

MINUTES OF THE MEETING  
OF THE  
CANTERBURY PLANNING BOARD

August 27, 2019

BOARD MEMBERS PRESENT: Jim Snyder (Chairman), Tyson Miller, (Vice-Chairman), Hillary Nelson, Joshua Gordon, Kent Ruesswick, Lucy Nichols, Alternate, Scott Doherty, Alternate

ABSENT: Art Rose, Cheryl Gordon (BOS Representative)

OTHERS: Craig Pullen, Corrine Pullen, Chance Anderson

**Review of August 13, 2019 Minutes:** Kent Ruesswick moved the Minutes, second by Hillary Nelson. Discussion: None. Vote to approve Minutes: Unanimous – 8/13/19 Minutes approved.

**Board Discussion: Short Term Rentals:** Jim updated the Board that the Board of Selectmen, at the urging of our town's counsel, took enforcement action against the known short-term rentals in town. Jim wanted to talk about our potential involvement, if any. Our Board of Selectmen representative was not able to attend tonight's meeting.

Jim asked if we've taken a position as a Board as to whether we agree that short-term rentals are not allowed in any zone. The Board agreed we have not. Hillary felt we need to wait and see how the Supreme Court comes down on this issue. Jim agreed. Joshua reminded the Board that we decided people may need site plan review if it's a commercial venture. Tyson felt a special exception should be required as well.

Corrine and Craig Pullen of Windswept Farm were in attendance and were one of the people who received a letter. Jim said they called him a couple of times asking his opinion as Board Member and former Code Enforcement Officer.

Corrine provided the first letter they received from Ken Folsom, along with the second one received that morning advising them of the fines that would be imposed if they don't stop. Jim read the first letter aloud to the Board which was a cease and desist stating they may apply to Zoning for a variance.

Corrine said the letter was signed by Ken Folsom, Town Administrator, and not by the Selectmen. She wondered if he had the authority or if it should have come directly from the Selectmen. Joshua explained that Ken sent it on behalf of the Selectmen. Hillary wasn't sure of the specifics of their situation and discussed special exception, or whether they were grandfathered.

41 Corrine said they didn't need approval for the existing space above the kitchen, but they  
42 needed it for the renovated area. The apartment has been used in the same manner for  
43 many, many years and that is the apartment they're advertising. They've also been  
44 paying rooms and meals tax for years. Joshua said they may have a personal  
45 grandfathered issue. Tyson felt it would be legal. Tyson also referred to a document  
46 written by Cordell Johnson of the Municipal Association and read from the document,  
47 some of which related to accessory uses. The document describes exactly what they  
48 have. A copy was provided to the Pullens.

49 The Board discussed the State and Canterbury's definitions of a bed and breakfast. The  
50 Pullen's sent the Board of Selectmen a letter and they haven't even acknowledged they  
51 received it. This Board agreed that the letter from Ken Folsom misstated what they  
52 need. It says they may apply for a variance, but this is a special exception situation.  
53 Accessory use and bed and breakfast are special exceptions.

54 Hillary suggested they speak with the Zoning Board. Corrine spoke with Joe Halla who  
55 said to come here tonight and see what this Board has to say. They feel like this is  
56 getting passed around.

57 Chance Anderson was also in attendance. The Board felt what he is doing is more of a  
58 campsite. Chance said his intent is to follow the Selectmen's advise and apply for a  
59 variance. Joe Halla told Chance he doesn't see a variance happening. Chance  
60 explained that his situation has been in existence for 15 years. Hunters, guests and  
61 friends would use it and then he got the idea for an Air BNB. There is no running water.  
62 Hillary explained why his units are not eligible to be an accessory dwelling unit. Jim  
63 explained that if a structure is under 144 square feet you don't need a building permit.  
64 People think you don't get taxed on those, but you do. We're talking about basically a  
65 shed. If it had electricity, you'd need a building permit. That square footage could have  
66 changed since he was inspector, but that's his memory.

67 The Board discussed alternatives to a variance, which are an administrative appeal of  
68 the decision to ZBA, a special exception, and the possibility of being grandfathered as  
69 an accessory dwelling unit (for Pullens). Requirements for a Bed and Breakfast were  
70 also discussed.

71 Cordell Johnston is the government affairs council for Municipal Association. He wrote a  
72 long letter about this issue detailing pros and cons of short-term rentals. Lucy read from  
73 the document relative to accessory uses. Joshua had trouble with his language. You  
74 could essentially double the size of the town without any policy decision because  
75 everyone could have another house being rented out to tenants because it's an  
76 accessory. Joshua feels if these places are running as a commercial use, they'd need a  
77 site plan. The Board agreed.

The Board discussed accessory use versus campground in relation to Chance's property. Hillary reminded the Board that he doesn't qualify as an accessory dwelling, it sounds like it's a campsite, which has a lot of rules.

Jim's summary: It seems like the suggestion in the letter is not the only path to go down. As to the Pullen's it seems they could appeal the administrative decision saying they think it's inaccurate and bring evidence supporting that. They could treat it as a B&B, and then as a group everyone could get together and propose a Zoning Ordinance change. Tyson explained that anyone can get signatures and put a warrant at the Town Meeting. Jim thinks it's a slim chance that this Board will get this issue on the next Town Meeting since we're still waiting on the Supreme Court Decision. The Board discussed a possible warrant allowing short-term rentals with requirement of site plan and special exception for Town Meeting.

Tyson had a letter from Town Counsel to Ken Folsom, which he read. Canterbury has a permissive Zoning Ordinance. If a use isn't expressly permitted, it's not allowed. He does not see short term rentals being expressly allowed and feels they are more closely related to hotels or motels. Kent feels everyone should be complying with all the rules just like a B&B does.

Chance said it's well studied nationally that villages and towns have a "fabric". When you start tearing the fabric, you change what that town is. We should not change that. All his guests have used the Canterbury store, or other establishments in town. Hillary said one of the issues we're concerned about is public safety and mentioned the camper that was lost in the woods on Chance's property which resulted in an extensive search using the Town's resources.

Craig said in all the years they've been doing this, they have not had one bad guest. They've had many people stay for weddings, graduations, family reunions. It's been a good asset for people within the Town.

#### **Board Discussion: Zoning Ordinance and Table of Use:**

After consideration, Hillary thinks Tyson's version of the revised Table for residents review is easier to read, but a lot harder to compile. Tyson felt Lori could do that task. The Board agreed we'll use Tyson's version.

#### **Board Discussion: Zoning Ordinance 5.2-A-3 and 5.2-B-1:**

Jim pointed out that the front setback is not something we've commonly asked about. Hillary said it's become clear that there is not an agreement in Town about what Zoning Article 5.2.2, 3, and 1 mean, and that it needs to be looked at. After discussion, it was

115 clear that to make the Articles make sense, Article 5.2.A.4 needed to be deleted. The  
116 Board agreed. Hillary will write a proposed Ordinance change for this.

117 **Other Business:**

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- 119 - The Town of Loudon has been less than forthcoming in answering requests for  
120 information on the decibel testing for the flat track. There was discussion about  
121 how to proceed. Without objection from the board Jim will send a letter to the  
122 Loudon Planning Board. The Board agreed.

123

124 Kent moved to adjourn, second by Hillary. Vote: Unanimous. Meeting adjourned.

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126 Submitted by Lori Gabriella, Secretary  
127 Canterbury Planning Board