

Village of Old Bennington Minutes
Special Trustees Meeting Minutes
August 13, 2024

DRAFT

The meeting was held at The Barn and on Zoom. A link to the Zoom recording is here:

<https://zoom.us/rec/share/D-4nIQWfigAOUUhy8IaIPsfwKCuCfgrGhVwVwL2hbOCykps9UeOkjM3OpXYlmfQW.XgBBYOF7k0UgqTSw>

Passcode: fb3p0E?x

Trustees present: Anne Slattery, presiding officer; Than Marcoux, Ed Woods, Tom Woodward, Susan Wright.

Officials present: Galen Jones, planning commissioner. David Kiernan, administrator. Mary Walsh, clerk. Ron Rabidou, treasurer, attended on Zoom. Kathy Wagenknecht, auditor, was not present.

Citizens present: Christine Costello and Mark Vaughn. McKenzie Keaffober, Zoom master.

1. Call to order: AS called the meeting to order at 7:00 and noted that it was being recorded. This is a special meeting that has been warned, for the purpose of making changes to the zoning bylaws. There have been two public hearings on the subject prior to this one, the last of which was on Aug. 6. However the Trustees did not finish at that meeting because of the late hour.
2. Discussion and votes on changes:

Article II, Section 20, Definitions:

There were questions about **Proposed #3**, which now says: **3. The unit complies with all fire safety and building code requirements.** The Bylaws do not currently have any fire safety or building codes, and residents need to know where these are so they can reference them. AS proposed that the text be amended to say: **3. The unit complies with all State of Vermont safety codes, and other building code requirements that may be in effect.**

EW moved to accept this change. TM seconded the motion, and it passed unanimously.

Also under Article II, Section 20, Definitions:

The last portion of the Proposed definition of “Land Development” says: **and any change in the use of any building or other structures, or land; or extension of use of land; any commercial use of land in the Village.**

RR asked whether the reference to **commercial use of land** should be stricken, since the only commercially used property in the Village is the Four Chimneys Inn & Restaurant. GJ said this language reflects what is in State Statute, so it was agreed that no changes should be made here.

Article IV, General Regulations, Section 44A:

The last sentence of the Proposed Revisions says: **ADUs must comply with and present current fire safety and building code compliance documentation and must present annual certification of all safety inspections.**

There was a proposal to add the words: **“if such codes are in effect”** at the end of that sentence. GJ said the state has fire safety codes, so by not including this in the local bylaws the Trustees would not be absolving people of their responsibility to comply. The Trustees agreed to vote on this item at the end of the meeting.

Article V, Residential District, Section 51A – Conditional Uses:

The first listed item is proposed to read: **1. The structure shall be at least twenty-five years old.**

The trustees unanimously agreed to remove that item completely, since no one has been able to find out its purpose in the original bylaws. After removing that, each listed item gets moved up, so that the list will start with: **1. The conversion shall be made without major changes to the exterior of the structure and shall comply with design review provisions of this law.** The numbering then continues in sequence.

Article V, Section 54 C – Illumination, 2. Applicability:

The proposed language at b 2) says exterior lighting shall not be used ... **2) to deter theft.** There was a discussion of removing these three words, since under Illumination, 1, Purpose, it now says lighting should be within the Engineering Society of North America’s **recommended practices for night-time safety, utility, security, productivity,**

enjoyment and commerce. Because the word “security” is there, it would seem to permit lighting that deters theft, even if the words “to deter theft” are deleted.

There was ample discussion of this wording. AS said theft is more of an issue now than it was in the past, and the bylaws should no longer tell people they can’t use lights to deter theft. GJ said it was important to consider the issue of enforceability: If the words to deter theft are removed, someone might install very bright lights all over their property, and if their neighbors didn’t like it there would no longer be any teeth in the bylaws to enforce reasonable lighting. SW asked if future decisions about light could be made on a case by case basis. AS said the problem is that as the Revised Bylaws are now written, residents with street-facing entrances won’t be free to use motion-detecting lights. TW said that the Purpose statement does refer to security, so that would appear to set minimum standards for acceptable lighting. TM said the Planning Commission revised the bylaws because of the Home Act, which will permit more houses in close proximity, and they were trying to prevent possible over-lighting problems in the future.

After the discussion TW moved that “to deter theft” be left intact. TM seconded the motion. The motion passed with SW voting in favor, EW voting against, and AS abstaining.

Article V, Section 55 – Off Street Parking Requirements:

It was noted that the older Bylaws used to require a minimum of two parking places per dwelling unit, and the Proposed Bylaws will require just one. No one suggested reverting to the previous Bylaws.

Article VII, Special Regulations, Section 70 – Parking:

The Proposed Bylaws would say: Any such temporary parking for a period of more than two (2) days requires the express approval of the Administrative Officer.

TM said this provision was in keeping with the purpose of limiting short-term rentals and not imposing undue rules on people are receiving houseguests. AS said the Trustees would not want to write bylaws that are overly restrictive, which can make houses harder to sell. GJ said many communities have such rules. TW said the proposed wording was acceptable because it does give the homeowner the ability to have guests for more than two days. They just need to check in with the Administrative Officer.

TW moved to accept the language as written: Any such temporary parking for a period of more than two (2) days requires the express approval of the Administrative Officer. SW seconded the motion. TW, SW and TM voted in favor of keeping the language as written. AS voted against it, and EW abstained. The motion passed.

Article VIII – Administration and Enforcement, Section 82 Zoning Permits – A,E,F,G,H

Provision H now says: H. On a vacant lot, removal of more than 20% of trees over 6” diameter breast height (DBH) unless the removal is being done under a forest management plan prepared by a licensed forester.

GJ said he had intended to delete Provision H but overlooked it, so he would delete it now. The current Provision I, **Razing of a building**, would become **Provision H**.

Article IX – Section 97 – F,G,N,Q,T,V

Christine Costello made the comment that The Barn, where the meeting was being held, would not comply with Provision G: Windows, which calls for divided panes with muntins applied to both sides of the glass.

GJ said he believed The Barn did not seek approval for the false muntions on its windows, and if had The Barn sought approval he didn’t think the Planning Commission would have granted it.

Section Q: Solar Installations:

The Proposed Bylaws said: **Remove entire section pending adoption of Enhanced Energy Plan.**

There was ample discussion of the State solar-energy law, which makes it impossible for the Village so say No to any resident wishing to have a small-scale solar installation. GJ said that the state law leaves the Village with almost no control over anything solar except screening. EW said that even if the installer of the Village’s first solar project last year had sought pre-Approval, the installation company would have said, “The siting we’ve applied for is the ‘best use,’” and then the Village couldn’t have said no, because the state law is written to approve what the PUC says is the “best use.”

Mark Vaughn said other solar installations had been litigated in Environmental Court, and one case was appealed to the State Supreme Court. He believes the legal disputes over solar project are going to be in the courts for a long time.

GJ said there isn’t much litigation for small-scale, Category 1 solar installations. EW said there isn’t much to litigate with that category, because the PUC has ultimate authority.

The trustees decided to keep the wording of Q: Solar Installations as it has been until now in the Current Bylaws, but to make several wording changes, which are shown here in **red**:

1. Ground installations shall be installed in locations that minimize their visibility, such as a side or rear yard, and be screened from view of streets, public rights-of-way, and adjoining properties, **if possible**.
2. **(Remove this provision entirely, and adjust the numbering.)**
3. **(Re-number this as Provision 2, and delete the last sentence, shown below in red.)**
Roof - or building-mounted systems on an historic building shall not physically damage the structure, alter its character-defining features, including existing roof lines or dormers, nor obstruct significant architectural features, such as overlaying windows or architectural detailing. **Attachment points must be minimized and allow for future removal.**
4. **(Re-number this as Provision 3, and add the words shown in red below.)**
Roofmounted installations shall be placed below and behind parapet walls and dormers, on rear-facing roofs where feasible. Panels are to be mounted flush with, and at the same angle as, the existing roof surface and, on flat roofs, set back from the roof edge to minimize visibility. Setbacks: **If possible**, except for transmission and distribution lines and utility connections, all energy facilities including substations, commercial, utility and net-metered generation facilities and accessory structures must meet minimum setback requirements for the land-use districts in which they are located.
5. **(Delete this provision entirely.)**

Also on the subject of solar installations, DK said he would start monitoring the PUC's website to watch for new applications being filed by Village residents. That way, the Village won't miss the ten-day comment window, as it did last year.

TW moved to revert to the Current Bylaws language for Solar Installations, with the above changes as noted in **red**. TM seconded the motion, and the motion was passed unanimously.

T. Fences and Walls:

There was a discussion of acceptable materials. The Trustees agreed that the existing Proposed language as general enough to allow brick walls to be considered stone walls, and for the Planning Commission to deny applications out of composite materials that look like plastic.

AS asked if the Proposed Bylaws made it clear that residents would be allowed to challenge any of the requirements. TW said that Provision 4 provided guidance on this. However, Provision 4 is not currently under "**Materials**." It is under "**A temporary fence**

may be effected on an owner's property under the following conditions." It should be moved up to become Provision 2D under "Materials," immediately after "2C. Fences located on the front or with a street view should be picket design with wood/wood composite and painted white." It should read:

D. The fence material, dimensions and height are approved by the Planning Commission. The Planning Commission may consider deviations from the above criteria. Considerations will be guided by the context of the property and neighborhood and what is appropriate in terms of sighting, style, scale, materials and landscaping.

The Trustees reverted briefly to the Proposed Bylaws for Illumination, to make sure the language was fine if it used "watts" instead of "lumens." There was agreement that this was acceptable.

3. The discussion and changes to the proposed amended Bylaws were finished. DK said the document must now go to the Planning Commission, which would insert the changes in the Bylaws. After that, the document is returned to the Trustees, who are required by law to have another public hearing on the Revised Bylaws. He said there has to be a 15-day notification for that meeting. It will probably happen in October, since the meetings are one-month apart.

The Trustees agreed unanimously to adjourn the Special Meeting.