

*** Unapproved ***

DERBY PLANNING COMMISSION *MINUTES*** October 26, 2020**

MEMBERS PRESENT: Bob DeRoehn, Hazen Converse, Joe Profera, Cynthia Adams.

MEMBERS ABSENT: Barbara Sheltra.

OTHERS PRESENT: Bob Kelley.

MEETING CALLED TO ORDER: 6:30 P.M.

APPROVE MINUTES:

Cynthia Adams moved to approve the September 28, 2020 minutes as written, seconded by Bob DeRoehn. Unanimous.

PUBLIC COMMENT: None.

PUBLIC HEARING:

Bob DeRoehn move to recess their regular meeting to go into a Public Hearing on Proposed Bylaw Amendments to Article 4, the definition of Campground and the Zoning District Boundary Map, seconded by Hazen Converse. Unanimous.

Public Comments: Alison Low (NVDA) emailed the following comments on the proposed bylaw amendments:

401.1 Existing small lots. Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of any zoning regulation, including an interim zoning regulation, may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is less than one-eighth acre in area with minimum width or depth dimension of forty feet.

Instead of "any" I think it would be more logical to say "this."

Instead of "less" don't you mean "more"? This sounds like an undersized lot can't be developed unless it's SMALLER than one-eighth of an acre.

401.4D: Statutory amendment give you the option of prohibiting the creation of an accessory dwelling unit for an owner-occupied dwelling located in the Special Flood Hazard Area.

That said, you could revise it accordingly:

*One accessory dwelling unit is allowed to be located within or appurtenant to an owner-occupied single-family dwelling **provided it is located outside the Special Flood Hazard Area, as described in Article 6 of this bylaw.***

Also, I think it helps to make it clear that at a minimum, the ADU will be treated as a permitted use (i.e. administrative review by you). I would suggest rewording the following:

***At a minimum, accessory dwelling units are subject to administrative review by the Administrative Officer; however,** conditional use review is required for one or more of the following that is involved in creation of an accessory dwelling unit...*

- a) A new accessory structure; or*
- b) An increase in the height or floor area of the existing dwelling; or*
- c) An increase in the dimensions of the parking areas.*

Commercial Activities Conducted from Residences

Home occupations: Do you mean to say that home occupation can only be in a minor portion of an accessory structure, or do you mean to say that it has to be conducted entirely within a minor portion of the primary dwelling OR conducted entirely within an accessory structure, provided the accessory structure does not exceed the livable floor space of the primary dwelling?

Residential Business or Service

Wouldn't it be easier to simply exclude Bed and Breakfasts by definition from Residential Businesses? Otherwise, it feels like you are giving the DRB arbitrary discretion to waive the site plan review requirement and establishing no criteria for doing so.

Wind Turbines and Electrical Generation On Grid Systems

On-grid turbines are regulated under 30 VSA Sec. 248 and are exempt from zoning. I see no purpose for including this provision. If you want your town to have more influence in PUC proceeding, consider amending your plan to meet the requirements of Act 174. This provision in your bylaw will have no bearing on the proceedings.

Parking Stall and Lot Design Criteria – what are the question marks in this draft for?

Angle	Curb Length	Stall Length	Aisle*
45	12.7'	18'	13.5'***??
60	10.6'	18'	18.5'***??
76	9.5'	19'	23'***
90	9'	18'	24'***
parallel	20'	8'	22'

* all dead end parking rows shall provide a turnaround a minimum of thirteen feet in length

** one way aisles only

*** aisles which access one row of 90 degree angle parking stalls may be 22 feet wide

Signs

Reed vs. Gilbert has created much confusion about how you can regulate signs, and the following provision may be an attempt to regulate content, which was deemed unconstitutional. I'm not an attorney, but I would strongly suggest getting a legal opinion on this:

"The primary purpose of the sign shall be for identification purposes and not for advertising and may state only the owner, trade names, trademarks, products sold, and/or the business or activity conducted on the premises on which the sign is located. Legal businesses permitted to sell motor vehicle fuels may post current unit prices on signs that meet the requirements of this provision."

Small Structures Exempted from Permitting

Structures that meet all of the following criteria are exempt from permit requirements, **provided they are located outside of the Special Flood Hazard Area:**

Trailers/Semi-Trailers

Consider adding a requirement that tractor trailers/semi trailers used for storage are located outside of flood hazard areas.

Open Storage (Suggested edit – just to not lose sight of your flood regs)

In the case of open storage of materials, inventory for sale or motor vehicles the following shall apply:

In all districts, the open storage of material or vehicles of any kind in association with a permitted or conditional use may be allowed, **provided it is located outside of the Special Flood Hazard Area, and** adequate screening under the provisions of §212.1 is provided;

Essential Services

This section would only apply to things NOT subject to Section 248, such as utility power generation plans and transmission facilities. You should make that clear. For example: Buildings, plants, towers, substations, and other similar structures, **provided they are not regulated under 30 V.S.A. §248 and therefore exempt from zoning in accordance with 24 V.S.A. §4413,** shall require permitting. The transmission and distributions systems, including poles, wires, mains, drains, sewers, pipes, conduit, cables, hydrants, and similar equipment are exempt from zoning permit requirements.

Bob Kelley suggest changes to §401.1 and §401.4 to bring the Bylaw into compliance with recently passed changes to the State statutes and to make adding an accessory dwelling unit to a property with a single-family dwelling easier.

There were no other comments from the public.

Cynthia Adams moved to close the Public Hearing and return to their regular meeting, seconded by Bob DeRoehn. Unanimous.

NEW/OLD BUSINESS:

To consider the proposed Bylaw Amendments discussed at the Public Hearing – Bob DeRoehn moved to approve the Proposed Bylaw Amendments with the following changes for submittal to the Selectboard, seconded by Cynthia Adams. Unanimous.

Approved Changes:

§401.1 Existing small lots. Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of ~~any~~ **this** zoning regulation, including an interim zoning regulation, may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, **except lots not served by and able to connect to municipal sewer and water service** if such lot is less than one-eighth acre in area ~~with or~~ **if such lot has a** ~~minimum~~-width or depth dimension of **less than** forty feet.

§401.4(D) One accessory dwelling unit is allowed to be located within or appurtenant to an owner-occupied single-family dwelling **provided it is located outside the Special Flood Hazard Area, as described in Article 6 of this bylaw.**

§401.4(D)(1) An accessory dwelling unit means ~~an efficiency or one bedroom apartment~~ **a distinct unit** that is clearly subordinate...

§401.4(D)(1)(b) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling **or 900 square feet, whichever is greater;** and

§401.4(D)(1)(c) ~~Applicable setback, coverage, and parking requirements specified in the bylaws are met.~~

§401.4(D)(2) ~~Conditional use review is required for one or more of the following that is involved in creation of an accessory dwelling unit:~~

- ~~a) A new accessory structure; or~~
- ~~b) An increase in the height or floor area of the existing dwelling; or~~
- ~~c) An increase in the dimensions of the parking areas.~~

§402.3(B)(2) ~~...Upon determination of the Development Review Board Bed and breakfast operations may be~~ **are** exempt from this criterion.

§402.5 Wind Turbines and Electrical Generation

A. Wind Turbines and On Grid Systems

~~Upon notification of the Public Service Board's consideration of an application for a Certificate of Public Good under VSA Title 30 §248 for the erection of an electrical generation wind turbine the Town of Derby Planning Commission may undertake an examination of the proposal and submit a recommendation to the Board of Selectmen on the issue of intervention as an interested party. Such report shall include, but not necessarily be limited to, consideration of the affect of such proposals on the Town Plan, the orderly development of the Town of Derby, any existing, proposed or future viewshed preservation overlay districts and the protection of irreplaceable or environmentally sensitive natural areas.~~

§402.7(C) Parking Stall and Lot Design Criteria

Angle	Curb Length	Stall Length	Aisle*
45	12.7'	18'	13.5'***??
60	10.6'	18'	18.5'***??

§403.2(J) Small Structures Exempted from Permitting

Structures that meet all of the following criteria are exempt from permit requirements, **provided they are located outside of the Special Flood Hazard Area, as described in Article 76 of this bylaw:**

§403.2(M)(1)(d) The trailer(s) is located outside of the Special Flood Hazard Area, as described in Article 76 of this bylaw.

§405.1 In all districts, the open storage of material or vehicles of any kind in association with a permitted or conditional use may be allowed, **provided they are located outside of the Special Flood Hazard Area, as described in Article 76 of this bylaw, and** if adequate screening under the provisions of §212.1 is provided

§407 Essential Services

Buildings, plants, towers, substations, and other similar structures, **provided that are not regulated under VSA Title 30 §248 and therefore exempt from zoning in accordance with VSA Title 24 §4413,** require permitting. The transmission and distributions systems, including poles, wires, mains, drains, sewers, pipes, conduit, cables, hydrants, and similar equipment are exempt from zoning permit requirements.

Zoning Bylaw Review – Articles 6 – the Commission will start review at their next meeting.

Mail – The Commission reviewed their mail.

ADJOURNMENT:

The next regular meeting is scheduled for 6:30 PM on November 9, 2020. Bob DeRoehn moved to adjourn at 7:37 PM, seconded by Hazen Converse. Unanimous.

The minutes were taken by Bob Kelley.