

Minutes
Wallingford Planning Commission
75 School St.
Wallingford, VT 05773
14 February 2023
7:00 PM

Members present: E. Berner (Chair), T. Musack, K. Mullin, L. Thayer.

Members absent: J. Burkitt

Public: None attending. PEG-TV recording

- Chair to call meeting to order: 7:05

- **Additions / Deletions Agenda items:**
No changes. L. Thayer motioned to approve as written. K. Mullin seconded. Motion PASSED

- **Review and approval of minutes of January meeting:**
K. Mullin noted a change in sentence.
T. Musack noted misspelling of S. Pytlik's name.
K. Mullin motioned for accept with noted changed. T. Musack seconded. Motion PASSED.

- **Zoning Administrator report:**
6 Permits were issued as of 13 February. The DRB will meet on 9 March at 7:00 to discuss two applications.

- **Proposed Zoning Regulations:**
 - Discussion of RRPC review and suggested revisions
 - Changes were made to Draft in red. Discussion followed especially concerning tables in the document.
 - T. Musack about Short-Term rentals. A short discussion followed

- **Comments from Public:**
 - T. Musack inquired about the Public comment (e.g.,) email received in January from S. Pytlik. L. Thayer suggested the email be read into the minutes. E. Berner read comments as received. (Attached)
 - Discussion followed concerning Short-term rentals, Re-Zoning, Definition of Farm Animals should include the URL to the Vermont State RAPS
 - L. Thayer and K. Mullin received an email from L. Williams concerning RAPS. L. Thayer read email into the minutes (attached)

- Discussion followed concerning public involvement and comments. L. Thayer asked about emails from the public and best way to send any to the Commission. E. Berner replied the best email address is Zoning@wallingfordvt.com.
- **Adjournment:**
K. Mullin motioned for adjournment. T. Musack seconded. Motion PASSED. Meeting was adjourned at 7:51PM.
- **Next meeting:** Tuesday 14 March 2023

Zoning Regulation Review

Shannon Pytlik <spytlik@vermontel.net>

Tue 10-Jan-23 18:49

To: Zoning . <zoning@wallingfordvt.com>

Cc: Jeff Biasuzzi <landtrade@aol.com>; Kevin Mullin <kmpmullin@gmail.com> <kmpmullin@gmail.com>; Tony Masuck <tmasuck@vermontel.net> <tmasuck@vermontel.net>; blisswouldbegood@gmail.com <blisswouldbegood@gmail.com> <blisswouldbegood@gmail.com>; Bill Brooks <B3GRAPHICS@vermontel.net> <B3GRAPHICS@vermontel.net>

Hi Erika – Can I get a copy of the zoning reg review comments from the RPC?

Here are my general comments about the draft zoning:

Short Term Rental:

The way this was thrown in is not sufficient to regulate a use of short term rentals. There is the VT supreme court case that states that regulating a use that is a permitted use in a district based on a rental use is not legal. Here is the link:

[In re Toor & Toor Living Trust NOV :: 2012 :: Vermont Supreme Court Decisions :: Vermont Case Law :: Vermont Law :: US Law :: Justia](#)

Basically – Renting is NOT a change of use unless the use is specifically defined and listed in each of the zoning districts in which you plan to regulate it. STR needs to be defined as a specific amount of time of rental and listed in the table and identified as permitted or condition for each zoning district. The way you added STR does not comply with existing case law – and will not be upheld. You should also take out the reference to Air BNB as that is a specific business that some people use, but is not a definition of a use and could be gone tomorrow. I sent this before but am sending it again because it has a lot of great information on how to properly regulate a STR:

[VTSTRA_2021MunicipalPolicyGuide \(squarespace.com\)](#)

I also noticed that in the October minutes it stated:

E Bernier again explained that without an operating permit for a short term rental, the owner would not have insurance coverage should anything go wrong.

I would love to know where you got this information. This is simply not accurate. You can have insurance coverage for a short term rental without a zoning permit – and what is an “operating permit” anyway? Most people operating short term rentals do not have a zoning permit because most communities do not regulate them. Some insurance companies will require a Fire Safety permit from the state but none require a zoning permit. This issue was also in the September minutes and also misstated insurance won’t cover a structure if it is operating without a permit. This is not true of a zoning permit. This may be true of a fire safety permit, but that is not the concern of the PC since that is a state permit.

Industrial Zoning:

I also noticed that nothing has changed with the industrial zone, and that we still have whole neighborhoods zoned industrial and their homes are not permitted uses in that zone. There is no reason to have whole neighborhoods zoned industrial where the houses that have been there for a long time are non conforming uses in a residential neighborhood, it defies logic.

Agriculture:

I noticed you added in “farm animals” in one district but that is not defined. For this to mean anything it would need to be defined.

Line 203 in the draft zoning still has “acceptable agricultural practices” it has been “Required Agricultural

Practices" for many years.

General Comments – The Wallingford Town Plan is supposed to outline community goals and needs. It is a document that is supposed to guide the revisions to land use regs. The first goal of the Town Plan (page5): It is intended that the Wallingford Town Plan be implemented and used as: A basis for regulation. The Plan serves as a foundation and guide for the provisions of zoning regulations, subdivision regulations, impact fees restrictions, shoreland bylaws, and flood hazard bylaws.

The Town Plan does not mention either short term rentals or agriculture, nor am I aware of either being identified as priorities in a questionnaire. It seems these two topics appeared on your agenda and we have no idea if the community is interested or supportive of regulating them.

Yet the PC continues to spend a tremendous amount of time on them without gauging community support. So my question is, why is the Planning Commission working on these issues? Agriculture is already regulated by the state and short term rentals will be shortly. It makes a lot more sense for the state to regulate STR's in a consistent way state wide, rather than insert a vague sentence into our local zoning regulations that is not consistent with case law and likely won't hold up in court.

Take Care, Shannon

Sent from [Mail](#) for Windows

Fwd: Farm Determination

Lucy Thayer <lucy.thayer@gmail.com>

Tue 14-Feb-23 19:50

To: Zoning . <zoning@wallingfordvt.com>

 1 attachments (280 KB)

Williams_FarmOperationDetermination_Signed.pdf;

Begin forwarded message:

From: Lisa Williams <katmanduzen@aol.com>**Date:** January 31, 2023 at 10:51:35 AM EST**To:** Lucy Thayer <lucy.thayer@gmail.com>, kevin mullin <kmpmullin@gmail.com>**Cc:** jamesjdouglaslaw@gmail.com**Subject: Farm Determination**

To members of the planning commission, attached is the letter that was just sent to the selectboard. As Shannon Pytlik, and others have brought up in meetings, zoning bylaws and ordinances do not apply to farms regulated by RAP's, and under the jurisdiction of the dept. of Agriculture. More information about the RAP's can be found online at the VT. Dept of agriculture site, but below is an attachment to a synopsis, as well as our farm determination letter.

Lisa and Marc Williams

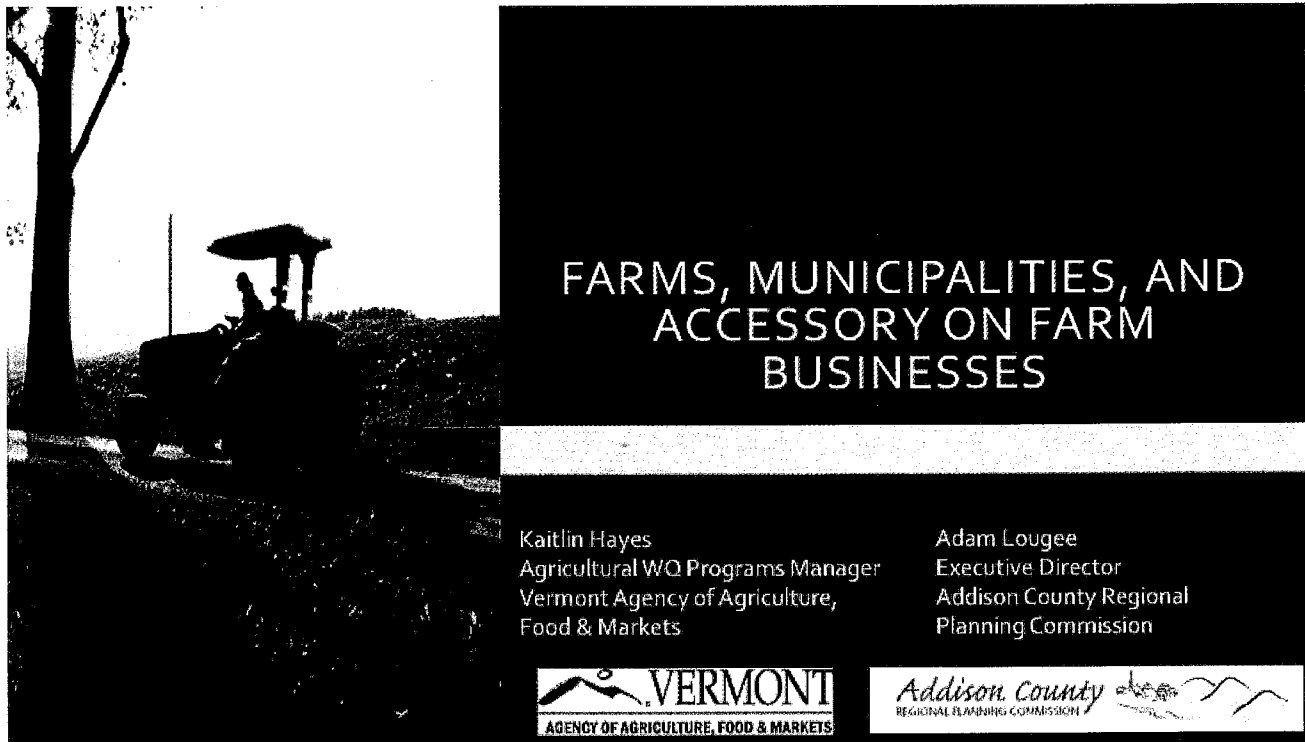
Begin forwarded message:

From: Lisa Williams <katmanduzen@aol.com>**Subject: Farm Determination****Date:** January 31, 2023 at 10:41:30 AM EST**To:** "townadmin@wallingfordvt.com" <townadmin@wallingfordvt.com>

Hi Sandi, can you please forward this and any emails to follow to the selectboard?

Our micro-farm operation was just determined a farm by the state of Vermont department of Agriculture. I am attaching our determination letter, as well as a link that explains what the farm determination means in regards to zoning and local ordinances.

Please see info here:



On-Farm-Accessory-businesses-07132020
PDF Document · 2.3 MB

In this document, as well as being written into the RAP's it states, on page 4, "zoning bylaws and ordinances do not apply to farm operations under agency Jurisdiction."

The department of Agriculture has forwarded our determination to Erika Berner.

We will be continuing our micro -farm operation, and our farming activities are now under the jurisdiction of the state, NOT the town.

The properties included in our farming operation include all of the properties of Mr. Christopher Dunigan, on South Main Street, and on Church street.

If any further structures, greenhouses, barns or sheds are to be constructed, under the state RAPS, we will notify the town in writing, but we will not need to apply for a permit as a farm regulated by the state.

Attached is our letter of determination from the state of Vermont.

Lisa and Marc Williams