

Dummerston Planning Commission

Unapproved Minutes

January 2, 2018

Members Present: Deb Forrett, Annamarie Pluhar, Sam Farwell, Joe Little, Bev Tier, Sarah Bergh,

Absent: Nicole Talbot, Maria Glabach, Brian Richardson

Public:

1. Approve minutes of 12/05/2017

Bev moved, Deb seconded. Motion unanimously.

2. (6:33) Correspondence

Received letter from Eric Breon at Vacasa

3. (6:37) Public Comment

4. (6:42) Review Telecommunications Zoning Bylaw Amendment

No changes to draft that has already been approved. Sam moves, Bev seconds. Motion passes.

5. (6:52) Review and approve other amendments as needed

Sam moves to approve section 716 Appeal process as drafted. Deb seconds. Motion passes.

Discussion of Section 605 Home Business: Sam moves that the word "existing" be removed from item #3. Deb seconds. Motion passes.

Sarah moves that Short Term Rental be amended to allow Short Term rentals in all districts. Deb moves. Motion passes.

6. (7:05) Planning for February Bylaw hearing

Public hearing is February 6th. 7 PM. Church basement.

(Text for bylaw changes below with Track changes ON to see what has been changed. The formatting is a bit wonky.)

7. (7:55) Items for next meeting agenda

Review "parking lot" for next action items

8. (8:00) Adjourn

Move to adjourn at 7:21

Public Hearing: Tuesday 2/6/2018

ARTICLE IX: WIRELESS TELECOMMUNICATIONS FACILITIES

Section I: Statement of Purpose

The purpose of this bylaw is to promote the public health, safety, and telecommunication needs of Dummerston residents, while preserving the scenic and historic qualities of the of the town.

Section II: Permits Required; Exemptions

A wireless telecommunications facility may be permitted as a conditional use in all districts, upon compliance with this bylaw. No installation or construction of, or significant addition or modification to, any wireless telecommunications facility shall commence until a permit has been issued by the Administrative Officer. A permit for a wireless telecommunication facility shall be issued if, in the determination of the Development Review Board, the facility will impose no impact or de minimus impact, on the criteria established to obtain a conditional use permit and site plan approval.

No permit shall be required for a wireless telecommunication facility used exclusively for municipal radio dispatch service, or emergency radio dispatch service and which does not exceed 50 feet in elevation.

No permit shall be required for a wireless telecommunications facility that has received a Certificate of Public Good.

This bylaw shall not apply to amateur radio, citizens band radio, AM or FM radio, or broadcast television service

This bylaw shall not prohibit a property owner's ability to place or allow placement of antennae used to transmit and/or receive, communications signals on the property owner's premises if the aggregate area of the largest face of the antennae is not more than 8 square feet, and if the mast and antennae do not extend more than 12 feet above the roof portion to which they are attached.

Section III: Permit Application Requirements

In addition to information otherwise required in the Town of Dummerston Zoning Bylaw, applicants shall include the following supplemental information:

1. The name, address and telephone number of the owner or lessee of the property on which the wireless telecommunication facility will be located.
2. A vicinity map showing the entire vicinity within a 1,000 foot radius of the facility, including the location of any tower, topography, public and private roads and driveways, buildings and structures, utilities, water bodies, wetlands, landscape features, historic sites and necessary wildlife habitats. It shall indicate the property lines of the proposed facility site parcel and all easements or rights of way needed for access from a public way to the Facility.
3. The location of the facility on a USGS Topographic Map or a GIS-generated map compatible with Vermont Center for Geographic Information (VCGI) standards and encompassing the area within at least a two-mile radius of the proposed tower site.
4. Elevations and proposed site plans of the facility showing all facades and indicating all exterior materials and colors of towers, buildings and equipment, as well as all landscaping, utility wires, guy wires and screening. (All plans shall be drawn at a minimum scale of 1 inch = 50 feet).
5. In the case of a site that is forested, the approximate average elevation of the existing vegetation within 50 feet of any tower base.
6. Construction sequence and time schedule for completion of each phase of the entire project.
7. A report from a qualified engineer that:
 - a. Describes any tower's design and elevation,
 - b. Documents the elevation above grade for all proposed mounting positions for antennas to be collocated on a tower, and the minimum distances between antennas,
 - c. Describes a tower's capacity, including the number, elevation and types of antennas that the tower is proposed to accommodate.
 - d. In the case of new Facilities, demonstrates that existing towers and structures within 5 miles of the site cannot reasonably be modified to provide adequate coverage and adequate capacity to the community.
 - e. Describes potential changes or additions to existing structures or towers that would enable them to provide adequate coverage.
 - f. Describes the output frequency, number of channels and the power output per channel for each antenna. In the alternative, a coverage map may be provided.
 - g. Demonstrates the facility's compliance with the standards set forth in this bylaw or other applicable standards.
 - h. Provides proof that at the proposed Facility site the applicant will be in compliance with all FCC regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards and requirements for radio frequency radiation (RFR).
 - i. Includes such other information needed to evaluate the application, as determined by the Development Review Board.

8. A letter of intent committing the Facility owner and its successors to permit shared use of any tower if the additional users agree to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards and requirements and the provisions of this Bylaw and all other applicable laws.
9. In the case of an application for additional antennas or other equipment to be installed on an existing Facility, a copy of the executed contract with the owner of the existing structure.
10. To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the Facility, or a written statement by the applicant that an EA is not required for the facility.

Section IV: Independent Consultants

Upon submission of an application for a Wireless Telecommunication Facility permit, the Development Review Board may retain independent consultants whose services shall be paid for by the applicant. These consultants shall be qualified professionals in telecommunications engineering, structural engineering, monitoring of electromagnetic fields and such other fields deemed appropriate by the Development Review Board. The consultant(s) shall work at the Development Review Board's direction and shall provide the Development Review Board reports and assistance, as they deem necessary to review an application.

Section V: Balloon Test

The Development Review Board may require the applicant to fly a four-foot diameter brightly colored balloon at the location and maximum elevation of any proposed tower. If a balloon test is required, the applicant shall advertise the date, time, and location of this balloon test seven days in advance of the test in a newspaper with a general circulation in the Town. The applicant shall also inform the Development Review Board, in writing, of the date, time and location of the test, at least 15 days in advance of the test.

The balloon shall be flown for at least eight consecutive daylight hours on two days. If visibility and weather conditions are inadequate for observers to be able to clearly see the balloon test, further tests may be required by the Development Review Board.

Section VI: Criteria For Approval And Conditions

An application for a wireless telecommunication facility permit shall be approved after a hearing when the Development Review Board finds all the following criteria have been met:

1. The facility will not be built on speculation. If the applicant is not a Wireless Telecommunication Service Provider, the Development Review Board may require the applicant to provide a copy of a contract or letter of intent showing that a wireless telecommunication service provider is legally obligated to locate a wireless telecommunication facility on lands owned or leased by the applicant. The facility will not project more than 20 feet above the average elevation of the tree line measured within 50 feet of the highest vertical element of the wireless telecommunication facility, unless the proposed elevation is reasonably necessary to provide adequate wireless telecommunication service capacity or coverage or to facilitate collocation of facilities.
2. The minimum distance from the base of any tower to any property line is not less than 100 % the total elevation of the tower, including antenna or equipment.
3. The Facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by Federal Aviation Administration, federal or state law, or this bylaw.
4. The applicant will remove the Facility, should the Facility be abandoned or cease to operate. The Development Review Board may require the applicant to provide a bond, or other form of financial guarantee acceptable to the Development Review Board to cover the cost of removal of the facility, should the facility be abandoned or cease to operate.
5. The applicant demonstrates that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation.
6. The applicant will maintain adequate insurance on the facility.
7. The facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation. The Development Review Board] may condition a permit on the provision of appropriate fencing.
8. The proposed equipment cannot be reasonably collocated at an existing wireless telecommunication facility. In determining whether the proposed equipment cannot be reasonably collocated at an existing facility, the Development Review Board shall consider the following factors:
 - a. The proposed equipment would exceed the structural or spatial capacity of the existing facility and the existing facility cannot be reinforced, modified or replaced to accommodate planned equipment at a reasonable cost.
 - b. The proposed equipment would materially impact the usefulness of other equipment at the existing facility and such impact cannot be mitigated or prevented at a reasonable cost.
 - c. The proposed equipment, alone or together with existing equipment, would create radio frequency interference and/or radio frequency radiation in violation of federal standards.
 - d. Existing towers and structures cannot accommodate the proposed equipment at an elevation necessary to function reasonably or are too far from the area of needed coverage to function adequately.
 - e. Collocation of the equipment upon an existing tower would cause an undue aesthetic impact.
9. The Facility provides reasonable opportunity for collocation of other equipment.

10. The Facility will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.
11. The Facility will not have an undue adverse aesthetic impact. In determining whether a facility has an undue adverse aesthetic impact, the Development Review Board shall consider the following factors:
 - a. The results of the balloon test, if conducted.
 - b. The extent to which the proposed towers and equipment have been designed to blend into the surrounding environment through the use of screening, camouflage, architectural design, and/or imitation of natural features.
 - c. The extent to which access roads have been designed to follow the contour of the land and will be constructed within forest or forest fringe areas and not open fields.
 - d. The duration and frequency with which the facility will be viewed on a public highway or from public property.
 - e. The degree to which the facility will be screened by existing vegetation, topography, or existing structures.
 - f. Background features in the line of sight to the facility that obscure or make the Facility more conspicuous.
 - g. The distance of the facility from the point of view and the proportion of the facility that is above the skyline.
 - h. The sensitivity or unique value of a particular view affected by the facility.
 - i. Any significant disruption of a viewshed that provides context to an important historic or scenic resource.
12. The facility will not destroy or significantly imperil necessary wildlife habitat or that all reasonable means of minimizing the destruction or imperilment of such habitat or species will be utilized.
13. The Facility will not generate undue noise.

Section VII: Continuing Obligations For Wireless Telecommunication Facilities

The owner of a wireless telecommunication facility shall, at such times as requested by the Development Review Board, file a certificate showing that it is in compliance with all FCC standards and requirements regarding radio frequency radiation, and that adequate insurance has been obtained for the facility. Failure to file a certificate within the timeframe requested by the Development Review Board, shall mean that the facility has been abandoned.

Section VIII: Removal Of Abandoned Or Unused Facilities

Unless otherwise approved by the Development Review Board, an abandoned or unused wireless telecommunication facility shall be removed within 180 days of abandonment or cessation of use. If the facility is not removed within 90 days of abandonment or cessation of use Selectboard may cause the Facility to be removed. The costs of removal shall be assessed against the Facility owner.

Unused portions of an operating wireless telecommunication facility shall be removed within 180 days of the time that such portion is no longer used. Replacement of portions of a Facility previously removed shall require a new permit, pursuant to Section VI.

After a facility is removed, the landscape shall be remediated to a condition described by the Development Review Board.

ARTICLE VIII: DEFINITIONS

SHORT-TERM RENTAL – a dwelling rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year. Rentals of less than 15 days per calendar year are not subject to Conditional Use Permits. COUNTRY INN – a lodging establishment serving meals, usually developed from a classic home in a rural or village setting. A Country Inn is limited to a maximum of twenty (20) guest rooms.

DWELLING – SINGLE FAMILY: a structure, used as a living quarters, designed and constructed for use by one family.

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Deleted: Single Family dwelling includes mobile home, modular home, manufactured home and camp.

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ARTICLE II: ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAP

Short-Term Rental shall be a Conditional Use in each Zoning District.

ARTICLE VI: GENERAL REGULATIONS Section 620 **Off-Street Parking Requirements**

2. Hotel, Country Inn, Bed & Breakfast, Short-Term Rental: One space for every guest room plus additional space for facilities with eating establishment (See Subsection 7 below).

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ARTICLE VII: ADMINISTRATION AND ENFORCEMENT

Section 705 Administrative Review of Permits [new section]

The administrative officer may review and approve minor amendments to previously approved development that would otherwise require review by an appropriate municipal panel in accordance with the provisions of the Act (§4464(c)), where amendment conforms to the bylaw and results in no substantial impact under any of the standards set forth in the bylaws.

No amendment issued as an administrative review shall have the effect of substantively altering any of the findings of fact of the previously approved development. Any decision by

an administrative officer under this subsection may be appealed as provided in Section 716 (§§4465 and 4466).

Although the administrative officer has the authority to approve an application administratively s/he is not required to do so. The administrative officer reserves the right to refer any application to the DRB where it is deemed that Board level review or interpretation is appropriate or necessary. In such cases, the applicant shall be responsible for any additional fees or submittals needed for Board review."

Section 716 Appeals

In accordance with 24 V.S.A. § 4465, an interested person (see definitions) may appeal any decision or act taken by the Administrative Officer by filing a notice of appeal, pursuant to 24 V.S.A. § 4466, with the Development Review Board.

A notice of appeal shall be in writing and shall include the name and address of the appellant, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief requested by the appellant, and the alleged grounds why the requested relief is believed proper under the circumstances.

The Board shall render its decision, which shall include findings of fact, within forty-five (45) days after completing the hearing and shall within that period send to the appellant, by certified mail, and to all parties at the hearing, a copy of the decision. A copy of the decision shall be filed with the Administrative Officer.

If the Board does not render its decision within forty-five (45) days, the Board shall be deemed to have rendered a decision in favor of the appellant.

An interested person may appeal a decision of the Board to the Vermont Environmental Court as provided by 24 V.S.A. § 4471. Upon receipt of a copy of such an appeal, the Zoning Administrator shall supply to the appellant a list of all interested persons based on the written decision for the case by the Board.

