

## **RUPERT PLANNING COMMISSION**

Minutes of meeting March 11, 2019 UNAPPROVED

Attending: PC – Jed Rubin (Chair), Charlie Rockwell, Bob Bain, Val Almosnino, Jean Ceglowski, Kim Davis, Peter Pelton, Phil Chapman (Secretary). DRB - Don Lewis, Phil Mazzucco Zoning Administrator – John LaVecchia Jr. Copy of minutes to Debby Baker (Select Board)

Meeting called to order at 7:50 PM

Minutes of meeting Feb 4, 2019 approved with correction of spelling of Jean Ceglowski's first name.

First portion of the meeting was devoted to the ZA report (copy attached).

1. Lourie subdivision. This would divide a 90 acre portion of the property at 479 Rte 153 in West Rupert into lots of 44 and 46 acres.
2. Brodgesell/ McAleenan and Young/McAleenan boundary line adjustments. Agree that these would not require action on the part of the DRB or PC.
3. Under OTHER BUSINESS and a yurt as a temporary structure, the conclusion of a discussion was that a permit is needed if the structure is located on a platform. If it is located on a concrete slab, no permit is required. Note, however, that any structure which is occupied for more than 150 days in a year is liable for assessment and payment of property taxes. (see LUR 3.19, page 3-15)

The second item of discussion was the revision of the Land Use Regulations, the history of which the Secretary had summarized but failed to distribute. (see next pages). These suggested revisions will be discussed in detail at the next meeting.

Next meeting: April 1, 2019 (no Fooling)

Meeting adjourned at 8:40 PM

Respectfully submitted,                      Phil Chapman, Secretary

## Revisions to Land Use Regulations (LUR)

In chronological order here are some issues, which show up in the Planning Commission and DRB minutes for the last 3 years:

1) Dec 2016. See LUR 2.02 (page 2-3) and 2.08 (page 2-16). 2.02 shows accessory structure as permitted in the RM zone but 2.08 shows it as a conditional use. Town Attorney advised at the time “section 2.08 should prevail in the absence of additional information but that the discrepancy should be resolved at such time as there are any other modifications made to the Land Use Regulations.”

Suggestion – change 2.02 to show **CONDITIONAL** use in the RM zone.

2) Dec 2017. See LUR 2.02 Use Summary Table (page 2-3). The first table (1000 Residential) lists Permitted and Conditional Uses for the RM district. The minutes for the Dec 4, 2017 PC meeting state “ZA and PC agreed to come up with some clarification of the language, in particular the term “dwelling units”, which should be altered to include other permitted uses for the RM zone as listed in section 2.02”

Suggestion – consider changing the permitted uses in the RM zone to conform to those for the VC, VR, VN and RR zones.

3) Sept 2018. A fallout from the Maher conditional use decision was the need to clarify that; in the case of waiver requests (see section 7.07 – pages 7-5 and 7-6) are to be strictly guided by Table 7-A on page 7-5. The case involved a permit to build a guest house/accessory building as defined in section 4.01 (B) on page 4-1 of the LUR. Section (B) (2) states that the area of the accessory dwelling shall not exceed 60% of that of the principal residence. The applicant had applied the 10%

waiver to the calculation of the principal residence and the DRB mistakenly agreed in granting the waiver.

Suggestion – some added notice to the Title on Table 7-A (page 7-5) to the effect that the %age modifications are not applicable to any other Dimensional Standards.

4) Oct 2018. See LUR section 2.04 (D) (10) on page 2-8 regarding the Front Setback for Accessory Structures. An application was filed Oct 4 and was denied at the Oct 13 DRB meeting due to “failure to meet the front setback requirements for an accessory building in the VR Zone”. The decision was appealed and a Hearing held on Nov 12, 2018. The DRB decided that the appeal “met all requirements of LUR section 7.06 (B)(3) (a-e)”. See pages 7-3 and 7-4. The appeal was allowed and the application was approved.

Comment- Section 7.06 (B) covers variances and outlines the steps to be taken. In summary this section allowed the DRB to do something that they wanted to do anyway. The question remains whether the Variance procedure will always give the reasonable relief it is intended to do (allow common sense to prevail) or would it be preferable to revise the Setback requirements for Accessory Structures. In a perfect world we should probably revise many of the Setback requirements throughout the LUR to more realistically reflect the different conditions in different Zoning Districts. It is probable that other towns have encountered similar problems and that “standard land use regulation language” has changed since the 2011 writing of our LUR.

5) Nov 2018. From the DRB meeting minutes:

“Jed Rubin brought up the subject of needed modifications to the Land Use Regulations as adopted Aug 23, 2011. There have been several cases in which these Regulations have proven to be unneeded, confusing or contradictory when referred to for making decisions. An

example would be the setback requirements for accessory buildings, an issue that had come up in a Hearing held earlier this evening. Section 1.07 Amendments of the regulations states: “Amendments to these regulations shall be prepared and adopted in accordance with the ACT”. ACT is further defined in section 1.02 as the Vermont Planning and Development Act 24 VSA chapter 117.”

Comment: Updating or modifying our LUR will require careful thought as to the changes required and a somewhat laborious process for adoption, including a public hearing and approval at the Bennington County level. It is up to the Planning Commission to decide if the effort is worthwhile.