

BARRE TOWN PLANNING COMMISSION MINUTES

The Town of Barre Planning Commission held their regular meeting on **Wednesday, June 21, 2017** beginning at **7:00** p.m. at the **Municipal Building**, Lower Websterville.

Members Present:

Cedric Sanborn	Charlie Thygesen Sr.
Debra Pierce	Chris Violette
Claire Duke	George Clain

Members Absent:

John Hameline

Staff Present:

Emily Marineau
Elaine Wang

Others Present:

Herbert Health JR	Susan Uthmann
Chris Neddo	Jane Cumming
Linda Labrie	Isabella Cumming

1) CHANGES TO THE AGENDA

Violette offered to let Chris Neddo present his hearing first, Neddo declined, he wanted to stay for the whole meeting. Linda Labrie is on the schedule for next month but wanted to come in as a conceptual, possibly place her above 5.

2) APPROVAL OF MINUTES:

Duke would like a typo fixed on page 5, 9 paragraphs down where it says “if something goes wrong than it’s a State..” if “than” can be changed to “then”. A motion to approve the May 17, 2017 meeting minutes with correction made by Duke, second by Pierce. Meeting minutes approved unanimously at 7:07PM.

3) ALLOWED USE DETERMINATION (PUBLIC HEARING)

Request by Susan Uthmann for allowed use determination in accordance with Barre Town Zoning Bylaw Article 2, section 2.4 (c) to operate a retail clothing store on property (current use is a daycare facility) located at 22 Wilson Street; Parcel ID: 026/030.00; Zoned: Very High Density residential; AU-17000003.

Staff Comments of Chris Violette

This is a warned public hearing for the purpose of allowed use determination in accordance with the Barre Town Zoning Bylaw as referenced in the title block above. The applicant is proposing a use that is not specifically allowed by permitted or conditional use in a very high density residential zone.

The applicant is proposing to change the use of a building owned by the Town of Barre from a child care facility to a retail clothing store. My review of the Zoning Bylaw determined that retail sales in a very high density residential zone is not permitted by zoning. I advised the applicant that her best option was to seek this allowed use determination.

The applicant currently rents the 1080sf building which sits on 2.3 acres of land from the Town of Barre to operate the child care facility. However, she has indicated that changes to State law have made it very difficult to find help. She plans to close this facility, (she also operates one in East Barre) and convert it to the retail sales. The retail sales would be limited to selling clothing. She has indicated verbally to me that most of the sales will be online, however there will be a few occasions (exact amount I'm not clear on) where customers would come to the building. I expected a narrative from the applicant describing the business but as of this writing I haven't received it.

The Planning Commission must use the criteria below to determine the following before the use can be allowed:

The proposed use will not alter the characteristics of the area and will not cause an undue burden on the community.

I have provided brief comments of my own based on my understanding of the proposal and knowledge of the area.

1. Emergency services:

What appears to be a limited use, mostly online according to the applicant, shouldn't create much of a burden to the Town's emergency services. In addition, it is likely that whatever the use is will have less potential impact than the current childcare facility.

2. Water, sewer, or other municipal utility systems:

Municipal water and sewer is utilized by this building. Retail use, especially limited should have less impact on the municipal systems than the current childcare facility.

3. 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:

Purpose statement for very high density residential zone as printed in the Zoning Bylaw:

This district is designated for land centrally located where town water and sewer facilities are available and where, due to reasons of utilities, location and existing intensive development, higher density is appropriate. The purpose of this district is to permit a continuation of residential and related uses where consistent with the objectives of the Barre Town Municipal Plan.

The character of the area is best defined as being mixed use. While there are residential uses, both single and multi in relatively close proximity, there is also commercial very nearby as well. The site location is about 25' from a highway commercial zone and the Hannaford's Super Market.

Also, the site being a child care facility for several years as a commercial use likely has more impact to the character than what is being proposed. That is of course if it is of a limited nature as has been stated to me. Something more significant might change that.

The zone allows for compact density and even some commercial in the way of general stores etc.

4. Traffic on roads and highways in the vicinity:

The site is accessed by Wilson Street, a short class 3 Town paved road. While the road is somewhat narrow compared to others, it has handled the traffic from the current childcare facility as well as the apartment buildings adjacent. Wilson Street connects directly to South Barre Road (VT Rt 14).

Based on the limited use compared to what is proposed vs what is current, it is likely that the traffic generated by this proposed use will not cause a significant hardship.

5. Zoning bylaws and bylaws then in effect:

As previously mentioned, the current Zoning Bylaw has this area zoned very high density residential. Retail sales is not allowed as a permitted or conditional use. If the Commission approves the allowed use determination, the use as proposed would be allowed to receive a change of use permit.

6. The impact on neighboring uses;

The neighboring uses, especially along Wilson Street are mostly residential mixed between single-family and quite large multi-family dwellings. The greatest impact is likely from traffic and not so much from the building use as the building sits a bit back on the lot and not right near any of the houses. Traffic according to the applicant will be relatively light because of expected limited customer visits to the site. The child care facility likely generates more traffic than the proposed use will if kept small.

Overall impacts should be minimal if developed as stated but further discussion is warranted. A retail clothing store should not generate noise or odors and I wouldn't expect outside storage. There could be some shipping and delivery type traffic.

7. Minimum lot size; The minimum lot size for this zone is 1/3 of an acre when municipal services are available.

The minimum lot size for this zone is 8,500sf. The parcel size is 2.3 acres, well over the minimum lot size required.

8. Off-street parking requirements in accordance with standards outlined in Article 3, Sec. 3.9 of this bylaw;

There appears to be at least 10 parking spots available for this building. At one parking space for every 200sf of overall building size, 6 parking spaces would be necessary. It appears as the parking requirement is met.

- 9 Loading/unloading facilities;

No official loading or unloading docking is in place. I suspect deliveries will occur by common carrier and likely in the form of UPS or Fedex. I'm not sure whether larger trucks will deliver to this site but I would suspect it would be limited and not likely that a true loading dock is necessary.

Summery and recommendation

Assuming the light use as verbally indicated by the applicant, with most of the retail sales being done online, except for a limited number of customer visits, this proposed use, in the very high density residential zone that is in very close proximity to highway commercial, along with the fact that it has been used as a child care facility for many years without a problem, it is my opinion that the proposed retail use of the building located at the end of Wilson Street should not change the characteristic of the area or cause and undue burden on the Town and I recommend approval.

ADDITIONAL COMMENTS:

Susan Uthmann states that she has been doing child care for many years. This past September the State changed regulations for day care providers. Uthmann states that she has spent hundreds of dollars trying to find adequate help for the daycare. She states that she knew and understood the regulation changed but did not think it was going to be this hard to find help. She operates the Lily Pad Daycare in East Barre, where she must follow the same regulations. She feels that she is responsible to continue to pay the rent for the Wilson street building until her lease is up in August 2018. The only way she can think of keeping up with the rent payments is to move her in home business to that location. Uthmann states she is selling LuLaRoe clothing, which she states is like selling Tupperware, thirty-one or even Avon. She states that most of the business is generated by online sales and all her inventory right now is in her dining room of her home. She states that it is a big financial risk for her to move her LuLaRoe business from her home into the Wilson Street building but since she closed the daycare this is the only thing she can think of to help her make the rent payments. Uthmann states that 90% of the time it would only be her in the Wilson Street building because she will still have to work at the Lily Pad most days and some days no one will be in the Wilson Street building. She states that this will cause less traffic than the daycare generated. She states that the Wilson Street building would be used as a staging place for her to take pictures of the clothes to post online, occasionally, possibly once a month, she would have an open house where women would come take a look at the clothes, she states that she has never had more than 10 people at a time. She states that this is not a big in-person business, it is mostly an online business and occasionally she will pack up her LuLaRoe clothes and take them to a person's house for an in-home party. She states that occasionally she might have someone stop by to pick up a pair of leggings that they bought. She states that she has been doing this for a little over a year and is confident that she would be able to keep up with rental payments but moving her operations down there.

Herb Heath owns number 10 and 14 Wilson street (18 apartment units) he doesn't agree with having a retail clothing store on Wilson Street. Heath states the Town only has a right of way on part of his property, town owns the first 1/3 of Wilson street to his first apartment building and then takes back over at 22 Wilson street. Heath states the first use of the building was for South Barre Fire District monthly meetings. Heath states that they had a traffic study done with the result showing the traffic was at a maximum before the daycare went in. Heath states the Town inherited the building (when they took over the South Barre Fire District) with all its problems and then rented it to two different daycares over the years and he has looked the other way to all this traffic that had been on Wilson Street because he felt it was a community business and he could be a good fella but now he cannot look the other way with a retail store going in. Heath states that the people going to the daycare are at least going 40 mph, this he knows because he has seen the parents speeding and has other people who have seen them speeding. Heath states that because the road is so narrow and people speed and park on the road he had talked with Harry, the Town Engineer, about people parking and speeding. Heath states that Harry agrees that people should not be going 40 mph on that street or parking on the side of the road and that there should be "No Parking" signs posted but Harry told Heath that there is nothing the Town can do about speeding because it is not a Town road. Heath feels that he is in a hard spot because

he cannot give people parking tickets or speeding tickets. Heath states that the apartment across the street people are parking on the road all year around. Heath states that the apartment across the street were supposed to put in a parking lot in the back of the apartment but never did that. Heath feels that if the Planning Commission allows the retail clothing store it will increase traffic and that is not what the neighborhood is for. He wants to know who will enforce the limited traffic that Uthmann states will happen. Heath states that if the Planning Commission approve this retail clothing store someone from the Town will enforce no parking on Wilson street and the speed issue.

Jane Cumming lives at 7 Wilson street, she states that she has lived there for a long time. She states that it was a very quiet community and Heath changed that when he put in apartments and he has done very well with keeping renters quiet. She states the traffic on that narrow street, makes it very hard to get up and down the street, if someone is trying to get out of Wilson street when you are trying to turn on Wilson street then you have to wait. She states that are right by Hannafords that had a lot of traffic congestions and a lot of accidents.

Violette asked Cummings about the accidents

Cummings states that there are traffic accidents by Hannafords and Wilson streets, closer to Hannafords.

Cummings states that she would like to see a local person do well but they live in a residential neighborhood and she would like to see it stay that way. She states that when Howards went in there they were supposed to have limited hours and limited lights and now that has all changed with Hannafords and McDonalds. She doesn't think that Wilson Street doesn't need anything else. She would like to see it go back to the way it used to be. She can see where Uthmann can see where it would be limited traffic but Howards was supposed to be small and now that has all changed. She thinks Wilson Street has had enough.

Jane Cummings agrees with everything her sister and Heath has said. Jane states that Wilson Street is a very narrow street and in the winter, is basically one lane and she has to wait for people to come down the street before she can go up the street and she just hopes that no one will hit her when she is driving on that road. Jane states that once you let one business come in who is to say another one won't come in next. She states they have just had enough on Wilson Street. She refers to a building by her house that is supposed to have another parking lot for parking doesn't causing all those cars to park on the road.

Sanborn asked if the people parking on Wilson Street if they are associated with 22 Wilson Street. Heath and Cummings state no they are not. Sanborn states that they need to break down the complaints from this project vs another project. Cummings ask who controls whether more retail store can come in. Sanborn states the Planning Commission is the one who allows or doesn't allow them to come in. Heath feels that once commercial is allowed than you have to allow it. Sanborn states that Planning Commission controls that.

Uthmann states that LuLaRoe states in its policies that you are not allowed to have retail store, you cannot put up signs to advertise your business. LuLaRoe wants their business to be done online and in people homes. Uthmann states that only business she can think of to compare to would be the Vermont Flannel Company, which is right across the street from the Lilly Pad. She states that maybe you will see one car every couple of days picking up something they have ordered online but they have employees taking up parking spaces where she will not have any employees at the Wilson Street.

School busses will no longer be going up Wilson Street. Uthmann states that the daycare was licensed for up to 20 children, she didn't have 20 children in the daycare but during the previous renter had 18 children. There were 18 different cars coming at least twice a day, with Uthmanns LuLaRoe clothing store there will be days where not one single car drives up there. The only reason she is having to ask for a business approval is because there will be actual product in the space, even though sales are done online. She states that she has been on Wilson Street since August and understands the congestion issue with the parking but parking she would use for her LuLaRoe would not be anywhere near the parking issue that Cummings and Heath are talking about.

Heath states that this reminds him of when Howards was going in they promised all sorts of things to keep noise down, times when trucks can access the store and he feels that all of those promises fell short. Heath states the ballfield causes an issue for the parking. They would park along the road and fill her parking lot as well. Heath wants to know what is going to be done about the speed and parking.

Sanborn states that it comes back to the Planning Commission are the ones who enforce the rules they set.

Clain motioned to close the public hearing portion of the meeting, Duke seconded the motion

Sanborn asked Uthmann if she is planning on renewing her lease when it is up. Uthmann states that she probably will not but it will all depend on how her business does for the next year because she can run this business from her home but she is trying to make good on her part of the lease.

Duke asked about delivery of packages. Uthmann states that they come by UPS. She states that she sees a lot of UPS/Fedex trucks that use her parking lot as a turn around. Uthmann states that she has to buy all the inventory up front so she doesn't get more than 1-2 boxes at one time. She states that she is also not the only one who is a LuLaRoe consultant in the area, it will never be a big thing for her.

Pierce asked if the recreation field is part of her lease or if that is something different. Uthmann stated that the recreation field is not part of her lease and is a separate thing all together.

Uthmann states that she has 3 children and has another business that she has to run, she will not work Sundays. She would like to be at Wilson Street 2-3 days a week but she does not think that can happen every week. She will never work 7 days a week. Sanborn asked her if she has certain days of the week she will be there or hours of the day. Uthmann states that it would be hard to put a certain day or hour on her because if she has someone call out at the Lily Pad she will have to work there. She ideally would like to be there 2 days a week. She states that she is not allowed to have hours posted. Uthmann states that best thing to compare it to would be Tupperware, she states you would never find a Tupperware store, everything for them is sold online or in-home parties.

Clain asked if the lease covers the whole lot or just the building. Violette states just the building.

Violette states that he has a hard time believing people are going 40 mph on that street. Did Mr. Heath have a speed study done? Also the building is not going away, the Town will look to lease that building out if this is not successful and it could be to another daycare. He states that this will bring far less traffic and people than a daycare will. He wants it to be clear that the building is not going away and things change over time. He states that the building that Mr. Heath is in use to be a grange hall and now it is apartment building with 18 apartments and that must have changed the neighborhood. He notes the right of way is a right of way and the Town has the right to cross that Mr. Heath's parcel. For the parking on the Street, we can recommend to the Traffic Safety Committee to look at it and look at the speed and do a speed study. The field is not going to go away either. He thinks it is honorable that she wants to honor her lease. We could issue conditions if needed on her retail business.

Thygesen states that it comes down to parking and speed and feels that there should be speed signs and no parking signs. He also suggested speed bumps but all of that will have to come from Traffic Safety. He thinks that her business will cause less traffic than what has been there.

Pierce states that she doesn't feel that this building will be a brick and mortar store. Pierce states that when she thinks of a bricks and mortar store she thinks of signage, constant traffic and delivery trucks where in fact this is going to be more like a staging place, like Mary Kay. The traffic is going to be very minimal. Pierce states that Uthmann is restricted by the LuLaRoe company anyways about it ever becoming a retail store. She does not believe that the traffic is coming to her place but using it as a turnaround because the street is congested. Pierce states that she doesn't see a problem for her to use Wilson Street as her staging place for her business.

Heath would like to clarify on if it is Tupperware or retail clothing store. Sanborn states it is not Tupperware just a comparison in product

Clain would like to adjourn the public hearing part.

Duke is not sure the word retail is correct wording, Uthmann states that it is more direct sales.

Sanborn states they are good with not assigning hours, there is plenty of parking so that is not an issue. This only applies for this applicant only. He questions Uthmann if she is going to stay past her lease or just until her lease is up. Uthmann states that she is not sure.

Violette states that they could do a follow up in August 2018 to see how things are going.

MOTION:

On a motion by Clain, seconded by Thygesen, the Planning Commission voted unanimously to approve Request by Susan Uthmann for an allowed use permit of direct sales of her LuLaRoe business located at 22 Wilson Street; Parcel ID 026/030.00; Zoned; Very High Density Residential; AU-17000003 with the condition to follow up by August 2018, restricted to this applicant only.

4) ZONED CHANGE REQUEST

Chris has brought back 7 of the zone amendments' that he proposed to change at last month's meeting for final review tonight.

Sec 3.8 OUTDOOR STORAGE LIMITATIONS:

The board was happy with the changes that were made from last month. Pierce and Clain ask if one typo could be fixed. In the title where it says "Truck Traliers" if it could say "Truck Trailers". Violette with fix that typo.

Sec 4.2 ACCESSORY DWELLING:

No changes needed for final approval next month's meeting on July 19, 2017.

Sec 4.22 RESIDENTIAL STRUCTURE LIMITS:

No changes needed for final approval next month's meeting on July 19, 2017.

Sec 5.5 CONDITIONAL USE REVIEW:

No changes needed for final approval next month's meeting on July 19, 2017.

Sec 5.6 SITE PLAN REVIEW:

No changes needed for final approval next month's meeting on July 19, 2017.

Sec 6.5 PUD STANDARDS AND REVIEW CRITERIA:

No changes needed for final approval next month's meeting on July 19, 2017.

Sec 7.10 WAIVERS:

No changes needed for final approval next month's meeting on July 19, 2017.

MOTION:

A motion was made by Duke and seconded by Clain for The Planning Commission to move forward with a public hearing on July 19, 2017 for final approval of zone change amendments.

5) **MISCELLANEOUS:**

Violette states that Linda LaBrie came in the office about getting a building permit to tear down an old garage and build a new one at her daughter's house and make an apartment upstairs for herself. Linda's daughter lives at 12 Benoît Drive, they would be attaching the garage to the house to make an accessory dwelling but when they started to look at the accessory apartment she found that she'd be restricted to 30 % of the main dwelling size and that would not be big enough. Violette suggested going to the DRB to get approval for a 2-unit residential dwelling but when they pulled up the zone and found that it was zoned for office building. Office building does not allow residential but it is all pre-existing residential housing now. Violette suggested coming to the Planning Commission for an allowed use determination. Violette states that Linda is on the schedule for next month but she would like to get an idea for how the board feels about allowing the garage apartment. Violette has made it clear to the applicant that anything said today is not binding and they can change their minds next month.

Clain asked what the limitation is. Violette states that the limitation is there is already a nonconforming residential building in that zone so the use can't be expanded.

Duke asked if there will be two separate units. Violette states yes but they will be attached by a breezeway to the house.

Sanborn states that they want to take a property that is already nonconforming and make it even more nonconforming. Violette states that she cannot go through the conditional use permit process because that zone doesn't allow residential, even though there is residential housing there.

Sanborn asked about parking. LaBrie states there is ample parking. The garage will have 2 car parking and plenty of parking in the driveway. LaBrie states that her daughter's house is the second house from the dead-end street. LaBrie states they will meet all other zoning requirements for that Zone.

Clain asked how the neighbors feel about the change. LaBrie states that neighbors are fine with making the garage an apartment for her.

Violette doesn't see a problem with allowing this. LaBrie states that she is going to be selling her house in Orange and moving down this way because her current house is too

big and she is at her daughter's house every day letting the dogs out as well as the neighbor's dogs.

DRAFT

6) **FOLLOW-UP**

TWO YEAR FOLLOW UP TO Request by Christopher & Annette Neddo for the allowed use determination to allow a winery on property located at 73 Neddo Rd; Parcel ID 010/035.02; Zoned: Low Density Residential; AU-1500003

Staff Comments of Chris Violette

Chris and Annett Neddo received an allowed use determination to operate a winery on their farm located at 73 Neddo Road on June 24, 2015. One of the conditions of approval was that after two years, they would come back to the Planning Commission to brief them on how things are going. Mr. Neddo will be here to do just that.

I've included the permit that was issued so that you can see what was approved.

There have been no issues or complaints that I am aware of.

ADDITIONAL COMMENTS:

Chris Neddo states his game plan did not go as planned. In 2015, he didn't make enough wine to sell so he didn't sell anything in 2015, in 2016 he did make enough wine to sell. He made 39 cases, he sold 6 cases on premise which accounted for 4 cars. He also sold 24 cases to retailers. Neddo states that he got a special license to sell directly to the retailer. In the 2016 harvest he gathered enough grapes to make around 1,850 bottles of wine equaling to 154 cases. He doesn't believe he is going to sell much wine directly from the winery because they are not doing much advertising for the winery. Neddo would like to sell more to local retail stores to get the name out. He states that at harvest time they had about 10-15 cars helping pick the grapes. He states the crop this year is looking like 230-250 cases could be bottled for next year. In the future, he would like to sell 20% of his production but he just does not have the time for it now. Neddo state that he doesn't see traffic being a major issue for future development of the winery.

Violette doesn't have any questions.

Sanborn asked if this was a condition for him to come back in 2 years. Neddo states that it was.

Thygesen and Pierce asked if he must come back in 2 more years if he hasn't meant any of the other conditions.

Violette states that it is something the board can ask him to do or just say come back if he meets any of the other conditions.

The board doesn't feel that Neddo will need to come back in 2 years. He will need to come back if he meets any of the other conditions.

Review the Central Vermont Regional Planning Commission’s analysis of our Town Plan as it relates to the new energy planning standards

Staff Comments of Chris Violette

Eric Vorwald’s (Central Vermont Regional Planning Commission) has reviewed our Town Plan and compared it to the new energy planning standards. He has provided us with an analysis which is enclosed. Overall, as you can see in his email to me, it appears that our plan isn’t in bad shape after we include the analysis and targets that the RPC has already done. I will be talking to Eric more before the meeting to see how we should proceed.

Deb also spent some time doing an analysis, I’ve included her findings as well. Thanks to her for doing that.

Violette states that Eric has already completed the other two Town plans and will have ours done and to us the beginning of July. Violette states that Eric will be here for the July PC meeting and will be able to answer any questions that we have about the Town plan.

7) **CORRESPONDENCE:**

8) **ROUND TABLE:**

Based on the above comments from the concerned residents of Wilison Street the Planning Commission will recommend to the Traffic Safety Committee to look at placing No Parking signs along the Town portion of the road and possibly a speed study. Also, they would recommend asking the police to be more present on the town owned road enforcing speed control.

9) **ADJOURN:**

On a motion by Claire Duke, seconded by Charlie Thygesen, the Planning Commission voted unanimously to adjourn the meeting of June 21, 2017 at 9:16pm.

Respectfully Submitted,

Emily Marineau

Cedric Sanborn, Chair

John Hameline

Charlie Thygesen Sr.

George Clain

Chris Violette

Claire Duke

Debra Pierce

DRAFT