

**TOWN OF WEBSTER
PLANNING BOARD
MEETING MINUTES NOVEMBER 21, 2013**

***Please Note: Copies of all four Proposed Warrant Articles
Are available at Town Hall, Town Clerk's Office, Library
And the Town website www.webster-nh.gov***

At 7:00 p.m. Chairman Jere Buckley convened the regularly scheduled meeting of the Webster Planning Board.

Present were Chairman Jere Buckley, Vice Chair Member Sue Roman, Select Board Member Roy Fanjoy, Members Sue Rauth and Lynmarie Lehmann and Alternate David MacAllen.

The next item on the agenda was review of the draft minutes from the October 17, 2013 meeting. Member Lehmann made a motion to accept the minutes as written; seconded by Selectman Fanjoy and approved unanimously.

7:03 PM: Chairman Buckley opened the scheduled public hearing on four Planning-Board proposed 2014 warrant articles seeking to amend the Webster Zoning Ordinance. He informed everyone the hearing was being recorded.

Chairman Buckley stated the purpose of the hearing was to address the four proposed amendments and public comments after each article. He then explained the Public Hearing procedures.

The first proposed warrant article dealt with Recreational Vehicles (RVs) in licensed campgrounds. Chairman Buckley referred back to two petitioned warrant articles amending the Zoning Ordinance which had been approved at the 2011 Town Meeting. He stated those articles as submitted and approved were patchwork in nature, confusing and subject to misinterpretation. The proposed article could be considered 'housekeeping' in nature. Chairman Buckley then read Proposed Warrant Article #1.

The Chairman then asked if any resident had questions regarding facts or clarifications. Bob Drown, Jr. asked if screen houses, decks and porches were required to be removed now. Chairman Buckley stated the current ordinance seems to be ambiguous on that question with regards to what constitutes 'attachment'. Member Roman added that if Mr. Drown was asking the legal question if it was required now according to the current ordinance, the Board would have to get a legal opinion. Mr. Drown was concerned with the status of pre-existing appurtenant structures and the question of them being 'grandfathered'. Member Roman stated the Board was hoping to clarify any ambiguity by the Town adopting this warrant article. Resident Gaye Farnsworth asked why the Town was getting involved; wasn't this up to the discretion of the campground owner. Chairman Buckley stated the Board was extremely concerned that the campground not turn into a year round residential area and without such constraints, decks and awnings become more and more seemingly permanent and that is what the Board is trying to discourage. Ms. Farnsworth felt what the campground owner did with his land was his business. Ms. Farnsworth stated she was concerned about giving the new owners of the campground a bad name. Chairman Buckley stated the Board had an excellent relationship with the current owners

and to the best of his knowledge they fully supported what the Board was proposing to do. Resident James Higgins stated he understood the Board's position about not wanting the campground to turn into a mobile home park, but he did not understand what the problem was about having a porch or screen room etc.

At this time Chairman Buckley asked if anyone would like to speak in favor of the proposed warrant article. There was no response.

Speaking in opposition was Mr. Don Koberski of Deer Meadow Road. He believed the proposed warrant article would make it more difficult for the new campground owner to survive. He pointed out that there is significant cost for people to put up decks and screen rooms; they cannot afford to be taking them down and putting them up.

Member Lehmann stated the rationale behind this proposal does not have to do with any particular business owner. The Board is concerned that a temporary living arrangement may become more permanent when an individual is able to put more permanent structures at their RV. They do not have to remove the RV from the campground during the year but if they have a porch or a screen room, then those come down at the end of the season. She also stated that if the business owner was concerned with his financial wellbeing, that he would have expressed his concern.

7:24 PM: Chairman Buckley recessed the public hearing to allow the Board to deliberate. Member Lehmann began by stating that given there was no concern over subsection A, she felt that it would be readily incorporated into the proposed warrant article. Member Lehmann stated that she did not agree that the Board was trying to financially hinder any individual entity or any future campground with the language the Board had incorporated. Selectman Fanjoy read the following from the current Zoning Ordinance; Article III Uses Permitted; number 2. Third paragraph – section (a):

“... (a) that a “manufactured screen room” shall be allowed to be added to the recreational vehicle during the operating season provided that prior approval is obtained from the owner of the campground; and provided that said “manufactured screen room” is detached from the recreational vehicle and stored away at the end of each campground season;...”

Selectman Fanjoy stated the above seemed substantially the same. Chairman Buckley stated that to his knowledge the current owner has never expressed any dissatisfaction with that. A brief discussion followed.

Chairman Buckley then offered one of three options for the Board;

- 1) they could approve the proposed warrant article as is;
- 2) they could approve with a change;
- 3) they could defer until such time as they would have a chance to do additional research, i.e., consulting with the campground owner for what his reaction would be.

Member Roman stated she was concerned about the removal of decks. Chairman Buckley stated he would like to approve it as is. Member Rauth stated she thought it would be a good idea to talk to the campground owner. She felt his input might be helpful to see how many people would

be impacted by this change. Member Lehmann proposed that the Board send him a letter asking him if he had in issue with this. If he doesn't, she proposed to pass the article as written. If he does have issues and the Board believes they have merit, then the Board would look at revisiting the rule.

Member Lehmann moved that the Board approve the proposed warrant article as written contingent upon the Board sending a letter, receiving a response and given the response, then potentially revisiting if the Board deems a negative response necessary to revisit; seconded by Selectman Fanjoy, no further discussion; approved unanimously.

Mr. Drown asked the Board if they would 'grandfather' the existing appurtenant structures. Member Roman stated the Board was not able to answer that right now. Member Lehmann stated the only structures existing now are not attached. If there is something attached, it is not conforming to the Zoning Ordinance and the Board could make them take it down.

7:40 PM: Chairman Buckley re-opened the public hearing to address the second proposed warrant article, which dealt with the use of RVs on residential property. He pointed out the current Zoning Ordinance requires a Select Board permit for any RV occupancy on residential property for a maximum of 90 days per calendar year. The proposed amendment would allow RV use without a permit up to 15 days and would still allow the Select Board to issue a permit for up to 90 consecutive days per calendar year. Chairman Buckley read Proposed Warrant Article #2.

There were no questions for fact or clarification. Chairman Buckley asked if anyone would like to speak in favor; there was no response. Chairman Buckley then asked if anyone would like to speak in opposition. At this time, Mr. David Buttrick asked for a definition of recreational vehicles. Member Roman then read the definition from the Zoning Ordinance. Member Roman pointed out that the Board will not be changing that definition. Ms. Leslie Williams of Frost Lane asked if residential property included vacant lots. Chairman Buckley responded by stating that a piece of property in Webster, by virtue of the Zoning Ordinance is categorized as residential property whether or not there is an existing residence.

No one spoke in favor or opposition.

7:57 PM: Chairman Buckley recessed the public hearing in order for the Board to deliberate. Member Roman moved that proposed Warrant Article #2 stay as written; seconded by Member Lehman and approved unanimously.

7:57 PM: Chairman Buckley re-opened the public hearing to discuss proposed Warrant Article #3. This proposed warrant article deals with the storage of RVs on residential property. This is not currently addressed by the Zoning Ordinance. The Planning Board's objective has been to find a way to provide reasonable protections against extensive, large-scale, and/or potentially offensive RV storage without being unduly restrictive or burdensome. Chairman Buckley then read Proposed Warrant Article #3. There were no further comments from the Board.

Chairman Buckley asked for questions for fact or clarification. Ms. Leslie Williamson needed clarification regarding the 90 day permit. Alternate MacAllen stated the permit was for occupancy; proposed Warrant Article #3 was addressing storage. As long as the RV is not

occupied, it may be stored for an unlimited amount of time. A brief discussion ensued regarding the definition of recreational vehicles beyond the Zoning Ordinance definition, i.e., horse trailers and cattle trailers, etc. Chairman Buckley stated this all applies to recreational vehicles only as the Board has defined them in the Zoning Ordinance. Alternate MacAllen stated if the Board needs to look at other types of recreational vehicles they will do so in the future.

No one spoke in favor or opposition to Proposed Warrant Article #3.

8:14PM: Chairman Buckley recessed the public hearing in order for the Board to deliberate. Member Lehmann moved to adopt proposed Warrant Article #3 as written; seconded by Member Rauth. At this time Member Roman amended the motion to adopt proposed Warrant Article #3 by adding the letter *s* to the word acre in two spots under new Section 7.A (i.-ii.); seconded by Member Lehmann and approved unanimously with amendments.

8:15 PM: Chairman Buckley re-opened the public hearing for the purpose of considering proposed Warrant Article #4 which deals with the definition of 'building' and 'structure', and revises the current setback requirements. Chairman Buckley with the approval of the public, did not read the entire warrant article due to its length, but read portions he regarded as of central importance, i.e., under *Article II-Definitions* add a definition of 'structure'; change the definition of 'building'; under *Article IV-Lot Area and Yard Requirements* revise Sections 4 and 5, add a new Section 6, and re-number subsequent paragraphs accordingly. The new Section 6 deals with structures not subject to the foregoing setback requirements in Sections 4 and 5. Chairman Buckley then asked for any questions regarding fact or clarification. Mr. Bill Inman asked if a port-a-potty and an outside furnace were structures. The answer was yes. Chairman Buckley stated the Board had defined structures very broadly so unless they were explicitly excluded in the proposed new Section 6, then virtually anything created by the hand of man would be a structure. Some residents raised questions about wells and septic systems. Chairman Buckley stated wells and septic systems were governed by the State of NH.

No one spoke in favor or in opposition. However, Mr. Drown had questions regarding the agricultural requirement of herbicide use being 75 feet from a well. Theoretically, an abutter to Mr. Drown could build a house 40 feet from the boundary line and put in a well which would make Mr. Drown in violation of the herbicide setback. After a brief discussion, Chairman Buckley stated he wasn't sure what the Board could do other than talk about it as a separate issue. A brief discussion followed. Member Lehmann felt the problem could be addressed on a case by case basis. The Board agreed that in the future they could look at zoning definitions for agricultural land. Mr. Drown added that he had a cattle box made of plywood that protects the cattle when transported by a pick-up truck. He stated that the assessors assessed that 'structure' as a woodshed. Chairman Buckley stated that last year a similar proposal on building definition was voted down by one vote. He felt that happened for two reasons; first, there was a scare story that the proposal would have an adverse effect on tax bills and second, that birdhouses would be a building subject to setback requirements. Chairman Buckley stated when the assessor looks at property and if there is a feature there that he thinks contributes in a significant way to the fair market value of the property then that would impact the property owner's tax bill. It does not matter if that feature is defined in the Zoning Ordinance as a building or a structure or anything else. Therefore, these proposed amendments have zero impact on anybody's tax bill. Chairman Buckley pointed out the Board has tried to give a little latitude by decreasing the side and rear

setback requirements and they have tried to be rational and reasonable regarding what was included and excluded as structures and buildings.

8:33 PM: Chairman Buckley recessed the public hearing for the Board to deliberate. Member Roman moved to approve proposed Warrant Article #4 as written; seconded by Member Rauth and approved unanimously.

8:38 PM: Chairman Buckley closed the public hearing. He thanked all the residents for attending and their participation.

The next item on the agenda was a follow-up discussion on the conceptual discussion the Board had with Trisha and Dee Blake at the October 17, 2013 meeting. Chairman Buckley summarized they would like to do a lot line adjustment such that a small piece of Dee's property could be added to Trisha's property on the other side of the road in order for Trisha to have enough land to build a garage and meet the setback requirements. Chairman Buckley stated the results of deed research showed the two lots were once part of a larger lot that straddled the road. In addition, Chairman Buckley read the following from *A Hard Road to Travel* (which was published by LGC and is a great reference tool for a number of municipalities in the State of NH):

"Since a highway is only a public easement, the title to the land underneath...is presumed to belong to the owners over whose land the highway was created, or their successors."

"The presumption against public ownership under roads is so strong that even when a landowner's deed has a metes-and-bounds description that does not include the highway (or that recites the highway as the lot's boundary line), it is still held to convey title to the center of the highway."

Chairman Buckley stated he was not aware of any evidence that Clothespin Bridge Road was ever deeded to the Town. He felt there was a strong argument that the two lots in question do abut at the centerline of the road. Member Lehmann was in agreement. Chairman Buckley stated that the current *Subdivision Regulations* do not address this subject at all. He stated he had consulted Paul Sanderson, attorney, at LGC. Mr. Sanderson had suggested another alternative; do not do a lot line adjustment; have Dee build the garage and then come up with a lease arrangement with her daughter. Chairman Buckley stated the Board had a couple of options:

1. Indicate the denial of application. Chairman Buckley stated if they did that, he felt the Board would be on shaky ground and subject to litigation.
2.
 - a. Indicate approval of proposal which Chairman Buckley stated he found to be reasonable except for setting a precedent.
 - b. Amend the *Subdivision Regulations* to make lots abutting at or within a road right-of-way ineligible for a lot line adjustment or a voluntary merger.

Member Roman stated the Board would be on shaky ground to deny the application. She told the Blakes their options were to make an application or discuss a lease. Member Lehmann stated that given the Board had no current regulation that covers that issue, an application before the Board would likely need to be approved. Chairman Buckley stated they would be hard pressed to deny it. Member Lehmann added especially because the road had not been owned in fee. Member

Roman told the Blakes to make sure they include a map drawn to specifications as directed in the application, i.e., follow the application requirements.

Member Lehmann stated the Subdivision Regulations should address land that is not contiguous. Member Roman was concerned about whether the Board should be redefining boundary under the Zoning Ordinance as opposed to treating it as a subdivision. She added that where that boundary lies affects area calculations, setback calculations, etc. She felt it would have to be a redefinition of lot boundaries.

At this time Chairman Buckley passed out to the Board a proposed Warrant Article #5 dealing with 'frontage' and 'lot size' which he had hoped to discuss and schedule a public hearing. Member Roman stated she wanted to get an answer legally to whether boundary was a zoning issue or a subdivision issue. Member Roman suggested defining boundary to be at the edge of the highway and not anywhere underneath the prescriptive easement or the center. A brief discussion ensued regarding how to define edge, i.e., edge of highway, edge of right-of-way, and how the Blakes' proposal had brought to the Board's attention that the Subdivision Regulations do not address lot line adjustments between non-contiguous lots. Chairman Buckley stated this would be a subject for the next Planning Board meeting December 19th to which the Board agreed.

The next topic for discussion was Driveway Regulations. Chairman Buckley intends to do another draft and have it distributed to the Board members before the December 19th meeting.

The Board thanked Chairman Buckley for all the work he did to present the Proposed Warrant Articles and conduct the public hearing. The Board was very pleased that residents came and participated.

After a brief discussion, Chairman Buckley offered to write the letter to Mr. DiPrima, the campground owner. Member Lehmann suggested Chairman Buckley ask for a response by December 12th.

At 9:13 PM Selectman Fanjoy made a motion to adjourn; seconded by Member Lehmann and approved unanimously.

These minutes were approved as written at the December 19, 2013 Planning Board meeting.

Jere D. Buckley, Chairman