

**Westfield Planning Commission Minutes**  
**September 24, 2018 – 5:30 Meeting & 6 p.m. Public Hearing**  
**Westfield Town Office, 38 School Street**

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**Present at 5:30 p.m.:**

- **Planning Commission Members:** Pat Sagui, Chair; Loren Petzoldt, Vice Chair; Brian Dunn and Yvan LaPlume

**Absent:**

- **Planning Commission Member:** Shawn Baraw

**Others:**

- **Town Clerk:** LaDonna Dunn (acting Secretary)
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**1. Call Meeting to Order:** Pat called the Planning Commission meeting to order at 5:40 p.m. when a quorum was present.

**2. Additions/Changes to the Agenda:** No additions or changes.

**3. Motion/Second to Approve Minutes from the August 22, 2018 Meeting:** There was a motion by Loren and second by Brian to approve the minutes. Motion passed unanimously.

**A. Business from the Minutes:** None.

**4. Vote on Supporting Feasibility Study:** There was a motion by Loren and second by Brian for the Planning Commission to support the Selectboard's Resolution for a Municipal Planning Grant to conduct a feasibility study to determine the need for low income senior citizen housing in Westfield. Pat explained the background of the grant application and the requirement for the Planning Commission to be in agreement with the Selectboard's resolution before the grant application is submitted. The motion passed unanimously.

**5. Town Plan Updates:**

∞ **Comments on Draft from Selectboard, Zoning Administrator and Listers:**

- Loren and LaDonna stated they have some clarifying points. Lister, Scott Dunn, also submitted comments/revisions.

∞ **Energy Section:**

- Pat reported she is hoping to have this section from Alison at NVDA by the end of the week.

∞ **Village Center Designation:**

- Selectboard voted at their September meeting to file for Village Center Designation. Recommendation: add new language to Plan that supports this action.

∞ **Resilience Section – New section – Discussion:**

- Pat stated this is a new state requirement. The town doesn't have a lot of say in it. There are some regulatory parts in this section.

**6. Timeline for Plan Adoption:**

**Dec. 10** – Selectboard adopts at regular December meeting, preceded by public hearing the same night.

**Nov. 24** – 15-day notice of Selectboard public hearing gets posted

**Nov. 5** – Planning Commission Public Hearing/presentation of plan  
**Oct. 20** – 15-day notice of Planning Commission public hearing gets posted  
**Oct. 4** – Copies of draft plan and public notice sent to adjoining towns 30 day prior to Planning Commission hearing  
**PC, SB, ZA, Listers can continue to comment on draft to October 15**

**7. Confirm tasks/timeline:**

- Pat asked for agenda items for the November 5 Planning Commission hearing. None were suggested.
- Continue to review the draft plan and make comments on the Energy section as soon as it is available.

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**Suspended Planning Commission Meeting to begin Public Hearing.**

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**Public Hearing – 6:00 p.m.  
Zoning Administrator Appeal Request**

*This meeting was recorded. The audio recording is available from the Town Clerk.*

**Present at 6:00 p.m.:**

- **Board of Adjustment Members:** Pat Sagui, Chair; Loren Petzoldt, Vice Chair; Brian Dunn and Yvan LaPlume

**Absent:**

- **Board of Adjustment Member:** Shawn Baraw

**Others:**

- **Town Clerk:** LaDonna Dunn (acting Secretary)
- **Appellant:** Peter Fina, representative for Alpine Haven Holdings, Inc.
- **Interested Parties:** Nicholas Barletta; Morton & M. Sherman; Paul Moran (condo owner); Peter Sullivan (condo owner); and Mark Stewart (contractor)

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**Board of Adjustment Hearing Process:**

- **Call meeting to order:** Chairperson Pat Sagui called the meeting to order at 6 p.m. and stated the purpose of the meeting as follows:

**Request from Alpine Haven Holdings, Inc. (Agent-Peter Fina) for reconsideration of the Zoning Administrator's denial of Zoning Application #13-2018 filed August 3, 2018 to rebuild the condo buildings, destroyed by fire, on the existing foundation and reconnect to the existing water and sewer systems. The building site is 298 Waldhof Drive, Westfield, Vermont.**

- **Oaths administered:** The Town Clerk administered oral oaths as well as a signed oath to the Board of Adjustment members and the Appellant, Peter Fina.

- **Self Introductions:** In addition to a sign-in sheet, all those present introduced themselves. Peter Fina and Mark Stewart identified themselves on the sign-in as those wishing to speak.

• **Define admissible evidence/germane comments:** The Chair explained this is a quasi-judicial hearing and as such follows certain procedures. She stated the Board has a defined scope of what can be considered. **The question before the Board tonight is: Should the denial of the Zoning Administrator be upheld or the appeal granted?** She explained to make that determination, the Board looks at whether the denial is in accordance with the Town's Zoning Bylaw and state statute. The Board will look at the reasons for the appeal provided by the Appellant. The Board will hear new evidence from the Appellant, through their Agent, Peter Fina. She said the Board also wants to hear comments from interested parties, what they would like the Board to consider, so long as it is in conformance with the purpose of the hearing. Present parties were given a copy of the denial letter sent to the Appellant by the Zoning Administrator, as well as a copy of the Appellant's appeal request letter.

• **Explain use of Robert's Rules for commenting and rules of procedure and process:** The Chair explained we'll be borrowing from Roberts Rules: wait to be recognized by the Chair before speaking; direct your comments to the Board of Adjustment; and no side conversations. We'll stick to two minutes per speaker and then go around the room for comments. The proceedings are being recorded. The Appellant will present new evidence first and then the Board will ask questions, followed by questions from those in the audience. After all evidence and comments from attendees, the Board of Adjustment will enter a deliberative session. The Board then decides if they have enough evidence to make a decision. When the Board comes out of deliberative session they will announce their decision or continue to a date certain.

Nicolas Barletta questioned what the hearing was for. He said people in the Alpine Haven community thought this was an informational hearing about why the permit was denied. The Chair responded by reading the notice and explaining the places it was posted including the foundation of the condo building.

**A. Presentation of evidence and comments:** The Chair invited Peter Fina to present new evidence since the zoning permit was denied for the Board to consider.

• **Appellant presents new evidence/information:** Peter Fina handed out a packet to the Board which the Clerk entered into evidence as **Exhibit A**. Some of this packet is information presented with the original zoning application and some is new information. Peter recapped the appeal stating the current foundation does not meet the current zoning setback requirement of 50' from the center of the road.

He reviewed each page in Exhibit A with the Board:

• **Page 1: Notice of Appeal Letter** highlighting the grounds for the appeal request:

1. The appellant did nothing to cause this hardship condition; the building was destroyed by fire which was deemed accidental.
2. The delay was due to the difficult process of working through details with the insurance company. The applicant is requesting that this structure be grandfathered in.
3. The foundation is a pre-existing, nonconforming structure.
4. To demolish, remove, excavate and install a new foundation prior to rebuilding would be a cost prohibitive process.

• **Page 2: A color photo of the condo building before the fire.** Peter stated the Alpine Meadows Condo was formerly the Waldhof Lodge. It was built by Hubert Daberer prior to the zoning setback regulation.

- **Page 3: An aerial color photo showing the measurements from the center of the road to the non-conforming side of the building showing where the zoning setback is not met.**
- **Page 4: Town of Westfield tax map.** Alpine Haven Holdings, Inc. owns 4.9 acres of land. Waldhof Drive is a private, gravel road which crosses the owner's property. Alpine Haven Holdings, Inc. owns both sides of the road.
- **Page 5: Utilities Location Site Plan dated September 1988.** This is the original site plan.
- **Page 6: Level Two and Three Floor Plans dated October 25, 1988.** This is a layout of how the condos will be rebuilt based on the original plans.
- **Page 7: Essential Character of Neighborhood. (New evidence)** There are 6 examples of other nonconforming properties in Alpine Haven including the addresses and setbacks from the road.
- **Page 8: An aerial color photo titled Essential Character of the Neighborhood. (New evidence)** Peter said he included this new evidence to show the essential character of the neighborhood is that Alpine Meadows Condos is not the only condo in the community that is nonconforming.
- **Page 9: An aerial color photo titled Essential Character of Neighborhood 5, 6. (New evidence)**
- **Page 10: Variance Hearing Result Letter to Gary Dufour dated August 28, 2007. (New evidence)** Peter said the past planning board set a precedent by granting a variance for a nonconforming property which did not meet the setbacks. He said he is putting this in evidence to show that a similar decision transpired.
- **Page 11: Zoning Permit 2007-022 dated August 6, 2007. (New evidence)**
- **Page 12: Alpine Meadows Condos, Town of Westfield Tax Info Sheet. (New evidence)** Spreadsheet showing taxes prior to fire, after fire with no structure, projection if no rebuilding is permitted and two year hookup for water and sewer passes by, and projection if 3.2 million condo project is built.
- **Page 13: Alpine Haven Holdings Inc. 2017 Property Tax Bill. (New evidence)**
- **Page 14: Paul Moran 2017 Property Tax Bill. (New evidence)**
- **Page 15: Peter and Brianna Sullivan 2017 Property Tax Bill. (New evidence)**
- **Page 16: Zoran Zvonar & Milica Stojanovic 2017 Property Tax Bill. (New evidence)**
- **Page 17: Alpine Haven Holdings Inc. 2018 Property Tax Bill. (New evidence)**
- **Page 18: Paul Moran 2018 Property Tax Bill. (New evidence)**
- **Page 19: Peter and Brianna Sullivan 2018 Property Tax Bill. (New evidence)**
- **Page 20: Zoran Zvonar & Milica Stojanovic 2018 Property Tax Bill. (New evidence)**

• **Page 21: Alpine Meadows Condo Artist Rendition. (New evidence)** Peter said this page is his sizzle of what the condos would look like on the back side of Waldhof Drive.

• **Q & A from Planning Commission Members:**

• **Pat asked for clarification about reusing the septic.** Peter said the state allows two years to hook back up to the current septic system. After that you can't even test it to reuse the system. If the two years passed, Alpine Haven Holdings would have to abandon the current septic and look elsewhere on their property to relocate the septic and rebuild a new system. Under current state standards Peter doesn't know if they would find another location to support 16 units.

• **Yvan asked if the septic system is the original system.** Peter stated it's the original system that was there when the condos were converted in 1988. It was checked at that point and was fully functional and there were no issues. There were rental units there and it was being used.

• **Pat asked for clarification on the map showing where the building is nonconforming.** Peter explained it is 24' and 27' to the points where the building is nonconforming along Waldhof Drive.

• **Pat asked if there is any land use restriction on the other side of Waldhof Drive.** Peter replied there is no restriction because that land is also owned by Alpine Haven Holdings, Inc.

**Pat asked if they needed permission from the other land owners to do something on that property.** Peter said he did not know.

• **Comments from the Public:**

• **Paul Moran asked if Exhibit A is for public consumption.** Peter Fina will provide the document electronically to the Clerk and she can make it available to anyone who wants it.

• **Paul Moran asked could there be a reduction in the number of units built to help the building conform.** Pat said there are many ways this could happen. Pat said this is a good question but it is not relevant to what we are trying to do tonight.

• **Paul Moran asked who the officers of Alpine Haven Holdings, Inc. are.** Peter Fina replied David Chaudry, President; and Varsha Bhat, Vice President. The Argento's are no longer involved.

• **Peter Sullivan asked what he owned.** The Chair said it wasn't really relevant to these proceedings and suggested he speak with Peter after the meeting was over. Peter Sullivan stated that Alpine Havens Holdings does not represent him.

• **Someone asked about the building being too close to the swimming pool.** Pat said she did not have any knowledge that it was an issue.

• **Someone asked who was going to determine if the foundation could be rebuilt on. What agencies will be involved to determine this question?** The Chair stated these were good questions but not relevant to the decision at hand.

- **Someone asked what is the estimated rebuild cost?** Peter Fina answered it is approximately 3.2 million.

- **Nicolas Barletta asked who will inspect the foundation. Does the town do this? Is this going to be residential or commercial?** Peter said the intention is to rebuild the condos and they would be sold as individual residential units.

- **Does the town have a building inspector?** LaDonna said the town does not issue occupancy permits and we do not inspect buildings.

- **When the building was built, was it built in its original form? When did it become nonconforming?** Pat said when the building was built it was before we had zoning.

- **How can the town make a setback when the road is a private road?** Pat explained that is the way it is in the bylaws. It is a legal right of way. From any conveying lane you have to be back a certain distance. When this was built all the land was owned by Hubert Daberer.

- **Peter Sullivan asked how we can issue a permit to an entity that doesn't own the property.** Pat said that was an excellent question. Peter Sullivan and Paul Moran feel that Alpine Haven Holdings is going to own this building and they will not be represented. Pat suggested they speak with a lawyer. Pat restated the clarification, can Alpine Haven Holdings even apply for the permit given that they don't own all the condo units. Peter Sullivan said there is a time constraint here to be able to hook up to the existing septic.

- **Pat asked Peter Fina if there is a document somewhere that explains who owns the condo?** Peter Fina answered as the representative for Alpine Haven Holdings and said they would own 13/16's of the condo. There are many legal questions here that need to be addressed to a lawyer. Peter said there is a time constraint to get this built because of the state's two year sewer rule.

- **Morton Sherman asked why it took a year to get to this point.** The Chair said this was not germane to the conversation. Pat suggested asking Peter Fina after the hearing.

- **The question was asked if Alpine Haven Holdings was in compliance with clearing the site after the fire.** The Zoning Bylaw state within one year they needed to have the property cleared and returned to grade. LaDonna stated they have been issued a violation letter for being out of compliance because it was not brought back to grade level. Part of the foundation is eight feet above grade.

- **Peter Sullivan wanted to state for the record he wants his condo to be rebuilt but wants the Alpine Meadows Condo Association to be the owner of the building not Alpine Haven Holdings, Inc.** He stated Alpine Haven is not a common interest community. The Supreme Court has determined this.

**B. Suspend Presentation of Evidence and Comments:** The Chair asked if there was any further evidence to present or comments from the audience. There was none. The public was invited to wait in the lobby while the Board deliberated in private. The Chair reviewed next steps: if a decision is reached during deliberative session, the public will be informed when the Board returns to public session. If no decision is reached, another hearing will be scheduled and the interested parties will be notified of the date/time of the continuance.

**C. Enter/Exit Deliberative Session:** There was a motion by Loren and second by Brian to enter into deliberative session at 7:10 p.m. Motion passed unanimously. There was a motion by Loren and second by Yvan to come out of deliberative session at 7:45 p.m. Motion passed unanimously.

**D. Announce Decision:** For the record, there were no members of the public left in the building to invite back into the public session. **There was a motion by Loren and second by Brian to uphold the original decision made by the Zoning Administrator on August 7, 2018, denying Zoning Permit 13-2018. Individual votes were: Pat Sagui, yes; Loren Petzoldt, yes; Brian Dunn, yes; and Yvan LaPlume, yes. The motion passed unanimously.** There was a motion by Loren and second by Yvan authorizing Pat to draft the written decision letter to submit to the town attorney for review. The motion passed unanimously by the four members present. The Clerk was instructed to announce the Board of Adjustments decision to any interested parties who inquire. The written decision will be issued to all interested parties within the 45 day statutory requirement.

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**Following the closure of the Public Hearing, the Planning Commission meeting reconvened.**

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**8. Confirm Next Meeting Dates –**

**October 1:** Tentative, to confer with Selectboard regarding draft plan comments. Pat did not feel everyone needed to be present at 6 p.m., unless they wanted to be.

**October 15:** Next regular Planning Commission meeting, 5:30 p.m.

**November 5:** Planning Commission Public Hearing for Town Plan, 6 p.m. at the Town Office.

**9. Other Business:**

**A. Resignation of Dianne Laplante:** Pat reported Dianne has resigned from the Planning Commission. There was a motion by Loren and second by Yvan for Pat to send a note thanking Dianne for her contributions to the Board. Motion passed unanimously.

**10. Adjournment:** All were unanimously in agreement to adjourn the meeting at 7:55 p.m.

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**Planning Commission/Board of Adjustment Approval Dated: \_\_\_\_\_ with \_\_\_\_\_ changes**

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**Pat Sagui, Chair**

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**Loren Petzoldt, Vice Chair**

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**Brian Dunn**

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**Yvan LaPlume**

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**Shawn Baraw**

**Minutes recorded and submitted by: \_\_\_\_\_**  
**LaDonna Dunn, Town Clerk**