

Webster Planning Board

Minutes - Meeting of January 20, 2011

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

Mr. Doucette, serving as acting chairman in the absence of Chairman Cliff Broker, convened the meeting at 7:00 p.m.

Attendance was taken, with the results noted above. Mr. Doucette designated Ms. Rauth to serve in voting capacity in the absence of Mr. Broker

The Board reviewed the draft minutes from the 16 December Board meeting. Upon motion made by Mr. Mullins and seconded by Ms. Rauth, those minutes were unanimously approved as written.

The Board reviewed the draft minutes from the 30 December Board meeting. Mr. Mullins noted that the minutes did not include a verbatim transcript of the text read by Ms. Smith from a Bart Mayer letter regarding petitioned warrant articles. Mr. Buckley, who had not received a copy of that letter, indicated that he had made a judgment call not to include such a verbatim transcript, but would be happy to revise the minutes to do so. Specifically, he agreed to replace the sentence "Ms. Smith read a letter from Town Counsel Bart Mayer expressing several concerns about the petitioned articles" with the following:

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."

Upon motion made by Mr. Mullins and seconded by Mr. Hashem, the 30 December minutes were unanimously approved with the above-described revision.

At 7:08 p.m., Mr. Doucette opened the scheduled public hearing on proposed zoning ordinance amendments pertaining to accessory apartments, appearing as Articles 2, 3, and 4 on the 2011 Town Warrant. He read the text of those articles, which are available for inspection at Town Hall. There being no public comment, Mr. Doucette closed the public hearing at 7:13 p.m. In the Board discussion following the hearing, it was agreed that, since the Board had already approved the proposed amendments, no further Board action was required.

The Board then turned to the topic of the two campground-related petitioned zoning ordinance amendments appearing as Articles 5 and 6 on the 2011 Town Warrant. The Board had made "Not Recommended" decisions on both of those articles at their 30 December 2010 meeting. After momentary uncertainty about whether or not a public hearing on those articles was required, Mr. Doucette opened that hearing at 7:15 p.m. and read the two relevant articles. A long and wide-ranging discussion followed. One of the propose amendments would allow off-season RV storage on campground property. Mr. Cummings asked where the current

ordinance prohibits such storage. Reference was made to Article III-5 of the Zoning Ordinance, which allows “storing or parking of a recreational vehicle during periods of non-use on the premises of the owner”. Mr. Mullins and Mr. Hashem argued that allowing storage on the premises of the owner must be interpreted as prohibiting storage on any premises other than those of the owner. Mr. Cummings suggested that this interpretation is obscure at best and questioned whether prohibition of off-season storage was the intent of the current ordinance.

Mr. Cummings noted that most NH campgrounds do allow off-season RV storage. Others noted that in at least some instances, such storage is not allowed on individual campsites but instead is limited to designated storage areas, or “corrals”.

Mr. Hashem made three points:

- The fact that other towns allow something is not a valid argument that we should allow it.
- No ordinance change should be made with an acknowledged need for later “fix-up”.
- Although the campground is a grandfathered use, off-season RV storage is not

Mr. Cummings argued that the petitioned amendments, while less than perfect, are in fact a far clearer statement of what he believes to have been longstanding Town policy than is the current ordinance. He also questioned Mr. Hashem’s contention re the grandfathering of off-season RV storage.

Mr. Mullins and Mr. Hashem expressed fears that the petitioned amendments would open the door to the morphing of the campground into a trailer park. Mr. Cummings suggested that in fact they do exactly the opposite, by unambiguously stating what is and is not allowed and, in fact, making a clearer statement of what the Town has always intended than does the current ordinance.

Mr. Mullins recalled and re-quoted the letter from Town Counsel Bart Mayer, read to the Board at the December meeting. He then suggested that “for us to take a position contrary to the advice of Town Counsel would be less than wise” and would be “hard to defend”.. He also echoed Mr. Hashem’s opinion that we should not consider implementing any ordinance change that is “admittedly imperfect”.

Mr. Buckley, upon seeing a copy of the letter quoted at the 30 December meeting and again by Mr. Mullins, noted that it was a 9 November letter addressed to the campground owners’ attorney. He also noted the campground owners’ assertion that they had been working with Bart Mayer to address the Town’s concerns but that the petitions had been prepared in some haste just prior to their just-before-the-deadline submission on 8 December. He asked if Bart had seen the petitions before writing his 9 November letter. Mr. Mullins answered, “No. He’d seen the proposals.”

Mr. Cummings indicated that there were in fact two letters and that further advice from counsel might be available, but acknowledged that at least some of the second letter might be subject to attorney-client privilege.

The Board then turned to a site plan review required as a result of the ZBA granting a commercial exception to JMJ Resort Properties, LLC, new owners of the campground. Permission had been granted, with conditions, to operate a camp store, use a pre-existing pavilion, implement an LP Gas filling station, replace the current sign, operate a miniature golf course, extend the beach area, and add volleyball and bocce courts. The first four of those items were deemed to be subject to site plan review. The applicant had been advised by the ZBA that no permitting is required for the other three items. The applicant showed a site plan showing all relevant features. Mr. Mullins went item by item through the submission requirements to ensure that nothing was missing.

There was particular emphasis on the restriction of the campground to a maximum of 69 campsites. At one point in the discussion, Mr. Mullins cited a letter from Mr. Glavey, attorney for

the campground, confirming the applicant's commitment to that limit. In response to a later question from Mr. Cummings, he said that Town Counsel Bart Mayer had told him of that letter.

After detailed discussions, upon motion made by Mr. Buckley and seconded by Mr. Hashem, the Board voted unanimously to approve the site plan with the following conditions:

- The campground shall be limited to a maximum of 69 campsites.
- All requirements listed in a letter (see attached copy) to Mr. DiPrima from Life Safety Code Officer Adam Pouliot, plus any others imposed after plans have been submitted and reviewed, shall be met.
- All fees associated with inspections and the approval process shall be paid by the applicant.
- The ROW to Battle Street shown on the site plat shall remain unused in the absence of a State driveway permit.
- The camp store and the LP filling station may be made available to the public, but all other facilities, including the pavilion, shall be for camper use only.
- All campground facilities, including the camp store and the LP filling station, shall be operational only during the May-October season specified by the ZBA.
- Final approval must be granted by the State Fire Marshal or his representative.

The Board then turned to reconsideration of the recently approved 6-lot subdivision sought by the Roby Trust for land on Dustin Road. The reconsideration had been prompted by concerns about storm water runoff issues and about potential impact on Ox Pond, which one of the proposed lots abuts. Anthony Costello, acting in the absence of vacationing surveyor Art Siciliano, represented the applicant. He indicated a willingness to create deed restrictions limiting development to the front portions of the lots. After considerable discussion, it was agreed that the applicant will prepare an engineering study of required runoff control measures, based on prescribed areas within which houses and septic systems must be placed. That study shall be subject to review and approval by the Town's engineer.

It was reported that Deputy Fire Chief Pouliot prefers fire protection cisterns to the sprinkler systems proposed by the applicant. The applicant agreed to work with Mr. Pouliot to seek a mutually agreeable solution.

Further discussion of the matter was continued to the February meeting to give the applicant time to respond to the inputs he had been given.

Discussion then turned to the Board's Meeting Procedures document. Mr. Mullins some time ago had prepared a proposed revision that would change Section 3.5 to authorize the chairman to designate a person other than the board secretary to be responsible for preparing meeting minutes, alter Section 4.2 to remove the designation of the secretary as the person responsible for recording attendance, revise Section 4.4 regarding the recording of meeting minutes, and add a new Section 6 to comply with a State requirement that the Board have a written policy regarding the participation of alternate members. Mr. Mullins argued that the proposed change to Section 3.5 is intended only to cover the circumstance when the Board deems it appropriate to hire a professional stenographer to prepare a verbatim transcript. Mr. Buckley said he suspected another motive, and read the following prepared statement:

"A proposal has been made to change Section 3.5 of the Board's *Meeting Procedures* document to authorize the Chairperson to delegate the task of preparing meeting minutes to someone other than the duly elected secretary, and to delete from Section 4.2 the designation of the secretary as the person responsible for recording meeting attendance.

"This is a transparent effort to sideline me as elected Board secretary; presumably bringing to an end my 10-plus years generating meeting minutes and attendance logs for

Board meetings in a manner that I'm confident would be described as exemplary by virtually all former Board members and a substantial majority of Webster citizens; and doing so in a manner that adroitly sidesteps any need for a proper hearing or even an on-the-record statement of cause.

"Absent any plausible explanation to the contrary, I have to believe that this is just another facet of what feels to me like a mean-spirited vendetta engineered by Mr. Mullins and Mr. Hashem and focused on me.

"It is a sad day if we are tailoring the Board's procedures to support the aims of such a vendetta.

"I will be voting against this proposal."

Mr. Mullins made and Mr. Hashem seconded a motion to approve the Meeting Procedures changes as proposed. Mr. Mullins and Mr. Hashem voted in favor. Mr. Buckley and Ms. Rauth voted in opposition. Normal procedure calls for the chairman to cast the tie-breaking vote, but acting chairman Doucette opted to abstain. The resulting dilemma prompted the Board to defer further discussion of the matter until the next meeting.

Upon motion made by Mr. Mullins, seconded by Mr. Hashem, and unanimously approved, the meeting was adjourned at 9:02 p.m.

Respectfully submitted,

Jere D. Buckley, Secretary