Town of Panton Chartered 1761

3176 Jersey Street • Panton, VT 05491-9331
Ph: 802.475.2333

www.pantonvt.us

DEVELOPMENT REVIEW BOARD/PLANNING COMMISSION MINUTES
September 10, 2026
DRAFT

DRB members present: Jamie Dayton, DRB Chair; Gretchen Bailey, Co-Chair; Logan Roth-Longe, DRB member
PC members present: Kathy Kennett, Sharon Ashcraft
Others present: Jane Rice, David Martini, Jacqueline McNamara; Skip and Amy Masbach; Charles Kennett; Armando Martinez, appellant; Kevin Brown, Attorney; Jolyon Larson, Addison County Regional Planning Commission (ACRPC); Danelle Birong, ACRPC
Administrators present: Kyle Rowe, Panton Town Clerk/Treasurer; Donna Oliver, Asst. Town Clerk/Treasurer, scribe; David Austin, Asst. Administrative Official

Development Review Board

1. Jamie called the meeting to order at 6:00 p.m.
2. Logan made a motion to accept the minutes of June 11, 2026, Gretchen seconded. **ALL IN FAVOR**.
3. No public comments were made.
4. David Martini reported that in addition to his report of activities for June, July and August there has been a request for a permit for tiny house on a non-conforming lot on Panton Rd. The plan complies with all setback requirements. He would like to approve without a conditional use permit. There was a brief discussion about the application. David said the property was 2.5 acres in an RA-5 zone. There were no problems with the request. Logan made a motion to approve the request for the permit without conditional use; Gretchen seconded. **ALL IN FAVOR.**
5. Jamie opened the hearing of the MSFE appeal at 6:06 p.m.
    a. This was an appeal of a denial of a permit for a play structure on the property on 404 Staton Drive.
    b. Jamie administered an oath to those who would be testifying in the case. Jamie reviewed the procedure that will be followed. Armando

Martinez, the appellant, was given permission to speak, and Kevin Brown, his attorney made a statement.

i. The denial gave three reasons for the decision, however Panton stipulated that two of the arguments of the denial, the incomplete application and the usage of Section 315(g), would be dropped. The reason still standing was the setback requirements.
ii. Mr. Brown stated that we were using the 2017 zoning regulations since the 2025 update was not adopted properly. This is an RA-10 zone. The front setback is not an issue as the recreational structure is outside the ability of the town to regulate. It does not have the appropriate zoning authority. This falls under section 1003, on page 57 in the 2017 version of the regulations. That version does not mention setbacks but uses the terms “side yard” and “front yard”. The term “setback” is not in the definitions. The requirement used is the minimum distance from the property line or center lines and building. This is not a building.
iii. Logan asked if there were significant differences between the 2017 and 2025 versions of the regulations.
    1. Beyond the added section regarding enforcement, no.
iv. Jamie asked how the structure is attached to the ground.
    1. Mr. Martinez stated it just sits on the ground. The surrounding ground will be filled with a soft material. The weight of the structure is enough to keep it on the ground. Nothing will be anchored to the ground.
v. Jamie asked if any excavation would be needed.
    1. With his hands, Mr. Martinez indicated they would dig down about a foot and fill it in with a soft material.
vi. Logan asked if the sketch accurately showed where the structure would be in relation to the road. Will it be 20 feet from the center line of the road?
    1. Mr. Martinez said he drew the sketch using an old survey and measured the distance. He didn’t hire a surveyor.
vii. Gretchen wondered how close it would be to the basketball court.
    1. Mr. Martinez originally stated ’50 feet’ but then said he thought it would be at least 30 feet but wasn’t sure. He just wanted to show the placement in relation to the property boundaries. He didn’t think it would be important to include the basketball court on the sketch.
viii. Pointing to Section 301, Logan asked if the appellant agreed with the statement that the exempt items listed in subsection 6 must conform to existing zoning regulations.

1. Mr. Martinez conferred with Mr. Brown and reviewed the documents and Mr. Brown answered "generally, yes". But he added that the VT Supreme Court clarified that this is outside the zoning power of the town, as it is personal property. The term 'side yard' does not apply to a play structure.

ix. Logan asked if the structure could be relocated.
1. Mr. Brown stated that 'no, that it was not reasonable as the land slopes down as you move closer to the lake'.

x. Jamie then asked for comments from the town.

6. David Austin agreed this was an exempt structure, but a permit application was submitted. Generally, people reach out to the administrative official to ask for a letter of exemption. Since the Town received an application, the applicant must have believed it was subject to the regulations. In terms of the terminology used, side yard vs. setback, according to the environmental court it is semantics. State statutory language uses *de minimus* structure, but this is not *de minimus*. This is a large structure. He said that recreational use vs. structure is not the same. Recreational use is protected; however, structures are not necessarily protected.
7. Kyle stated that in the Brewster decision, the VT Supreme Court made clear their qualifications for *de minimus* recreational use. The seven items they listed included:
    a. 'The extent to which the use is explicitly addressed in the zoning ordinance,' – which it is –
    b. ' The land disturbance created by the use,' – this is a large structure for which one foot of topsoil will be removed –
    c. 'The size of the use's footprint relative to the overall lot size' -- the proposed structure permit lists the size at approximately 1000 sq ft, on a 1.92-acre lot –
    d. 'The type of materials used,'
    e. 'The use's potential impact on health and safety,' - he said the applicant wants to build a play structure that is 20 feet from a road - not a main road, but a traveled road --
    f. 'Whether the use is recreational' -- which it clearly is
    g. 'Whether the outcome aligns with the goals of zoning.'
    h. The board should consider all of these items in their determination.

8. Jamie asked David what he would consider *de minimus* recreational use; would that be a swingset or shed?
    a. David responded that it's relative to what is allowed in each town's guidelines.
9. In response to Mr. Austin's comments, Mr. Brown said that this is not semantics, and VT Supreme Court cases make it clear that this is private property and outside the scope of the town's jurisdiction. He also pointed out that 'setback' is defined differently than a 'side yard'. He also disagreed with

the comment about use vs. structure. Mr. Martinez also disagrees with the size determinations as this is purely discretionary. The town needs to be clear about what is the largest size it would permit. If the concern is the amount of topsoil that is being removed, the resident won't do any digging and will just have them place it on the grass. Mr. Brown said they agreed that this is a structure. Mr. Martinez also said it needs to be clearer which structures need a permit and which don't. He said he applied for a permit because he didn't want to go through what just happened with his previous application.

10. David said that the municipality should strive for clarity with exemptions generally listed. However, this structure should meet the 90 feet setback as outlined. Mr. Martinez said that the structure is only 250 sq. ft. but is doing a big square around it with the soft rubber material. David said he would consider a smaller total size of 250 sq. ft. But the setback is the issue here. Kyle said that case law points out that words should be understood for their plain meaning.
11. Jamie asked for comments from other interested parties.
    a. David Martini commented that the DRB should perform a site visit. He is concerned that the structure would be too close to the road.
    b. Kyle read a letter from Jacque McNamara stating her concerns about the structure being very large and is not in keeping with the character of the natural area. The letter is in Appendix A.
    c. Sharon Ashcraft commented stating that she is not a direct neighbor but is concerned about the closeness to the road. She believes that setback and front yard should be considered the same thing. She also wondered if access for emergency vehicles could be affected. Mr. Brown commented that the driveway would not be obstructed.
12. Gretchen made a motion for the board to go into executive session. Logan seconded. **ALL IN FAVOR**. The DRB departed to the first floor to deliberate.
13. When the DRB returned they said they would like to make a site visit. They will then issue a decision. The board, Mr. Austin and the appellant agreed to have the site visit on Sept. 23 at 5:00 pm. Following the site visit the board will issue a decision within 45 days.
14. The Hearing was continued until September 23rd.
15. Logan made a motion to adjourn the DRB portion of the meeting at 7:02 p.m.; Gretchen seconded. **ALL IN FAVOR**.

Planning Commission

1. Jamie called the meeting to order at 7:02 p.m.
2. Gretchen made a motion to accept the minutes of August 13, 2026; Logan seconded. **ALL IN FAVOR**.
3. Jamie then asked for a motion to accept the meeting dates for November and December listed in the agenda. These are additional so that we can get as much as possible done on the town plan. We would have a regular meeting on the second Thursday of the month and then another meeting the Thursday

before. Therefore, the dates are: November 5th and 12th and December 3rd and 10th. Gretchen made a motion to accept the list of meetings in the agenda; Kathy seconded the motion. **ALL IN FAVOR**.

4. Jolyon Larson then made a presentation on our conversation about the Enhanced Energy Plan. The Power Point he presented and the table he created are Appendices B & C of these minutes.
5. Jolyon provided a review of what has been accomplished so far and what still needs to be done on the Enhanced Energy Plan.
6. There was some discussion on data centers prompted by Section 10. The State Legislature voted on instituting a moratorium on them but it was vetoed. Many in Town would like to see a moratorium included in the narrative. Sharon indicated she some research on this and found that other towns have done this, but it must be in the town plan and zoning regulations. Jolyon agreed that it could be included in the Plan. He is putting together a working group to discuss this. Jamie asked for advice from ACRPC for appropriate language. It is preferred that we put something in now so we don't need to do an update in a couple of years.
7. Kathy questioned the inclusion of Vergennes-Panton Water Treatment Plant in the Microgrid and energy resilience section on page 6. She said that the plant has its own generator and is no longer an emergency shelter. Solar and battery support will not help the Plant as it takes too much power to run the plant.
8. Jolyon noted he was including an updated map which now includes solar fields and small scale solar based on comments made at our last meeting.
9. The Energy Plan working group will continue to meet. They agreed the next meeting will be September 17 from 5-6 pm.
10. Kathy commented that the tables in the Goals, Policies, Impact Table (Table X) were not efficiently presented.
11. Finally, Jolyon presented a table on which he has been working: an interactive table on energy use past and future. This table will be shared via the ACRPC website. The table will be updated by state data received.
12. Danelle encouraged anyone with questions to contact her.
13. Logan made a motion to adjourn the meeting at 8:08 p.m., Gretchen seconded. **ALL IN FAVOR**.

Respectfully submitted,
Donna Oliver
Asst. Town Clerk/Treasurer