

BARRE TOWN PLANNING COMMISSION

MINUTES FOR JULY 15, 2009

The Barre Town Planning Commission held a public hearing on **Wednesday, July 15, 2009** at 7:00 p.m. at the Municipal Offices, Websterville, Vermont.

**Members Present:**

<b>Cedric Sanborn, Chair</b>	<b>Claire Duke</b>
<b>Eric Brigham</b>	<b>Chris Violette</b>
<b>Margaret Hutchins</b>	<b>Ken Yearman</b>

**Members Absent:**

**Charlie Thygesen**

**Others Present:**

<b>Marion Fish</b>	<b>Jeanne Daniele</b>
<b>Tyson Blouin</b>	<b>Beckie Blouin</b>
<b>Pierre Couture</b>	

**Staff Present:**

**Chris Violette - Planning & Zoning Director**  
**Heidi Bennett - Board Clerk**  
**Kelly Houston - Management Intern**

**A. APPROVAL OF MINUTES:**

*On a motion by Mr. Yearman, seconded by Mr. Brigham the Planning Commission voted to approve the minutes of June 17, 2009 with changes. Motion made to accept changes; moved by Ms. Duke seconded by Mr. Yearman. All in favor*

**B. WARNED PUBLIC HEARING - FINAL PLANS:**

**STAFF REPORT/REVIEW COMMENTS FROM CHRIS VIOLETTE,  
PLANNING OFFICER**

**PIERRE COUTURE - ALLOWED USE DETERMINATION**

The first Item on the agenda this month is an Allowed Use Determination requested by Pierre Couture for his property located at 34 Church Hill Road in Upper Websterville. This property is located just below Lawson's General Store on .7 acres in a Very High Density Residential Zone.

Mr. Couture opened a multi-use business at this location a couple of weeks ago. Prior to the

opening and upon realizing his plans, because of reading advertisements for the grand opening, I became concerned because he had not spoken to me in regards to whether there would be any permitting requirements. I figured that at best he would probably have needed some sort of permitting and at worst, the uses might not be allowed. I wrote him a letter on June 5, 2009 advising him to call me before proceeding. Mr. Couture called me on June 12 and set up a meeting for June 15<sup>th</sup>. Mr. Couture missed the meeting on the 15<sup>th</sup> so I again wrote him on June 19<sup>th</sup> advising him once again, in more detail, that I was concerned about what he was about to embark on with his business. We finally met on June 23<sup>rd</sup>.

During the June 23<sup>rd</sup> meeting I became more aware of Mr. Couture's plans and advised that I thought, at a minimum, he needed a change of use permit but I also advised him that I didn't think all the uses, possibly none of the uses, were going to be allowed by zoning. I instructed him of this process which is allowed for in the Zoning Bylaws under Article 2, Sec. 2.4 (c) where if a use isn't specifically allowed it may be approved if, after public hearing, the Planning Commission determines that the use(s) will not alter the characteristics of the area and will not cause an undue burden on the community. I also informed Mr. Couture that based on my belief that a change of use was occurring and he hadn't sought the appropriate permits, that I would be forced to issue a violation notice if he opened as planned. Mr. Couture opened his business on June 27, 2009; I issued a violation notice on June 29, 2009.

Mr. Couture is currently working two fronts, or at least I assume it will be two fronts. First, he is before the Planning Commission this month to seek the Allowed Use Determination for multiple use of the subject property. Second, I assume he is going to appeal my violation notice which basically buys him time to try to get approval of his uses. However, as of this writing he has not appealed the June 29<sup>th</sup> violation notice and has a total of 15 days to do so. If he appeals as I am anticipating, the Development Review Board will hear that in August.

The uses that Mr. Couture is currently operating out of 34 Church Hill Road are as follows according to his letter submitted in advance of this hearing dated July 9, 2009:

- Sale of gift and Vermont food products
- Touring center along with a bike and ski shop
- Sale of prepackaged foods
- Art Gallery
- Museum
- Offices

Mr. Couture contends that part of what he is currently doing at this location has been in operation since 2003. To some degree, I agree and while never specifically approved, the sale of gift and food products was allowed to exist. In addition, the building was used for production of the gift items and office space. Again, while none of those uses were approved because of ambiguity in the Zoning Ordinance in effect at that time, the Planning Commission,

on November 13, 2003, allowed for the installation of two additional curb-cuts for the purpose of accessing a new parking area that would be in support of the operation at 34 Church Hill Road. So with regard to the manufacturing, sale of gift and food products, and the office space, the Town certainly knew of the intent and operation. I would find it hard to find those uses in violation now even if a case could be made that, to a large degree, most of those uses haven't really existed for some time now.

Considering the sale of gift and food products, along with the office space, has been a use at this location before and one could try to make the claim that they preexist the Town's current zoning, I would suggest that the Planning Commission not focus so much on those. However, I believe the expansion of the sale of food products (including the prepackaged foods), the touring center, bike and ski shop (Mr. Couture is the founder and a Board member of Millstone Trail Association<sup>1</sup>), art gallery, and museum are new uses and as such need to be considered as part of this request. None of those uses are specifically allowed in a Very High Density Residential Zone.

When considering Allowed Use Determination I suggest using the Conditional Use criteria which is listed as follows:

The impact on the capacity of existing or planned community facilities, to include but not limited to:

1. Emergency services **(no impact)**
2. Educational facilities **(no impact)**
3. Water, sewer, or other municipal utility systems **(both are off-site, and, while I don't have anything specifically from the Websterville Fire District, I wouldn't anticipate a large increase in water use and as such there shouldn't be any significant impact. Sewer is Barre Town municipal and again, I don't foresee any additional impact)**
4. Recreational facilities **(no impact)**
5. Conservation or other designated natural areas **(no impact)**
6. Solid waste disposal facilities **(no impact)**
7. The character of the area affected as defined by the purpose(s) of the zone within which the project is located, and specifically stated policies and standards of the municipal plan **(according the Town Plan, Very High Density Residential Zones, in part, are centralized "self contained" settlements including the concentration of residences and commercial uses. In this case, the proposed uses are commercial in nature and as such I believe probably meet this criteria);**
8. Traffic on roads and highways in the vicinity **(34 Church Hill Road is located on Church Hill Road in Upper Websterville, a Town class 3 highway. While it is a class 3 highway, Upper Websterville is a very tightly developed area with**

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<sup>1</sup> Millstone Trails Association is a non-profit organization dedicated to creating and maintaining a network of non-motorized recreational trails in Central Vermont.

**structures in very close proximity to the road. Most structures do not come anywhere close to meeting the required road setback. In fact, many are probably in the Town right-of-way. In this case, 34 Church Hill Road sits back further from the road than most structures on this road. While additional traffic is likely as a result of these uses, I am uncertain as to how much. I would suggest the applicant provide more information regarding anticipated traffic that will be generated.);**

9. Zoning bylaws and bylaws then in effect **(uses are not allowed);**
10. Utilization of renewable energy resources **(no impact);**
11. Any required extension or capital expense to the present maintained highway system **(none);**
12. The impact on neighboring uses **(other than Lawson's General Store on the uphill side of this site and the Post Office on the other side of the road, the other uses are residential. There will likely be some impact on these uses because of additional traffic and people coming and going. In addition, the creation of a deck with picnic tables, as described in Mr. Couture's July 9<sup>th</sup> submission, are likely to have some impact on neighbors. Details of what the deck is to be used for are not provided. A conclusion can probably be drawn that the deck, along with the picnic tables, is intended to provide a place for people to eat and rest. Is this accurate and are there any other purposes for having the deck? Mr. Couture does not provide details on the hours of operation either and should due to the potential impact they could have. The parking lot, as described below, is also likely to have an impact on at least one abutting use. Better screening of this parking lot at the property line would be helpful to mitigate impacts);**
13. Intrinsic capability of the land and its surrounding areas to support the use **(probably no concern);**
14. Minimum lot size **(at 30,492 sq. ft., the subject lot more than meets the minimum lot size of 8,500 sq. ft.);**
15. Distance from adjacent or nearby uses **(as detailed previously, the other uses are in very close proximity to this location);**
16. Off-street parking requirements in accordance with standards outlined in Article 3, Sec. 3.9 of this bylaw **(this structure is 2,766 sq. ft in size and requires 1 parking space for every 200 sq. ft of building size. As a result, 14 parking spaces are required. The front of the building provides many parking spaces, however I am uncertain exactly how many. The 2003 Planning Commission approval to allow for two additional curb-cuts was for ingress and egress to a new parking lot. That parking lot, while overgrown with grass is in existence and is being used and while no exact number is provided, its capacity is fairly large. The two parking area combined more than likely provide more than the 14 required parking spots. I will provide more comments about the parking lot later);**

17. Loading/unloading facilities (**while no details are provided to know exactly what the need for loading and unloading is, I suspect that it should be adequate as it exist**).

Summarizing my points from above:

While the Town Plan contemplates commercial uses in Very High Density Zones and it appears as though these proposed uses are light impact commercial uses, there is going to be some impact on neighboring uses which needs to be considered before determining whether the characteristics of the area are being altered. Things like hours of operation, traffic, the deck, and the parking lot will have impact on specifically the residential uses that are in close proximity. I believe that most of these impacts will probably, overall, not be overly harsh, however without knowing more it is hard to know for sure. The parking lot definitely has an impact on one multi-family dwelling and the deck could as well depending on the use and hours of operation. As I mentioned, better screening along the property line could help mitigate those concerns.

If the Planning Commission is inclined to grant this request, I am concerned about promises made by Mr. Couture or conditions that may or may not be attached being followed through on. Mr. Couture has numerous outstanding issues from previous approvals. One of those outstanding issues is for the Planning Commission's approval back in 2003 of the two additional curb-cuts. I'm not sure any of the conditions have been met including the paving of the aprons. Well in this case the apron, the second curb-cut was never constructed even though it was on the plan that was approved. Plantings along a 10' green space was never done and I'm not sure that an overall all ingress and egress plan, along with a drainage and erosion control plan was ever approved by the Town Engineer.

While I do believe that Mr. Couture has good intentions and assuming some of the other aspects of the use of the building like the hours of operation and the use of the deck are not outlandish, I suspect approval is warranted. However, I have a real problem with the parking lot never being done as approved. I made Mr. Couture aware of this in previous letters but again in a letter dated July 7, 2009, and specifically asked that the paving for the one curb-cut now providing ingress and egress to the parking lot be done before the meeting.

#### **DISCUSSION:**

Mr. Violette disclosed that Mr. Blouin, an abutter and present in the audience, is a member of the Barre Town Fire Department, in which Mr. Violette is his supervisor.

Mr. Violette summarized his comments for the Planning Commission.

Mr. Couture stated that he purchased the building and attempted to restore to its original look;

this building used to be the original town office and post office. Mr. Couture stated that he has run his office out of this building for some time and has continued, up until now, with his wholesale business.

Mr. Couture stated he only needs one curb-cut and that is the one he will be paving (lower entrance). Hours of operation are 9am – 5pm 7 days a week. Occasionally there is a group that comes in after 5pm. It is not the intention to ever use the deck after hours. Mr. Couture stated this was an important building back in the day and is just trying to bring it back to the community.

Mr. Couture stated he is planning on putting the fence back up; working with a landscaping company to add some flower around the fence.

Mr. Sanborn asked how many parking spaces are available in the front of the building; Mr. Couture stated there are 8 or 9. Mr. Sanborn stated that by the square footage requirement 14 spaces are needed, however with the touring center more spaces should be allotted for; Mr. Couture stated he has 30 in the lower parking lot. Mr. Sanborn stated that with our new zoning a parking spot is now a 10' x 20' spot; a parking plan may be needed.

Mr. Yearman asked whether the wholesale business is done; Mr. Couture stated yes. Mr. Yearman stated that he drove by and it doesn't seem that the parking lot is that big; Mr. Couture stated there is still grass that hasn't been mowed, the lot is pretty big.

Ms. Duke asked if Mr. Couture was certain of his boundary lines; Mr. Couture said he is very certain, as they are all marked. Ms. Duke asked if the lot is surveyed; Mr. Couture stated that he does not believe there is a survey but there has been a fence there for 100 years, fence has been there since the 1900's. Mr. Couture stated that he will be replacing the fence and was hoping to have it done before his opening.

Mr. Sanborn asked about the new fence; Mr. Couture stated that the fence is going up with some landscaping.

Mr. Violette asked Mr. Couture to show the Planning Commission how the parking will work by using the picture on the wall. Mr. Couture pointed that he would have 8-9 spots in the front of the store. Mr. Violette reminded Mr. Couture that two (2) of the spots need to be designated for the apartment. Mr. Violette stated that fourteen (14) spots are needed in the lower lot, however the use affects the character of the neighborhood so 14 parking spots will not be enough, will need approximately 20 – 24 parking spots. Mr. Couture showed the Planning Commission where the gravel parking lot is located on the photos; Mr. Violette asked if 20 cars will fit; Mr. Couture stated they would.

Mr. Violette asked about winter parking; Mr. Couture stated the ski season is very quiet. Mr.

Violette asked about snow removal from the parking lot; Mr. Couture stated that he will push it back toward the tall trees. Mr. Violette asked where the snow will go when it starts to melt; Mr. Couture stated toward Wells/Lamson Quarry; Mr. Violette stated that by pushing the snow back, it shouldn't have an effect on the abutter; Mr. Couture stated that it shouldn't.

Mr. Violette asked if Mr. Couture spoke to Harry Hinrichsen (Town Engineer) about runoff when this parking lot was put in place; Mr. Couture stated that he did not. Mr. Violette asked where the runoff is going; Mr. Couture stated he has never seen water moving.

Mr. Violette stated that he understands that there won't be two entrances at this point; Mr. Couture stated that he plans to use the "road" (grass area) to have traffic exit onto Church Hill Road, which won't be used on an ongoing basis. The "road" will not be used in the winter as it won't be plowed.

Mr. Couture showed the Planning Commission where he will be installing the fence. Mr. Couture stated that the fence will be spilt rail, will run along the road side with landscaping on both side; fence will also be put up along the side property line (Blouin). Mr. Violette asked if there will be anything along the side where the house is; Mr. Couture stated just the fence.

Mr. Violette stated the sign that is currently advertising the business is in the Town right-of-way and needs to be moved.

Mr. Yearman stated that the article in the Times Argus mentioned a deli; Mr. Couture stated that there won't be a deli, but they will sell pre-packaged foods.

Mr. Blouin stated there are concerns with run-off and snow plowing; the first year the parking lot was plowed, it was plowed toward the apartment; when it melted, it filled the basement with water. Mr. Blouin stated that there is a property line dispute with Mr. Couture.

Mr. Couture stated that Mr. Blouin never came to him about the snow, Mr. Blouin concurred with that statement.

Mr. Blouin asked what type of screening would be put up; with the property line dispute how do we know the fence is actually on his property; feels a survey should be done.

Mr. Blouin has concerns with headlights shining in the windows; privacy was invaded when they had 30 plus cars there; what happens during mud season?

Mr. Couture stated the biking business isn't open in April. The business shuts down in November and April.

Mr. Yearman asked Mr. Couture if his hours were for all the season pass holders; Mr. Couture

stated they can ride anytime during daylight hours; the shop closes at 5 pm.

Mr. Brigham asked how people will get from the parking lot during the winter to the facility. Mr. Couture stated that he will have the “road” plowed; Mr. Brigham stated that he was confused as Mr. Couture already stated that he would not plow the “road” during the winter. Mr. Couture stated that it sounds reasonable to plow the path for people.

Mr. Brigham stated that in the process of talking to the Zoning Administrator and being told that you couldn’t open what was your thinking; Mr. Couture stated that it was four days before the opening, all advertisement had been done; there was no going back; didn’t see this as a change of use.

***On a motion by Mr. Violette, seconded by Mr. Brigham, the Planning Commission voted to move into deliberative session at 8:12 p.m.***

***On a motion by Ms. Duke, seconded by Mr. Violette, the Planning Commission voted to return to public forum at 9:00 p.m.***

Mr. Sanborn stated that the Planning Commission is giving conceptual approval with conditions that need to be met; in 30 days come back to the Planning Commission showing what progress has been made.

Mr. Brigham read off the list of conditions.

1. Survey of side (Blouin) and rear (Rock of Ages) property lines; survey done at own cost.
2. Existing driveway apron paved 20’ wide by 30’ deep.
3. Parking plan with a diagram showing the actual number of parking spots including the front of the store. Parking availability must show two (2) designated spots for the existing apartment. All spots must be at least 10’ x 20’. Parking area must be gravel.
4. Permanent definition (boundaries) must be given to the parking lot
5. Planned use of grass area from lower parking lot to front of building for vehicle access shall not be allowed.
6. Construct a walkway from lower parking lot to the building for pedestrian use only.
7. Install fence along right of way along road with landscaping; 10’ minimum of green space.
8. No parking along the road; permanent signage needs to be placed along the fence notifying patrons.
9. No walking along the road; permanent signage needs to be placed along the fence notifying patrons.
10. Snow removal plan submitted and approved by Harry Hinrichsen, Town Engineer

11. Runoff & erosion control plan to be submitted and approved by Harry Hinrichsen, Town Engineer, with particular consideration for diverting water away from the Blouin property.
12. Landscape plan showing a solid barrier shield of abutter Blouin.
13. Deck is not to be used past 5 p.m.

***On a motion by Mr. Violette, seconded by Mr. Brigham, the Planning Commission voted to continue the hearing until August 19, 2009, 7 p.m. All in favor.***

**C. MISCELLANEOUS:**

**NATIONAL FLOOD INSURANCE PROGRAM**

The FEMA flood maps have been going through an extensive revision. The revision has been going on for some time but is getting close to completion. For municipalities to participate in the National Flood Insurance Program, they must adopt flood hazard regulations and incorporate them into the Zoning Bylaw. Barre Town's new Zoning Bylaw incorporated, at the time it was being reviewed, the most recent model as put forth by the State of Vermont.

In conjunction with the flood map revisions, towns must adopt the most recent language of the flood hazard regulation before March of 2010. In advance of this deadline and upcoming meetings to go over these requirements and the map revisions, I asked that our flood hazard regulation be reviewed by the Department of Environmental Conservation, Flood Plain Management. They have done that and provided a report. Unfortunately, changes were made to the state model after we incorporated it into our new Zoning Bylaw and as a result we are going to have to make a few changes. The report is detailed and outlines the changes and in many cases, provides the language that needs to be incorporated. Page 10 gives an overview of the review. I simply am providing this information for this meeting to make you aware of the upcoming need to make an amendment to our Zoning Bylaw.

**D. ROUNDTALBE:**

Jeanne Daniele representing CVRPC gave a report on the Friends of the Winooski stating that they need to present the results of their study to the Planning Commission.

**E. ADJOURN:**

***On a motion by Ms. Hutchins, seconded by Mr. Brigham, the Planning Commission voted to adjourn the meeting of July 15, 2009 at 9:15 p.m.***

Respectfully Submitted,

Heidi Bennett

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Cedric Sanborn, Chair

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Eric Brigham

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Charlie Thygesen Sr.

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Ken Yearman

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Chris Violette

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Claire Duke

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Margaret Hutchins