

**Minutes of the
Planning Commission
March 8, 2011
Cole Hall
Shaftsbury, Vermont**

Present: Chris Williams (Chair), Norm St. Onge (Vice Chair), Bill Pennebaker, David Spurr

Present: None

Others Present: Suzanne Bushee (Zoning Administrator), Robert Whitney (Recording Clerk)

1. Call to Order: Chair Chris Williams called the meeting of the Shaftsbury Planning Commission to order at 7:00 p.m.

2. Approval of Minutes from the last meeting on February 15, 2011: A change was made to correct the spelling of James and Linda Meskin's surnames, the name Donald Lindsay was corrected to Ronald, and the second sentence of 4A. was changed to reflect reality. Bill made a motion to accept the minutes as amended, Norm seconded. Motion passed, 3-0-1 (David was absent on February 15, 2011).

3. Old Business:

A. Paulins Signage: Review of proposed settlement from Rob Woolmington. The proposed settlement agreement with Paulins was introduced to the commission and discussed. The text of the agreement is reproduced below:

Stipulated Judgment Order

Arthur Paulin and Paulin's, Inc (Appellants"), the applicants in this matter, by and through their attorneys, Kenlan, Schwiebert, Facey & Goss, P.C., and the Town of Shaftsbury, by and through its attorneys, Witten, Woolmington & Campbell, P.C., hereby stipulate and agree as follows:

1. Appellants are the owner of title to and operator of the property that is the subject of the decision of the Shaftsbury Development Review Board (the "DRB") announced by the DRB at its hearing held on September 1, 2010 (the "DRB Decision").

2. On September 14, 2010, Appellants filled a notice of appeal on this matter with the Environmental Division pursuant to 24 V.S.A. Section 4471.

3. This appeals involves de novo determination of the legal status of certain signs located on property owned by Appellants on Route 7A in the town of Shaftsbury, Vermont (the "Paulin Property") and operated by Appellants as a convenience store, gas station and diesel fuel depot.

4. After further review of the factual history, relevant documents and a site inspection, the parties agree that signs on the Paulin Property fall into the following categories:

A. Signs that are subject to existing permits, or are more than 15 years old and do not require new permits. These are:

i. The “Paulin” sign. The main sign on the front of the convenience store and gas station. It currently has a black background and white lettering stating “Paulin Inc.” as well as smaller lettering at either end of the sign advertising the convenience store.

ii. The “Groceries” sign.

iii. Gas signs.

iv. Show window signs up to a total of 60 square feet, with no single sign exceeding 2 ½ feet by 4 feet.

v. Mobil pylon signage.

B. Signs to be subject to application for a zoning permit. These are:

i. The “Wood Pellet” sign located on the Mobil pylon.

ii. The diesel signage associated with the diesel canopy, pumps and related improvements that were approved by the Shaftsbury Development Review Board on November 8, 2008 as permit No. 08 86 24.

C. Signs to be removed. These are:

i. The “DVD Rental” sign on the mansard roof at the northerly end of the Paulin building.

ii. The illuminated element of the ATM sign in the store window.

5. The signs itemized in Section 4A are lawfully pre-existing, subject to existing permits or have been in place without material change for at least 15 years. Accordingly, none of these signs shall be subject to enforcement actions or permitting requirements hereafter unless any such sign is materially changed.

6. The Appellant shall, within 30 days following issuance of this stipulated order by the Court, submit to the Shaftsbury Zoning Administrator a completed application for approval of the signs itemized in Section 2(B). If, and to the extent that, the Zoning Administrator determines the diesel signage exceeds any of the requirements or limitations of the Shaftsbury Sign Ordinance, the Appellant may seek waivers or variances from the Development Review Board.

7. The Appellant shall, within 30 days following issuance of this stipulated order by the Court, remove the sign and sign element itemized in Section 2(C).

8. Before making any material changes in size, location or configuration of any of the signs itemized in Section 2(A), or before installing any new sign on the Paulin Property, the owner of Paulin’s Store and/or the Paulin Property shall apply for and obtain a zoning permit from the Town of Shaftsbury.

9. A “material change” requiring a zoning permit shall include, but not be limited to, an increase in size of the Paulin sign, an increase of the total square footage of the show window beyond 60 square feet, proposed installation of any show window sign larger than 2 ½ by 4 feet, an increase in the total square footage of the gasoline canopy signage, or an increase in the height of the pylon signage or the dimensions of the gasoline sign, the gasoline pricing sign, or the pylon panel sign.

10. A reduction in the size of individual signs, changes in the text, form or color of lettering or background on signs, changes of individual show window signage or pylon panel signage to advertise different products or services shall not constitute material changes as long as the size or total square footage of the sign is not increased.

11. All other claims shall be dismissed, each party to bear its own costs.

Norm suggested that language be appended to the last sentence in paragraph 10. The commission decided on the following language, “and the signage otherwise conforms with the Sign Ordinance currently in effect.

B. Review revised sign ordinance: The proposed ordinance was looked at one more time before sending it along to the select board. The text of the Sign Ordinance, dated Jan 01, 2010, is seven pages in length so will not be typed here.

Discussion of sections 1.0 and 3.5.1 ensued. Chris said that the intent is to keep signage in the rural Town of Shaftsbury low-key. Norm liked the term “historic small scale and rural character”; language taken from the town plan. Suggested language for section 3.5.1 included words to the effect of “signs shall not exceed 40 square feet in aggregate area” as the present language seemed to indicate each sign could be that large. The word “aggregate” to be added to section 3.5.2 as well.

4. New Business:

A. Picture of Knapp House in Town Plan - Bill received a complaint about a photograph of the Knapp House in the town plan. Bill took the photo off the web site. Physical copies of the town plan do not need to be redacted. The language “photo removed at request of owner” could be added to web site. **David made a motion to accomplish this and Bill seconded. Approved 4-0-0.**

B. Affordable Housing Bylaw - Norm submitted the below text for review:

Affordable Housing Bylaw

In accordance with the Town Plan, it is the intent of this bylaw to provide for a degree of flexibility in the design and density of housing development and subdivision projects in order to facilitate the creation of affordable housing for low to moderate income residents of Shaftsbury.

The application of this bylaw is intended to achieve;

- 1. Creation of affordable housing in accordance with VHFA guidelines.*
- 2. Provide incentives to developers through the use of density bonuses without compromising the conservation of land, open space and recreation areas within a housing development or subdivision footprint.*
- 3. Efficient use of infrastructure and roads.*
- 4. Development that is consistent with the density and character of Shaftsbury; specifically in the immediate vicinity of the proposed development.*

The overall density of the project shall not exceed the number of dwelling units permitted if the land were subdivided into lots in accordance with the underlying standards for the district(s) in which the land is situated, except where specifically permitted in these regulations and as permitted below:

A density bonus of 25% of the permitted overall density may, in accordance with this bylaw, be permitted in instances in which not less than 20% but not more than 50% of the total

number of dwelling units created are affordable housing units. The dwelling unit(s) designated as affordable shall be legally defined and protected as “affordable” consistent with the current Vermont Housing Finance Agency (VHFA) income limits and purchase price limits for Bennington County. All dwelling unit(s) designated as “affordable”, whether offered as an ownership or rental housing option shall include all relevant costs as defined in VHFA guidelines.

Prior to any issuance of any permits under this bylaw, the applicant must demonstrate to the Development review Board the legal and binding mechanism which will be put in place to affirm compliance with this clause. Prior to issuance of any Certificate of Occupancy associated with the project, including units not set aside as affordable housing, the applicant must demonstrate and affirm the affordable housing protections are in place for the designated units.

Norm said that the length of time assigned to the affordability component needs to be outlined. Chris recommended that the last clause in the first paragraph be excised because it is discriminatory (the sentence would end after the word “affordable”). It was also suggested that the sentence “The application of this bylaw is intended to achieve;” be changed to “Purpose”. The commission members agreed that the language of the proposed bylaw is a good start.

5. Other Business:

A. Chris received an e-mail from Rob Woolmington. Rob wrote that the town does need to be sure that its bylaw does not prevent building a mobile home park anywhere in town. Rob cited section 4412, sub I, sub b as his legal reference.

B. Chris said that he is up for re-appointment to the planning commission for a 3 year term. He feels that he is overextended and is thinking of stepping down for a cycle but wants to assure a smooth transition. The other planning commission members urged Chris to reconsider as his knowledge, erudition and wit would be missed.

C. The Village Residential District expansion was discussed. Bill’s view is that ¼ acre lots are not viable with limitations on septic systems and wells. Norm asked if it would make sense to make the expansion part of the next town plan (due by 2014). Chris reminded the members that this is a long term project; there is no compelling reason to do anything at this moment

D. Bill stated that Rob Woolmington is giving a class from 5:30 to 7 p.m. on 10 March that will cover open meeting law, notices and etc.

5. Adjourn: David made a motion to adjourn at 9:30 p.m. and Norm seconded. Motion passed 4-0-0.

Respectfully Submitted,

Robert Whitney

