

Minutes Planning Board Meeting, February 6, 2014

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

The meeting began at 7:00 pm. There were six items on the agenda:

(1) Minutes—the minutes for the meeting of January 16 were accepted unanimously, as amended at this meeting. It was proposed that several statements be attached to the minutes, making them part of the public record. These were Dave Chichester's January 19 e-mail to the members making clearer what he is recorded as having said in Section 7 of the January 16 minutes.

The second item is an e-mail to Diane from Alice Vigliani dated January 29 saying that particular neighbors on Main Poland had made their property an eye-sore and unsanitary, and that abutters, including her and her husband, were concerned. She saw a need for the Town's Boards to address the condition of this property. She further proposed that for future reference a Zoning Bylaw should spell out how offenses leading to trashy and unsanitary properties are to be dealt with and by which agencies, and should even list fines for failure to comply.

In Dave Chichester's and Alice Vigliani's e-mails about the Main Poland property, , Dave viewed the problem of trash and unsanitary conditions from his vantage as former Chair of the Board of Health, and Alice from that of a concerned abutter who has lived near the property for years.

Discussion about Alice's proposal was the third topic on the agenda.

(2) Changes to the Protective Zoning Bylaws and a Public Hearing— Thursday, February 27 was identified as the date for a Public Hearing on the proposed changes to the Bylaws. It was decided that the meeting will be held in the Town Hall at 7:00 pm.

David B. volunteered to contact Tom H. about whether the Common Room in the Town Hall was available for the proposed date and time. If so, he would post the Hearing.

The discussion that followed addressed all that had to be done procedurally to accord with the law about Hearings. Joe took the lead. Subsequently, he cited Mass Law, directing the relevant sections to members by e-mail:

A Public Hearing has to be held within 65 days after a proposed Bylaw is accepted by the Planning Board, at which time the proposed Bylaw is placed before the public for its response. Two legal notices are to be printed in local news organs no later than 14 days before the Hearing in two successive weeks. All details about the Bylaw, place and time of Hearing are to appear in the notice. Printed notices are also to be hung in conspicuous locations no fewer than 14 days before the Hearing.

Notices informing them of the Hearing are to be sent to the Planning Boards of abutting towns.

Joe described a Hearing as different from an informational meeting. At a Hearing board members are expected to respond to questions from those present.

The proposed changes in Bylaws touch specifically on cottage industries and home-based businesses, a “use table”, solar arrays, and the clarification of certain terms and definitions. Additionally, there is reference to medical marijuana dispensaries and where they can and cannot be located.

Peggy Sloan had offered to be present at the hearing, and the members decided this would be helpful.

Actions to be taken:

--Dave B. will reserve the Common room in the Town Hall and post the Hearing, and will talk to Ginny about the exact wording for the legal notice. (Tom has since responded that he has placed the Hearing on the Town calendar, and the room is the Planning Board's for the evening. ),

--Mary will design a poster to be placed in obvious locations around the town,

--David C. will post the entire 31-page, revised Protective Zoning Bylaw draft on the Town's website,

--Joe will speak to Peggy about attending the meeting.

It was decided that at the Board's February 20 meeting will focus on the Hearing.

(3) Trash and unsanitary conditions on private property—The discussion here focused on Alice Vigliani's e-mail to Diane in which she makes recommendations about how to strengthen the Town's ability to address and, if necessary, force residents to clean up properties that contain large amounts of trash or are unsanitary for any number of reasons.

In their previous roles, Dave and Joe had firsthand experience with the problem posed by properties of the kind Alice describes, and so could address the current situation of the Town's ability to respond. Dave said the BOH has ample authority to address septic problems and unsanitary conditions of other kinds; it just has to have the will to take on the property owner, knowing that an owner's failure to comply with orders to clean up could lead to condemnation of property, even court action to evict.

Joe said the Selectmen's own hands are tied where trash and such are concerned, because the Bylaw does not spell out how failure to comply with an order from the Selectmen to clean up is to be pursued. His own experience as Selectman with a situation of this kind necessitated that a property owner be taken to court, which was time-consuming for the Selectman, expensive for the town, and necessitated

that abutters be willing to testify against a neighbor, which they are not always willing to do.

Tom H. has been working on a bylaw that would picture clearly the enforcement mechanism needed to strengthen the Selectmen's hand in dealing with non-compliant property owners. There would be fines listed, for one thing.

At this point, Joe produced an e-mail sent to the Selectmen in 2009 by Andrea Llamas, Town Administrator of Buckland. She suggested at that time that Conway "adopt a non-criminal disposition by-law (into their General Town Bylaws). Check out MGL Chapter 40 section 21D. This allows the Town to set non-criminal fines and penalties for any board or department rule or regulation (through the by-law process.)".

The members thought that the "non-criminal disposition" concept was the key to enforcing regulations. Because no offender would have a failure to comply characterized or pursued as a criminal offense, there would be no need for court action and for witnesses to appear in court. But the various Town Boards would have legal authority to compel compliance through increasing fines from fifty to a hundred to a hundred fifty dollars for ongoing failure to comply.

Joe reminded the members that one of the proposed changes to the Protective Zoning Bylaws includes stronger language in Sec. 21.1 PROHIBITED USES—ALL DISTRICTS to address open air storage of trash, etc.

The discussion ended with Dave C. volunteering to talk to Rick Bean about the need for the Board of Health to be more proactive where sanitary problems on private property are concerned, not just septic system failures. The members also thought that they should keep in touch with Tom H. about the bylaw he is formulating and that Andreas' e-mail should be shown to him.

(4) Kate Clayton-Jones—Joe noted that Kate had informed Diane that Deerfield had rescinded its order that prevented her from using the Stillwater parking lots as a place where she could retrieve tubes from customers who had completed their trip on the Deerfield and where they could park their cars. The order meant that all Kate's customers would have to park on her land in Conway and be carted to Bardswell Ferry put-in, and then carted back to her house via Hoosac Road after being retrieved at Stillwater. Kate wanted to know, whether she would have to apply to the Planning Board for a Special Permit should she continue to have customers leave their cars at her place next season.

The members noted that Kate would likely not have to apply for a Special Permit, since she does not employ fifteen people or have fifty customers on her property at a given time. However, the proposed changes in the Bylaws, which introduce square footage as a measure for determining "Cottage Industries" and "Home-based Businesses, could require her to apply for Special Permits, should these changes be accepted at the Town Meeting in May.

The members decided that its only response to Kate would be to indicate that Bylaws could change between now and the time her business becomes active, and that it's best she become familiar with the proposed changes. To this end Joe will talk to Diane about sending Kate a set of the proposed changes.

(5) Senior housing—Pixie Holbrook , Chair of the Housing Committee, notified Diane that she and Peter Wells, architect, would like to have a joint meeting on February 18 where both the Housing Committee and the Planning Board can look over the now-completed plans for an eight-unit senior housing complex to be located on the town-owned Rose property.

The members agreed this would be a good idea. David B. volunteered in Diane's absence to notify Pixie, and to learn what she thinks should be the time and place of the meeting. It was noted that this meeting with Pixie's Committee would be considered a Special meeting of the Board, and therefore the Board would have to post the meeting, making it an open meeting.

(6) Old/new business-- Joe thought that the proposed changes in Protective Zoning Bylaws should be sent to Town Counsel. It was voted unanimously to do so.

There being no further business, the meeting ended by unanimous vote at 8:50 pm. The next meeting of the Planning Board will be February 20, 2014 at 7:00 pm.

Respectfully submitted,

David Barten, clerk