

Planning Board meeting, October 3, 2013

Present: Diane Poland (Chair), Joe Strzegowski (Vice-chair), Dave Chichester, and David Barten. Also present: Mary McClintock – candidate for vacant position on the Board, and Kate Clayton-Jones, who had an appointment to meet with the Board at 7:15 pm.

It should be noted that as of this meeting, the Board resumed its regular schedule of meeting the first and third Thursdays of each month.

The meeting started at 7:00 pm. There were nine items on the agenda:

(1) Minutes—the minutes for the meeting of September 19th were unanimously accepted;

(2) Medical marijuana dispensaries—the proposed meeting of the Board with those Town departments, Boards and Committees having a vested interest in placement and regulation of dispensaries, which was to have taken place October 8, has been rescheduled for November 7, a regular meeting of the Planning Board. While this meeting is open to the public, it was decided not to advertise it, since the meeting is intended to help the reps from these Town bodies to become familiar with the regulations about creating dispensaries, which were finalized by the State in May.

There were several informational sheets directed to the members, one of which came from Cheryl Sbarra, J.D., Senior Staff Attorney for the Massachusetts Association of Health Boards. This statement about how the State's regulations relate to local Boards of Health, shows that such Boards have an important role to play in overseeing dispensaries. This memo along with the one created by Kay Doyle, Attorney at Koppelman and Paige, will form the basis for the discussion on November 7, and copies will have been directed to all those bodies who will be invited to send reps.

Because of the legal complications surrounding this new law, and the likely prospect of there being legal challenges a-plenty in the future, the question of the Board's access to legal counsel was discussed. The issue was whether the Board could contract with a law firm of its own choice to guide it in its deliberations, or whether Attorney Jack Fitzgibbons of Northampton, Town Counsel, is the authority who provides guidance. No conclusion was drawn. The suggestion was made that Diane take up the subject with Tom Hutcheson, Town Administrator;

(3) Kate Clayton-Jones—Kate had been invited to the meeting to talk with the members about the future of her tubing business, a small operation which she owns together with Danielle, her partner, and which is focused on providing access to the Deerfield River, equipment necessary to float from Bardswell Ferry Bridge to Stillwater Bridge in Deerfield, and then transport back to cars, which had been left at Clayton-Jones's home in Conway on Hoosac Road.

Because Kate is locked in a struggle with the Town of Deerfield over use of Stillwater as ending point for the tubing experience, and her struggles have been publicized locally and fully, the discussion with Kate began with her reviewing the history of her business and the problem her many tubers—1,400 over six weeks this past summer—have posed the Deerfield Police, the Department that has balked at allowing Kate to continue to use Stillwater as a pick up point for her tubers.

After Kate had finished her overview, the members asked many questions about her operation in an effort to understand how Kate's business relates to Conway's Protective Zoning Bylaws, particularly those about home businesses and cottage industries. These Bylaws have been revamped by the Board, and, if accepted as proposed by the Town at its Annual Meeting, would be those with which Kate would have to comply should she operate her business from her Conway home next year, as she has for the latter weeks of the 2013 tubing season.

It was concluded that whether seen from the old Bylaws or new, Kate's business falls under the category of a home business, and she is within her rights to operate it as she has or will next year. But to operate in 2014, she would have to seek a Site Plan Review (SPR) by the Conway Planning Board.

The only problem that seems to have arisen with Kate's changing the focus of her business to her home, was the marked increase in traffic on Hoosac Road and the excess speed with which her employees traveled the road. These complaints had been directed to the Selectmen.

Joe printed a copy of the proposed Bylaws about home businesses and cottage industries and gave it to her;

(4) Mary McClintock – While the sense of the Board at its last meeting was that Mary was the right person to fill the seat vacated on September 29th by Mike Kurkulonis, no formal vote had been taken making her the Board's choice.

Under Mass. Law a vacancy created by a resignation midway through an elected person's term cannot be filled by the Selectmen. Rather the members of the Board in question and the Select Board have to meet together and vote on whether to elevate the proposed candidate to the vacant seat for what remains of the term. Thus, it was necessary at the present meeting to formally nominate Mary as the Board's choice.

The proposal was made, and the vote was unanimous in favor. The members of the PB will meet with the members of the Select Board on Monday, October 7th, to finalize Mary's status. If Mary is chosen to fill Mike's seat, she will serve until the Town election, at which time, if her name has been put forward at the Caucus in February as a candidate for a full term on the PB, and if she wins the seat, she would no longer be an interim member but an independently elected member;

(5) VCD presentation—Joe placed before the members a print out of the power point presentation he and Peggy Sloan had worked out for the informational

meeting to be held on October 16. While initially there had been a difference of view between the two about whether the printed scenario should have more or less text, Joe had acceded to Peggy's way of shaping the presentation, which was more info, not less.

The discussion that followed was focused on procedure. Diane will make introductory remarks that provide a context for what is a major revamping of Conway's Protective Zoning Bylaws, a set of proposed changes that will then be outlined in a power point slide presentation, which Joe will present, with Peggy in attendance to answer questions, should the members be unable to do so.

Dave C. expressed concern that the hour and a half allotted for the meeting might be too short, given the amount of material that would have to be covered. It was agreed that should this be the case, there could be another informational meeting arranged before any formal hearing on the proposed changes is scheduled.

The focus shifted to the matter of how to get residents out to the informational meeting, the more the better. Dave C. has already posted notices at the gathering spots around Town. Dave B. proposed that he and Diane take copies of the notice of the meeting with maps, even copies of the proposed Bylaws to each home in the proposed VCD, and hand deliver them by way of inviting residents who will be most affected by the changes, to come to the meeting.

Another idea was put forward in response. This was to take the notice, which is one-sided, and print on the back side simple statements about the changes. This document would lessen the possibility that residents would be overwhelmed by printed matter, and the members overwhelmed by questions in advance of the meeting. Copies of the Bylaws would be placed at strategic locations, where residents could get them, rather than being offered them. Joe said he would try to print info on the back side of the notice, and would see if he could get the original from Peggy in order to do this.

Dave C. said he would like to join Diane and Dave B. in knocking on doors, and extending an invitation to residents to come to the meeting. Diane will identify a date and time when this walk about the Town center will take place.

(6) Outstanding bill for MP—the Planning Board owes Collective Copies \$1,400 for the printing of the Master Plan. Initially, Diane and David B. had thought the bill had been paid, but a thorough check of the records by the Town's Accountant showed the bill was outstanding. This same check showed that the amount of money needed to pay the bill existed in an old MP plan account. Thus, Collective Copies will be paid without having to use a portion of the \$2,500 allocated at the 2013 Town Meeting for use of the PB in 2013-14. Once the bill is paid, the PB will be free of debt, there being no other outstanding bills.

(7) Web site—Dave C. Reported that he had run into a stone wall in his effort to get PB minutes and activities onto the Town website. He has been in touch with Tom. H., administrator, to see what can be done. As it is there is a Town Committee, the

“IT COMMITTEE”, charged with getting a viable web site up and running. This group has been working behind the scenes to establish a site with “Virtual Town.”

Diane suggested that the members of this Committee be invited to the PB meeting on October 17. It was agreed that this was a good idea. But, she has since learned, from Tom H. , that the IT’s efforts likely will not bear full fruit until Spring 2014. Diane, therefore will not invite the members to the meeting on the 17th.

(8) Russ French’s dilemma— the fact that Russ cannot expand his business because of the DEP ruling against his doing so, given the wetlands on his property, was again discussed. Bob Anderson of Elm Street had previously directed a question to the Board as to whether Russ or the Town couldn’t close the road that splits his business, thereby enabling him to link the two large buildings with a third.

Joe had done some research on who owned the road, the Town or the French Trust, Trustees -- Russ French and Donna French. He said Lee Whitcomb was convinced the road belonged to the Town.

David B. pointed out that on an 1830 map that road which divides the OESCO buildings was shown to be an extension of the County Road that ran from Baptist Hill center, around and through the Arms/Ives property, passing in front of Maple Green—the Arms/Ives/ French family home , and which then entered on the Ashfield Road. The portion of the County road that passed before the Arms manse was discontinued long ago.

This County Road was called at different times, “Upper Road”, “Baptist Road”, “Upper Baptist Hill Road/Ives Road. The 1830 map shows that an extension from this road went directly from “Upper” along the gorge and entered upon the Ashfield Road at the point where Edmund Burke built his mill in 1845, which Edward Delabarre purchased in 1867 from the widowed Judith Arms Burke. Joe mentioned that the trolley when it was built had a spur running from Ashfield Road alongside the Delabarre mill, possibly suggesting a compromise had been made, if the extension road was County or Town-owned at the time.

In any case, the fact of this portion of the County Road being a public right of way for such a long time suggests to Joe that no matter what the early designation and ownership had been, the road at present is, as Lee W. said, Town-owned, and he was not sure how the Town could dis-own the road and turn it over to the Frenches for their use.

The discussion then focused on the DEP, and whether an appeal could be made to the agency to reconsider the wetlands designation of the French property made at an earlier time. Such an appeal would have first to be directed to Jack Gates, Chair of Conway’s CONCOM. Then, if rejected, the appeal could be directed to the DEP in Boston.

At this point, Joe mentioned that Senator Downing, our new State Senator, was holding an open house in Conway on Tuesday, October 15 by way of trying to get to

know the people of his new district. The gathering would be held in the Town Hall from 2-4 pm. It was decided that members of the PB should go and mention Russ French's dilemma to him. The way the problem should be presented is that Conway's largest employer, an exemplary employer, might be compelled to move his business to Greenfield, if he cannot expand on land he owns.

(9) Orange Innovation Center—Diane and Sue Bridge had made a visit to the ten-year old "Innovation" Center in Orange. Here, a private developer/investor, joining with others, had taken a run-down old mill building and renovated it. The building is beautifully appointed and has 45 offices in which 100 people work. Diane and Sue were very impressed and wondered whether such a developer/ investor might be drawn to Conway and undertake a similar project.

There being no other business, at 8:40 pm the members unanimously decided to end the meeting. The next meeting of the Planning Board will be the Information Meeting on October 16 at 7:00 pm in the Town Hall. The next regular meeting of the Board will be Thursday, October 17 at 7:00 pm in the Town Office.

Respectfully submitted,

David Barten, clerk