only. State permit for septic system would be required. Also, to be considered is an aesthetic standard of invisibility or limited visibility. Builders would need to prove they met the criteria.

Terry shared that our subdivision regulations go a long way to address this already. Look at them in relationship to the visual representation of how development could be done provided by me this evening.

Paul asked the EPC to consider smart zoning used by progressive towns. For example, set backs are measured from the front of buildings. Brighton, a few years ago, dealt with the Church of Island Pond and a gas station that had been abandoned for one year. When they went to start it up it was required it be 50 feet back from the front of the street. Yet the buildings in the area are right on the street. Building back 50 feet would make is unnoticeable and it would be inconsistent with what was already there. The town needs to look at what the town needs and develop common sense regulations that meet the needs of the town that include choices that are available to developers and the town.

Williston and Montpelier are both good examples of this type of guidance to address these issues. In Montpelier they address the goals and character of the town. Williston laid out a blue print for the development of the town for the future. The Planning Commission in some towns had taken on the role of planning for the town. He suggests we define our guidelines based on the needs of the town.

Ted went over the Town Plan trying to understand it. He contacted Paul to help us all. The current Town Plan has things that are inconsistent. For example, planned unit development [PUD] is important to maintain forestry. It seems the plan wanted to encourage the use of PUD's. Yet the zoning bylaws prohibit it over 1500 feet. PUD's are universally approved. He values the beauty of the Elmore Mt. Road and Sterling View properties. The concern is we protect the resources and the ridge line as part of the charm of this town.

What is the vehicle that our predecessors use to protect these fragile resources? Passage of the restrictive 1500 development current guidelines? A new town body can revise this. Easement and protection of fragile areas is best addressed through a conservation easement. Paul indicated an easement is forever and cannot be changed unless both parties agree to it. A bylaw can be changed.

Terry indicated PUD cluster of smaller lots in proportion with a larger parcel with a conservation easement would protect large areas of land in concert with a cluster of development. In Wake Robin we used 30 acres out of 130 acres. This created a neighborhood function with a common interest. Steffany asked how the remaining 100 acres was protected? Terry indicated the easement protected the 100 acres forever from any development.

Paul shared the Stowe Club Highlands is an example of initial development and then a change in the development plan. The legal proceedings from this case have verified there will be no further development of the lands originally put in the easement. These acres are protected from development forever. You can also put together plans for different stages of development. Zoning is a powerful tool, but can be done reasonably.

Steffany asked who owned the easement? Terry indicated the 100 protected areas are owned by Wake Robin Cooperation. The footprint is very small compared to the total lot size and visibility is very limited. Additionally, development requirements add additional cautionary requirements so others are not adversely impacted by the development. For example, shades have to be drawn down at night so there are not visible lights at night in home windows that can be seen at a distance.

Paul stated routinely land trusts will take the easement and it has been effective for controlling development. Ted said I have about 275 acres left in the parcel of land I am speaking to you about tonight. Sugaring is endorsed by the Town Plan. When asked for use of my land for sugaring I knew the area did not have the proper soils, I came to see if we had something that was practical for the land it would be appropriate to do because it is not inconsistent with hiking. My son felt he could create ski trails with limited cutting. He has created a 3500 foot back country ski trail. Also, the land was tapped this last spring. Protecting this for the future could involve the creation of a conservation easement to protect it from development and would therefore limit the uses of the property.

Roy indicated that current use is a limited assurance as the land can be withdrawn at any time if you pay the fees.

Whit stated the Select Board has an 18 month time period to rewrite the Town Plan. We are really focused on working with the Planning Commission to try to look at the Town Plan with some vision. The Select Board is taking a look at each part to see if it takes into consideration what is best for the town. We can take a look at this issue of 1500 feet. Changes to Town regulations tend to be conservative to prevent development creep through evolution. So visioning is a key focus of the current Town Plan revision work. The Select Board has a desire to be creative and develop a comprehensive model.

Ted Barnet stated no one ever asked me to take a look at the proposed development from the inside. We would like to show that to you so you could see what we are proposing is in line with FLESA guidelines. Roy Marble suggested we fix what might have been done improperly in the past in the Zoning Bylaws.

#### Item #2: Minutes Approval from July 25, 2012

Topic for the July 25<sup>th</sup> meeting was Education and Housing. Motion by Steffany to accept the minutes, second by Sheila. All in favor

#### Item #3: Housing and Economic Development Chapters

The proposed changes are detailed and specific. Extensive rewriting had been undertaken to ensure these sections are up to date with current visioning for the town. Sheila suggested further clarification be made on several key terms so how to use them is very clear. Value added and value-based products is not clear. We need this section reworked. We asked for examples of this so we could understand it and then we would be able to add it to the Town Plan in language that would be clear to all readers. The goal is to avoid the use of jargon.

We also need to know if it is Mt. Elmore or Elmore Mt.? Let's research this and be consistent. Steffany still needs to update us about the use of Elmore or Lake Elmore to identify the town.

#### Item #4: Staying Connected Town Event Recap

The event was held on September 22<sup>nd</sup>. It included a presentation of information, a review of maps and a hike to the Beaver Pond area in the Elmore State Park. The Power Point Slides will be posted on the Town webpage. The walk to the Beaver Pond area revealed rare plants, significant evidence of wildlife existence in

