

Revised minutes, Planning Board meeting, January 16th, 2014

Present: Diane Poland (Chair), Dave Chichester, Mary McClintock, and Dave Barten.
Absent: Joe Strzegowski (Vice-chair)

The meeting began at 7:00 pm. There were seven agenda items:

(1) Minutes—the minutes for the meeting of December 19th, 2013, as amended, were accepted unanimously.

(2) Annual Report—Diane volunteered to write the statement for the Town's Annual Report. Mary volunteered to edit it. The discussion that followed focused on the previous year's activities that Board members thought should be mentioned. These included—

a. the recommendation to the Selectmen that the new garage project be put on a fast track, and completed as soon as practical;

b. the four sessions with Peggy Sloan, FRCOG planner, in which an effort was made to update the way Conway's Protective Zoning Bylaws are presented, to formulate a Village Center District, and to establish an official Town Zoning map;

c. the October 16th Informational meeting in the Town Hall;

d. the ongoing discussions about the citing of medical marijuana dispensaries, including the unsuccessful effort to draw together representatives from committees and departments having a vested interest in such dispensaries;

e. the two preliminary feasibility studies/opinions, one focused on use of the Town-owned Shelburne Falls property, and the second on future use of the old Town garage buildings and property, once they are abandoned in 2015;

f. the completion and distribution of a Master Plan focused on "Sustainability".

The members then addressed whether the activities of the Planning Board can be accessed on the Town's website. Dave C., who has been trying to get these activities posted, including minutes of meetings, said that since no commitment has yet been made by the committee responsible for upgrading the site to "Virtual Town", no progress has been made. Apparently, Tom H., Town administrator, intends to move forward the process of getting "Virtual Town" in place.

Diane will have a copy of the draft report ready for the next meeting of the Board on February 6th.

(3) Vacancy and re-election—David B. had sent to all members a copy of a short announcement that Ginny K., Town Clerk, had suggested for the VISITOR. It addresses the vacancy on the Board that will begin in May, because David will not be running for a second term.

It was agreed that while an effort should be made to find a volunteer for the position through an announcement in the VISITOR, there should also be a behind-the-scenes search to identify qualified individuals and urge them to consider putting their names forward at the Caucus scheduled for March 3rd. Diane mentioned that she knew of a possible candidate and would urge him to run.

The members, only David B. of whom has been on the Board for three years, agreed that the most difficult aspect of being a member of the Board was absorbing the many laws that determine the Board's responsibilities and activities, especially those about zoning. Based on the experience of the members in attendance, it seems best for a candidate to sit in on Board meetings as often as possible.

Dave B. called attention to the permanent, hardcopy record of minutes of meetings, which exist in the Town Office, and which are available for reading. This record covers the last four years, and provides a picture of how the Board has evolved to be a five-member independent Board.

(4) Hearing—The members decided that the Public Hearing focused on proposed zoning changes should take place on February 27th at 7:00 pm in the Town Hall. By law, notice of this meeting has to appear in a newspaper at a minimum of two weeks before the Hearing. The question was whether Tom H. is the person to post such notice. In the past, when there was no administrator, the Clerk of the Board did the posting. Diane said she would talk to Tom.

It was agreed that the Hearing will not only focus on proposed Protective Bylaw changes regarding Cottage Industries and Home-based business, but also placement of marijuana dispensaries, and the "Use Table".

(5) Forestry meeting—note was taken that FRCOG's Peggy Sloan was going to hold an informational session in the Town Hall on February 11th, about the proposal of the U.S. Forestry Service to create a tourist-oriented and economically-oriented grouping of privately held tracts of forest land across western Massachusetts. This grouping would not be a federal takeover of private land, but one where properties would be protected through individual Conservation Restrictions. Such restrictions would be written to include perpetuating an owner's vision for his property, which could include ongoing cutting of timber, as well as the vision of the Forestry Service, which would include some degree of public use/access. The grouping of properties would be given a National designation, but not that of "National Forest".

On November 20th, 2013, Joe and Dave B. had attended a preliminary FRCOG informational session about the USFS proposal in Shelburne Falls. The meeting was packed with property-owners, town officials, even reporters and there was much give and take about the proposal. Peggy, who was in charge of the meeting, at that time indicated that specific towns across the County had been identified as likely candidates for local informational sessions, Conway being one. The upcoming information session on the 11th is the fulfillment of FRCOG's intention to spread the word, and to measure reaction of locals to the USFS proposal.

Dave B. suggested that further discussion by the members wait until Joe could participate. The members decided to place the matter of the USFS proposal on the agenda for the February 6th meeting.

(6) Conway and Ashfield as co-partners in pilot project – It had been intended to address this item at what was to have been the January 2nd meeting, but because this was cancelled, the item was moved to the present meeting.

When the subject was last discussed on December 19 it had been concluded that the Board needed to know more about the situation of the large body of seniors in Conway vis-à-vis transportation to and from Conway for those who don't want to or cannot drive to stores and doctors and such. The members wanted more information before it could recommend to the Selectmen that Conway participate or not in the pilot project.

It had been proposed on the 19th that the PB should organize a senior meeting in the Town Hall, where transportation and other issues would be the focus. Alternatively, the Board might send a questionnaire to seniors across the town.

Diane, as a spokesperson for the Council on Aging, will research how best to proceed in getting information.

(7) New business—Dave C., addressing the Board on behalf of a former colleague who sits on the BOH, raised the question being whether the PB could create a Protective zoning Bylaw that would prevent residents from littering their property. Such a Bylaw would include a scale of increasingly larger fines should noncompliance continue.

Noncompliance in this instance involved BOH regulations regarding the septic system and general state of the property. Neighbors had begun to complain, addressing their concerns to the Selectmen. The resident was named, as was his place of residence, and his history of noncompliance detailed.

The members then focused on the Protective Bylaws, sect. 22.1 Prohibited Uses, which lists what may not be stored on properties in any zoning district. While "trash" is mentioned, "rubbish" is not, and there is no reference to septic violations. The members then tried to define "rubbish", but no conclusions were drawn.

Given the presence of septic problems, and the BOH's prior dealings with this resident, members felt that the Planning Board should not become involved in the present issue of noncompliance. It was concluded, however, that the Board could research for the Town's consideration a zoning Bylaw that addressed the accumulation of "Trash/Rubbish," with a sliding scale of financial penalties for noncompliance in cleaning up a property. Diane said she would take the matter up with Tom. H.

There being no further business, the unanimous decision of the members was to end the meeting at 8:10 pm. The next meeting of the Board will be February 6, 2014 at 7:00 pm.

Respectfully submitted,

David Barten, Clerk

Comments about two items in the minutes:

1. I know I am in rough company when it comes to editing; but, I would like to point out in Item (2) d stating “...discussion about the citing...” I think should use the word “siting” instead.
2. The discussion about the rubbish, trash, etc. was somewhat convoluted. However, the points I was trying to make were
 - a. The problem with the septic system is a separate issue being addressed by the BOH and specifically defined by the DEP Regulations under Title 5. The BOH has given the owner until March 31st to remedy that situation.
 - b. Regarding the complaints about the condition of the property, I was trying to point out that the Massachusetts Sanitary Code 105CMR Section 410.602 (A) specifically states that “The owner of any parcel of land, vacant or otherwise, shall be responsible for maintaining such parcel of land in a clean and sanitary condition and free from garbage, rubbish or other refuse.” It is my feeling that this language, and the language of enforcement included elsewhere in the law, might be sufficient in addressing the Malloy complaints. This would, in my opinion, be more satisfying than trying to craft Town Bylaw language to address

such problems.

Dave C.

From: alicevig@hughes.net
Subject: Conway bylaws
Date: January 29, 2014 3:29:14 PM EST
To: dpoland35@comcast.net
Cc: selectboard@townofconway.com, john.p.orourke@gmail.com, abarten@crocker.com, davechi@comcast.net and 2 more...

Hi Diane,

Thanks for taking the time to chat yesterday.

As I mentioned, the interest in your group possibly giving some of the bylaws more enforceable wording stems from a long-range concern about the future neighborhood image, property value, and environmental integrity of part of the Poland District. This concern is driven by the condition of the Malloy and Culver properties at 1615 and 1600 Main Poland Rd, but other areas of town may have similar problems. It seems that if it's in Conway's best interest to be an appealing place to live, then the town's bylaws should help the town government be able to promote an equally appealing and safe atmosphere in all parts of town. I realize that any efforts to revise the wording of any bylaws would involve a lengthy process that wouldn't necessarily guarantee any change.

Concerning the Malloy property, even though there might be an eviction as of late March, the Malloys will still own and have use of that property. Considering that Mrs. Malloy is a member of the Culver family, it's very possible that she and her family will sooner or later move across the street to 1600. Now that Ronald Culver Sr. has deeded 1600 to his seven adult children, including Donna (confirmed at www.masslandrecords.com), it's also possible that over the coming years other adult children and grandchildren will move back to 1600. Because this part of the Poland District has been home to their extended family for generations and probably will continue to be, it's safe to say that accumulations of trash/garbage/debris (even in wetland areas), unregistered vehicles, loose/barking dogs and loose horses, and maybe even unpermitted residences are likely to crop up in the future.

Thinking town-wide, if Conway's bylaws relating to those kinds of problems were to specify fines and an enforcing agent, then the town would have something specific to act on when those problems occur. Although most residents would comply with a warning or an initial fine, it might also be useful to build in wording about court action after a certain number of warnings or unpaid fines, or after continual noncompliance.

Here are the Protective Bylaws that seem to relate to this concern. Most seem to have no fine or enforcing agent:

1. Article 3, Section 32: Environmental Controls 32.1 Screening
2. 32.5 Unregistered Motor Vehicles 32.5-1
3. Section 34: Off-Street Parking 34.1 Number of Spaces (if 1615 remains a residence, this becomes an issue)
4. 34.2: Additional Requirements ("... within ten feet of a street line") (ditto above if 1615 remains a residence)
5. Article 4, Section 41: Lot Area and Clearances 41.1 Lot Area -- the entire bylaw
6. 41.2: Clearances

Also, from the General Bylaws:

Unregistered Motor Vehicles: Sections 1 through 5: Does the fine mentioned in Section 5 apply to Sections 1 through 4?

Dogs: Dog Leash Law: Does this law apply in all areas of Conway? Does any other bylaw address other types of loose animals?

This email and our phone conversation express my concerns without my needing to attend a meeting. Also, when my husband and I met with John O'Rourke a week or so ago, we were speaking for a group of neighbors. John knows the topics we covered. If the Planning Board is going to consider holding a public meeting for residents' input on the bylaws, then I would request that you announce it widely and well in advance, and invite anyone in Conway with an interest to attend.

Thanks again,
Alice