# Webster Planning Board
## Minutes - Meeting of December 30, 2010

Present: Chairman Clifford Broker; Selectman member George Hashem; members Jere Buckley (secretary), Richard Doucette, and Tom Mullins; and alternates Sue Rauth and Susan Roman. Also present: Selectmen George Cummings and Dave Klumb, several interested citizens, and Planning & Zoning Secretary Mary Smith.

Chairman Cliff Broker convened the meeting at 7:00 p.m.

Attendance was taken, with the results noted above.

This was a special meeting scheduled for the primary purpose of reviewing and finalizing proposed Zoning Ordinance changes dealing with the issue of accessory apartments, and doing so in time to allow the required public hearing prior to inclusion of proposed changes on the warrant list for the 2011 Town Meeting.

A draft of proposed changes prepared by alternate Mason Donovan based on discussions at the December Board meeting was identified as a starting point for the discussion. Mr. Broker acknowledged that the topic is potentially complex, but hoped that it could be dealt with in relatively simple fashion. He suggested that otherwise there was little point in proceeding.

Mr. Broker noted the question of whether or not there should be a minimum acreage requirement for an accessory apartment, and suggested that if the lot is adequate for the primary dwelling and an accessory apartment can be added while meeting all other requirements (setback, septic system, etc.), no additional acreage requirement should be imposed.

Mr. Buckley noted that the proposed prohibition of accessory apartments in the Pillsbury Lake district is presumably based on the generally small lot size in that district and thus is in effect a minimum lot size requirement. He wondered about the fairness of not applying a similar restriction to small lots elsewhere in Town. Other members noted that the Pillsbury Lake district is already a separate zone and that it is not discriminatory to apply different requirements in different zones. Mr. Mullins suggested that the question may be academic to the extent that there are few lots in the Pillsbury Lake district where an accessory apartment could comply with setback and septic system requirements. Selectman Klumb said that setback requirements are unlikely to be a significant problem, but agreed that septic system requirements are a major constraint.

It was agreed that, in Article III Section2 of the Donovan draft, the words “provided under Article V” should be replaced by “permitted by special exception”.

Mr. Hashem noted that the wording in the Donovan draft requires septic system approval from a non-existent State agency and should be corrected to cite to the Town’s engineer and the DES.

Mr. Buckley noted that, both prior to the 16 December meeting and prior to this meeting he had distributed detailed comments on the proposed ordinance changes for member review, and felt that those inputs were being generally ignored. Mr. Broker said that he had found those inputs “very difficult to read and understand” and not constituting a “finished product.” Both Mr. Broker and Mr. Mullins, while acknowledging that the ordinance document is flawed, argued that we must settle for fixing a few glaring problems in time for the 2011 Town Meeting and not get bogged down on any other details.

Mr. Broker than returned to the issue of a minimum acreage requirement, repeating the suggestion that compliance of the primary dwelling with setback and other requirements should be sufficient to allow an accessory apartment. Ms. Roman, defending her position that there should be a minimum acreage requirement, contended that people who bought a home in an area of small lots with the understanding and expectation that they would be living in a single family residential area should not then be subjected to the prospect of closely abutting 2-family housing units. She suggested the possibility of legal actions based on reduced property values associated with the increased density. She took exception to what she described as the perhaps

elitist concept that people who wish to protect themselves from that prospect should simply "buy more land." She also cautioned that there has been inadequate attention paid to the possible effect of proliferating two-family residences on property tax revenues.

Alternate Cummings noted that the revised ordinance as currently drafted does not limit accessory apartments to one bedroom. There was Board consensus that such a limit should be added. It was agreed to do so by adding a new section to that effect following Section C in the Donovan draft of Article V-3.

The Board returned to the subject of accessory apartment square footage. There was consensus that the minimum should be reduced from 800 to 400 square feet. Mr. Broker was hesitant about imposing a maximum. Mr. Buckley suggested that a maximum could be stated as a percentage of the area of the primary dwelling instead of an absolute number. After some discussion, it was agreed to require a 400 square foot minimum and a 600 square foot maximum. It was also agreed that the parenthetical phrase "not including a garage or basement" should be deleted from Article V, Section 3-A.

It was agreed that Sections H and J should be deleted from the draft of Article V, Section 3.

A motion to submit the proposed ordinance revision, with the agreed-upon revisions, to a public hearing was made by Mr. Mullins, seconded by Mr. Hashem, and passed by majority vote. Mr. Buckley, still convinced that too many questions and problems remain, cast the sole dissenting vote.

Ms. Smith asked for guidance on drafting the posting for the public hearing. Mr. Mullins suggested that Judy Jones has extensive experience on preparing such postings and should be consulted.

The question of whether or not an accessory apartment requires a building permit was discussed. Mr. Mullins noted that an accessory apartment is defined as a dwelling and a dwelling requires a building permit.

It was agreed to defer discussion of the Board's *Meeting Procedures* to the next meeting.

The Board then turned to consideration of two campground-related warrant articles submitted by petition, one to allow off-season storage of recreational vehicles on campground property and one allowing the addition of screen rooms and/or decks to recreational vehicles during the campground season. The Board is required to state whether or not they support the petitioned articles. Mr. Buckley, noting that the wording of the petitions leaves a lot to be desired, asked for and received confirmation of his presumption that the exact wording of the petitions must be the basis of any Board approval and must, if the petitioned articles receive favorable votes at Town Meeting, be incorporated into the *Zoning Ordinance*. Mr. Hashem and Mr. Mullins both expressed concern that adoption of these petitioned articles would constitute a step towards the morphing of the campground into a trailer park. Mr. Hashem reported a conversation in which Dave Batchelder expressed the same concern. Alternate Cummings noted that, in his experience, most campgrounds that allow off-season recreational vehicle storage require that they be moved from individual campsites to a designated parking/storage area. Mr. Mullins noted that the Town has spent a lot of money and energy enforcing the existing ordinance as it relates to campgrounds, and that backing away from the existing ordinance would be a disservice to the Town. He also noted that the definition of recreational vehicle strongly implies mobility and that any departure from that concept risks the recreational vehicles becoming semi-permanent summer homes, more characteristic of a trailer park than a campground. Selectman Cummings noted that the campground owners have been making a good-faith effort to address the Town's concerns, and have been working with Town Counsel who is very familiar with those concerns. Selectman Klumb note that the petitioned articles had been submitted just before the submission deadline, leaving no opportunity for review or discussion. Ms. Smith referred to a letter on the subject from Town Counsel Bart Mayer and read the following excerpt from that letter:

> "With respect to your zoning amendment, I would submit that the Town will not accept the clause that permits 'a state **or** locally-approved campground.' I would suggest that

you clarify it by substituting the word 'and' for the word 'or.' In addition, The Board of Selectmen has made it clear that it does not want any additions placed on recreational vehicles in the campground, permanent or otherwise. Moreover, without a definition of 'permanent additions' the Town will be subject to any number of lawsuits regarding what this provision means. If a deck can be removed easily, is it a 'permanent addition'? Can a roof be placed over a recreational vehicle, if it can be removed conveniently? You would be wise to eliminate a provision permitting additions to recreational vehicles altogether, and make it clear that such campgrounds must be state and locally approved."

Mr. Buckley wondered if, as the owners have claimed, the Town's rejection of the petitioned articles would make the campground economically non-viable. He said his question was prompted by concern about what would come next if the campground failed. Mr. Mullins noted that the buyers of the campground were fully aware of the Town's ordinance provisions and should have constructed their business plan accordingly, rather than expecting those ordinances to be tailored to their needs. Selectman Cummings noted that his admittedly non-scientific survey indicated that most campgrounds do allow off-season storage of recreational vehicles. Upon Motion made by Mr. Mullins and seconded by Mr. Hashem, the Board voted unanimously not to endorse the petitioned articles.

Mr. Mullins then advised the Board that questions about storm water runoff problems necessitate reconsideration of the six-lot subdivision on Dustin Road approved at the 16 December meeting. He cited case law and applicable RSAs supporting the Board's authority to do so within 30 days of the original approval. Alternate Cummings asked how many Board members had actually seen the property prior to the 16 December approval vote. Mr. Buckley reminded the Board that he had sought to delay the vote until the next meeting, among other things to allow such on-site inspection. In what he described as a rush to judgment, the Board had approved the subdivision within minutes of receiving the application. Mr. Mullins made and Mr. Hashem seconded a motion that the Board reconsider the application and notify the applicant accordingly. Ms. Smith noted that the applicant has as yet not fulfilled his agreement to contact Adam Pouliot re deed language requiring sprinkler systems, one of the Board's conditions of approval. She asked that this delinquency be noted in the minutes. Selectman Klumb suggested that reconsideration should also contemplate setback requirements for Ox Pond, which one of the proposed lots abuts. Mr. Mullins suggested that a declaration of "premature and scattered development" may also be in order. The motion to reconsider was passed unanimously. Ms. Smith was instructed to send a letter to the applicant reporting the Board's intent to reconsider for reasons including but not limited to storm water runoff issues and Ox Pond setbacks. The Board made plans to open the reconsideration process at the January meeting, recognizing a possible need to continue it to the February meeting if more data collection time is needed.

Upon motion made by Mr. Broker, seconded by Mr. Doucette, and unanimously approved, the meeting was adjourned at 8:18 p.m.

Respectfully submitted,

Jere D. Buckley, Secretary