

# Town of Barre Planning Commission May 15, 2024

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The Town of Barre Planning Commission held a meeting on Wednesday, May 15, 2024, beginning at 7:00 p.m. in the Municipal Building at 149 Websterville Road, Websterville, VT.

## **MEMBERS**

In person: Cedric Sanborn, Byron Atwood, Alice Farrell, Rodney Morin, Terry Reil and Craig Chase  
Absent: George Clain

## **STAFF:**

In person: Brandon Garbacik  
Remote: Cindy Spaulding

## **PUBLIC ATTENDEES:**

In person: Jack Mitchell, Jay Southgate and Matt Systo

### **A. CALL TO ORDER –**

Mr. Sanborn called the meeting to order at 7:00 p.m.

### **B. CHANGES TO THE PUBLISHED AGENDA**

Mr. Sanborn asked if there were any changes to the agenda. There were no changes to the agenda.

### **C. APPROVAL OF MINUTES**

#### **1) April 17, 2024**

*On a motion by Mr. Reil, seconded by Ms. Farrell, the Planning Commission approved the minutes of April 17, 2024 meeting as written. Vote 6-0-0*

### **D. NON-AGENDA ITEMS (PUBLIC COMMENT):**

Mr. Garbacik provided a brief introduction to Mr. Systo's idea to rehab an existing structure to add up to four accessory dwellings and the funding he is seeking from Vermont Housing Improvement program. He explained there are some gray areas in the zoning bylaws pertaining to ADUs. He consulted with Jim Barlow, Town's Land Use Attorney. Mr. Barlow confirmed the intent of zoning bylaws is for one accessory dwelling is allowed.

Mr. Systo asked when the PC starts its rewrite of the zoning bylaws to consider increasing the number of accessory dwelling units allowed on property. He explained the building his farm stand is in use to be a horse barn, there is vacant space within the building he would like to repurpose into accessory dwellings (up to four units) for the purpose of farm work housing or long-term rentals.

Discussion ensued concerning:

- How many accessory dwellings are allowed per parcel
- State Statues Title 24 Chapter 117 vs Barre Town Bylaws
- 30% of primary dwelling or 900 square feet whichever is greater
  - Total square footage split between each ADU or if each ADU has larger square footage
- Potential Subdivision of property
  - Creating a lot with no road frontage
  - ACT 47

- Potential for Barre City to extend its water lines

**E. WARNED PUBLIC HEARING(S):**

- 1) **\*Continued from April 17, 2024: Request by John Southgate for an Allowed Use Determination (AUD), whereas the applicant is proposing a use (screening and selling topsoil) that is not specifically allowed in an Industrial zone. Property located at 255 Websterville Rd (owned by the applicant); Parcel ID: 006/050.00; AU-24000001.**

This is a warned public hearing in accordance with Section 2.4(C) of the Barre Town Zoning Bylaw for the purpose of determining if a use not specifically allowed within a zone (screening and selling topsoil within an industrial zone) shall be permitted to operate. If it is determined that the proposed use in the proposed location *will not* alter the characteristics of the area and *will not* cause an undue burden on the community, the PC may issue an Allowed Use Determination permit.

Mr. Southgate supplied responses to the AUD criteria (beginning on the next page). I have also included an excerpt from a document sent from Mr. Southgate to the Planning & Zoning Office, the Town Engineer, and the Town Manager, which explains his intentions.

Last year, the DRB approved a minor site plan review for Mr. Southgate to add fill to his land. (For reference, a request to add 800+ cubic yards of fill requires site plan approval from the DRB; a request to add 200-800 cubic yards of fill requires approval from the Town Engineer; a request to add less than 200 cubic yards does not require explicit permission.) Mr. Southgate indicated that the fill has come from the construction site at the Wilson Industrial Park for Barre Partners, LLC (the new Frito Lay warehouse being constructed at 117 Parker Rd). Since he discovered that the fill transported to his property is topsoil, Mr. Southgate has decided that he wishes to screen the topsoil and sell it. These operations are proposed to be conducted on his behalf by Lajeunesse Construction.

The closest match in Article 8 (definitions) of the Barre Town Zoning Bylaw to the proposed use subject to this request is the definition for *Earth Extractive*, which states, “Land including accessory buildings, structures, and stationary or mobile equipment used for the removal, refinement, crushing, and/or processing of topsoil, sand, gravel, stone or other aggregate resources or materials. This definition includes but not limited to granite quarrying and sand and gravel pit operations.” The *Earth Extractive* use is conditionally allowed in the Earth Resource Extraction zoning district, but not explicitly allowed elsewhere in town. It is for that reason that the applicant has applied for an AUD through the Planning Commission.

Where this proposed use does not match the definition of *Earth Extractive* in the zoning bylaw is that Mr. Southgate will not be extracting any resources on his property. Rather, the topsoil has been delivered to him from off-site (and will continue to do so), and the proposed use subject to this request is only to screen and then sell the topsoil.

Below are the criteria used for reviewing AUDs, as well as the applicant’s responses:

1. **Emergency services – N/A**
2. **Water, sewer, or other municipal utility services – N/A**
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 – Last**

year, the Barre Town DRB approved SP-23000002, an application for site plan review (minor) for the purpose of bringing in at least 800 cubic yards of fill. The fill that got brought in from Walker Construction last fall turned out to be topsoil.

4. **Traffic on roads and highways in the vicinity** – “So, there will be trucks coming to get topsoil on Websterville Rd. Muck is always an issue. And trucks can be messy as I have learned. Lajeunesse Construction will be running this for me and between us we will manage it all carefully.”
5. **Zoning bylaws and bylaws then in effect** – Refining topsoil is a conditionally allowed use in the Earth Resource Extraction zone, and not explicitly allowed elsewhere. However, this proposal will not be extracting topsoil, but rather it’d be screening the topsoil that’s already being delivered and selling it.
6. **The impact on neighboring uses** – This proposal will not affect any neighboring uses.
7. **Minimum lot size** – Minimum lot size: 2.0 acres. Subject parcel lot size: 34.6 acres.
8. **Off street-parking requirements in accordance with standards outlined in Section 3.9 of the Zoning Bylaw** – There will be enough room for trucks to pull in, load up, turn around, wash off, and drive off.
9. **Loading/unloading facilities** – Loading/unloading facilities will be the same as what currently exists for dropping off the fill.

**Summary and Recommendation:**

The applicant is proposing to screen and sell topsoil being delivered to his property. The request to have the topsoil delivered to him was approved in April 2023 by the DRB as part of site plan review. The operations of the topsoil screening will be conducted by Lajeunesse Construction. It does not appear to me that this application will require the applicant to go back before the DRB to amend the site plan approval from 2023, as the use associated with this request does not affect the use that triggered the site plan review originally (bringing in the fill). I have not seen plans for new structures to be built to accommodate this proposed use.

Many of the potential concerns associated with this request were reviewed and addressed during site plan review. There were six conditions attached with the approval of the site plan review from last year. They were: 1) State of Vermont permits may be required and should be obtained; 2) Issuance of site plan approval does not imply approval of other town permits; 3) Clean material must be non-contaminated earthen urban soils; 4) Warning signs shall be placed on either end of Websterville Rd to alert motorists of the truck activities; 5) Hours of operation shall be limited to Monday – Friday 8:00am – 5:00pm with no hauling on weekends or state holidays; and 6) Failure to comply with any conditions as stated could lead to nullification of approval.

Nothing about the conditions attached with last year’s site plan approval will change as a result of this request. Having considered the proposed use, I believe this will not alter the characteristics of the area nor cause an undue burden on the community. I therefore recommend approval with the following conditions:

1. The applicant should contact the regional permit specialist employed by the Agency of Natural Resources to determine which State permits may be necessary.

(Jeff McMahon, 802-477-2241, [Jeff.McMahon@Vermont.gov](mailto:Jeff.McMahon@Vermont.gov))

2. A Change of Use permit issued by the Barre Town Planning & Zoning Office shall be required.

### Comments

Mr. Garbacik provided an overview of his staff report as stated above. Mr. Southgate explained that he has hired Lajeunesse Construction to operate the topsoil screening and there would be no changes to the permit issued by the DRB in 2023.

Mr. Mitchell expressed concerns with truck traffic entering and exiting the area and the hours of operation since there is heavy traffic in the morning when school is in session.

Mr. Southgate explained there will be signs alerting vehicle traffic on Websterville Road there are trucks entering and exiting the area.

### Motion

*On motion by Mr. Atwood, seconded by Mr. Reil, the Planning Commission closed the Public Hearing. Vote 6-0-0.*

### Deliberation:

*On motion by Mr. Atwood, seconded by Mr. Chase, the Planning Commission continued a request by John Southgate for an Allowed Use Determination (AUD), whereas the applicant is proposing a use (screening and selling topsoil) that is not specifically allowed in an Industrial zone. Property located at 255 Websterville Rd (owned by the applicant); Parcel ID: 006/050.00; AU-24000001; contingent upon the following conditions.*

1. *The applicant should contact the regional permit specialist employed by the Agency of Natural Resources to determine which State permits may be necessary. (Jeff McMahon, 802-477-2241, [Jeff.McMahon@Vermont.gov](mailto:Jeff.McMahon@Vermont.gov))*
2. *A Change of Use permit issued by the Barre Town Planning & Zoning Office shall be required.*
3. *Hours of operation 8:00 a.m. to 4:00 p.m., Monday-Friday with no weekends or holidays. Vote 6-0-0.*

## **F. LEGISLATIVE UPDATE AND BILL**

- 1) Update on housing/Act 250 reform legislation. (Time permitting)

Included in your packets is a brief summary of every section in Act 47 that I worked on over the past month. It is color-coded based on whether the section requires amending the bylaw, may require amending the bylaw, or does not require amending the bylaw. Overall, I determined that each of the first ten sections of Act 47 will/may require amending the bylaw, while Sections 11-47 will not.

Mr. Garbacik provided an overview of H687 status; provision exemptions with Act 250; definitions of 24 VSA 4303.

## **G. ZONING BYLAW UPDATE:**

- 1) Discussion on provisions of Act 47 (2023) that will require an update to the zoning bylaws  
Mr. Garbacik provided an overview of Act 47 and the impact of amending the zoning bylaws.
- 2) Discussion on accessory dwelling units (ADUs)

Over the last number of months, the Planning & Zoning Office has received an uptick in inquiries regarding ADUs. I'd like to use this portion of time to discuss a specific topic regarding ADUs. A handful of people have reached out to me in the past few months about adding more than one accessory dwelling unit on their property. So far, these inquiries about multiple ADUs have not amounted to anything more than inquiries. However, at this month's DRB meeting, the Board held a conceptual discussion with Mr. Matt Systo from 85 Bridge St to discuss the prospect of adding four ADUs to his property by repurposing an existing accessory structure that is currently not being used.

State statute only requires zoning bylaws to allow ADUs as a permitted use if:

- Only one ADU is constructed on a lot that allows year-round residential construction, *and*
- The ADU is located within or appurtenant to a single-family dwelling on the same lot, *and*
- One of the dwellings on the lot is owner-occupied, *and*
- The proposed location is not in a flood hazard or fluvial erosion area.

Though the DRB's conceptual discussion did not result in much of anything for Mr. Systo's plans, I think it'd be a good idea to take a look at whether or not it makes sense to allow more than one ADU on an owner-occupied lot. Another thing to consider would be whether or not an ADU should be allowed on other owner-occupied residential lots that *do not* have a single-family dwelling (*i.e.* duplexes or multiunit dwellings).

Personally, I think it's worth considering allowing more than one ADU in certain instances. The first thing to consider is that any ADU beyond one is not required to be reviewed administratively by the zoning administrator, and therefore can be classified as a conditional use (which is reviewed by the DRB). Secondly, if Barre Town allowed for homeowners to build a second ADU, it is not required that this be the rule for all residential areas in town. For instance, it can be limited to only the areas served by municipal water/sewer. And any consideration to amend the ADU language should continue to incorporate the owner-occupied requirement.

Other things to consider with ADUs include:

- Should ADUs be allowed on duplexes/multiunit dwellings, provided that the lot remains owner-occupied?
- Should the town consider certain incentives for ADUs that provide a specific need, such as allowing multiple ADUs on lots with a farm to use for farm-help housing? (It'd probably have to be determined how to legally enact such an incentive.)
- Should the town consider updating the flood hazard bylaws to restrict ADUs to clarify that they are not an allowed use within the flood hazard areas?

Mr. Garbacik provided an overview of his staff report as stated above.

### 3) Discussion on the Conservation district

If time allows, I'd like to discuss the future of the conservation district in our zoning bylaw. Currently, the conservation zoning district is identified as consisting of land rural in character with forest areas, wetlands, rivers and streams, and steep slopes. I'd like to discuss a different approach to this, which involves reforming the conservation district to serve a different purpose in order to line it up more closely with a law that passed the legislature last year (not Act 47, but instead Act 59) and adding a new overlay district.

Mr. Garbacik provided an overview of Act 59 and the States goal for conserving over all State land

30% by 2030 and 50% by 2050.

**H. NEW BUSINESS:** None

**I. OLD BUSINESS - NONE**

**J. FOLLOW-UP**

- 1) Central Vermont Regional Planning Commission monthly report

Ms. Farrell reported CVRPC held its first public hearing to readopt its 2016 regional plan with changes. The second public hearing will be in July at the Labor Hall in Barre city. It was suggested to have municipal representation. She further explained once the regional plan has been adopted, zoning bylaws and maps would be available within two years.

- 2) Energy Committee monthly report

Mr. Garbacik reported the Energy Committee continued their walkthrough of the Barre Town Energy Plan at their May 1<sup>st</sup> meeting. This month's walkthrough focused on the Pathways and Implementation Actions section of the energy plan. They did not make it through this entire section, so the remainder of this section (as well as the mapping section) is scheduled to be reviewed at next month's meeting.

Other discussions at this month's meeting included a report by a committee member of his experience at the Waterbury LEAP Energy Fair, a discussion on VECAN (Vermont Energy & Climate Action Network, which is a network of local energy committees throughout the state), a discussion on WindowDressers (a nonprofit organization that provides window inserts as a weatherization tool for both residences and businesses), various talks about Efficiency Vermont and the resources they have available, and a discussion about the Energy Committee participating as a vendor at Barre Town's First Annual Summer Festival being organized by the Recreation Department on July 20<sup>th</sup>.

- 3) Update on organizing a forum to explain the benefits of Village Center designations to affected property owners.

Mr. Garbacik reported he has reached out to staff from both ACCD and CVRPC to find out if staff would be available to attend a public forum explaining the newly designated village centers and their benefits. I heard back from CVRPC staff almost immediately saying that they'd be available. Richard Amore from ACCD referred me to Caitlin Corkins, who manages the tax credits and grants program for the village centers. I just heard back from her before sending out this staff report stating that she would be available.

After conferring with ACCD and CVRPC staff on their availability, as well as conferring with the Town Manager's office regarding the availability of the Selectboard room, I have the date for this event narrowed down to two different options: **Monday, June 10<sup>th</sup> at 6:00pm** OR **Thursday, June 27<sup>th</sup> at 6:00pm**. I've reached out to ACCD and CVRPC to determine if one of the two dates works better than the other, and I'll hope to hear back from them on that by Wednesday night's meeting. It is my hope that a final decision can be made during this section of the meeting.

The consensus of members is to schedule the event for June 27, 2024, at 7:00 p.m. in the Selectboard room. Invitations will be Discussion ensued regarding inviting stakeholders of the new Village Center Designation to an informational meeting to discuss the benefits of the programs. The event is scheduled for June 27 at 7 p.m. in the Selectboard room.

- 4) Consider approving a written report for proposed change in zone of property located at 6 Tanglewood Dr (property owned by Jay Carr)

Mr. Garbacik provided a draft of the written report regarding the request that the PC voted to take over last month which changes the zone of property located at 6 Tanglewood Dr. This written report is a requirement when considering a zoning bylaw amendment as outlined in 24 V.S.A. § 4441(c). The written report has been reviewed by the Town’s land use attorney, and the draft included in this month’s packet looks good to him. If this written report looks good to the PC, it needs to be voted on and approved before a public hearing on this request can be warned.

**On motion by Mr. Chase, seconded by Mr. Atwood, the Planning Commission approved the written report for a zoning change of property located at 6 Tanglewood Drive and scheduled the public hearing for June 19, 2024 at 7:00 p.m. Vote 5-1-0 (Farrell opposed).**

**K. ROUND TABLE**

Mr. Garbacik announced the Selectboard will be holding its Public Hearing for the zoning change for Lucas John’s on Church Hill Road on Tuesday, May 21.

He had asked the Agency of Commerce & Community Development if Graniteville Fire District is considered a municipality to be included in areas where sewer and water is allowed. ACCD had stated that it should not be included as municipal water. He also asked VLCT, to which VLCT responded that GFD4 is a municipality itself and should be considered. Mr. Garbacik will consult with Mr. Barlow with regards to legal opinion.

**L. ADJOURN**

*On motion by Mr. Reil, seconded by Mr. Atwood, the Planning Commission adjourned at 8:53 p.m. Vote 6-0-0.*

Respectfully submitted,

Cindy Spaulding, Clerk

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Cedric Sanborn, Chair

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Alice Farrell

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George Clain

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Byron Atwood

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Terry Reil

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Craig Chase

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Rodney Morin