

5. VRNs

At their public hearing of 9/3/24, the Selectboard voted to return these documents to us to align with the 2024 interpretation of Act 47, which is known as Act 181.

The VT DHCD 2024 Legislative Summary on Community Planning & Revitalization outlines all the changes that towns must make to their bylaws, including the following:

- (1) “Municipal Bylaws Required Provisions & Prohibited Effects (§52). Makes several clarifying corrections to §4412 of the Planning Act needed from Act 47 of 2023 (the HOME Act) and adds new requirements for municipal bylaws and permitting, specifically:
 - Duplex Allowances. Two-unit dwellings must be allowed in all zoning districts allowing year-round residential development with dimensional standards that are no more restrictive than is required for a single-unit dwelling, including no additional land or lot area than would be required for a single-unit dwelling. This correction allows municipalities to be more permissive of duplexes than single-family dwellings **and clarifies that municipalities cannot require an additional land area for an extra unit for this residential use**. Duplexes may be listed as a conditional use. Although the statute allows conditional use review, DHCD recommends allowing duplexes as a permitted use under an administrative permit (a permit issued by the administrative officer).
 - 3- and 4-plex Allowances. Three and four-unit dwellings must be a permitted use in any residential district that is served by municipal sewer and water **on the same size lot as a single-unit dwelling** (if a single-unit dwelling use is allowed in the district). This means that 3- and 4-unit dwellings may not be subject to conditional use review, **they must be a permitted use**. ‘Served by water and sewer’ is a defined term.”
 - This is now state statute as of July 2024, and this is what we have revised in our zoning regulations. Applications will be reviewed in light of this statute whether or not we write this into our regulations, but having it in our regs makes the law fair and transparent for Richmond applicants. We will change it again if the state statute is changed.

- (2) “Elder care facility” - Bard Hill brought up the issue of age discrimination. The Vermont Fair Housing Act does prohibit discrimination in housing based on age. It is unclear to me whether medical facilities fall under this prohibition, but it seemed easiest to avoid the issue by just listing individually the types of facilities that we had grouped together under the name “elder care facilities.” These types of facilities are likely to have residents that skew elderly anyway, so it seems acceptable to avoid

adding an age restriction that might be challenged as discriminatory. We will talk more on this issue when we discuss “senior/adaptable” density bonus housing for Jolina Court (likely will drop the “senior” and just call them “adaptable.”)

(3) I am hoping we can approve these changes at our 11.6 meeting and re-send it to the SB for adoption.

6. FHOD revisions

Based on the public hearing, the Three Parks Committee’s requests seem to be – in addition to the revisions already presented at the hearing that allow for the rebuilding and relocation of existing structures within the floodway - to:

- Allow a similar (in use) structure to replace current bandshell by way of a more flexible definition if that is what the Town wants
- Allow for a fence around the playground if moved onto the plateau (this would be a new structure) for safety reasons
- Allow for features that provide accessibility to structures on plateau
- Allow for possible other sport structures like field hockey goals that are not currently existing, along with the existing soccer goals

Proposals to address these issues are introduced in the most recent draft primarily in Sections 6.8.4 (definitions – see “Open air recreational structure,” “Incidental structures”) and 6.8.15 (nonconformities regulations). In addition, some clarifying definitions were added (such as “degree of flood hazard,” “footprint of a structure,” and “playground structures”) to make sure that we are all talking about the same thing when these terms are used.

We considered the suggestion that we have two different flood hazard overlay districts – one for town property and one for everyone else’s property - but that seemed discriminatory and not really directed at achieving the purpose of flood hazard regulations, which is to reduce the impact of flooding on any land that floods, regardless of ownership. It also constitutes “spot zoning” which is an illegal type of regulation. We feel that we can both help the Three Parks Committee achieve their goals and protect the floodway from further development by continuing with the strategy we have identified, that is, working with the language of “pre-existing nonconforming structures” and adjusting definitions to improve both specificity and flexibility.

The proposed language, following as much discussion time as we need for PC approval, will be sent on to the SB for their public process. It will also have to be reviewed by ANR.