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MINUTES OF THE MEETING
OF THE
CANTERBURY PLANNING BOARD

June 25, 2019

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

ABSENT: Kent Ruesswick, Cheryl Gordon (BOS Representative)

OTHER: John Snyder

Review of June 11, 2019 Minutes: Tyson Miller moved the Minutes, second by Art Rose. Tyson made a motion to amend the Minutes at line 60 to correct the word “zone” to “use”, second by Hillary Nelson. Vote to amend Minutes: Unanimous. Vote to approve Minutes: Unanimous – 6/11/19 Minutes approved.

Preapplication Conceptual Consultation with Gary Anderson. Gary was unable to attend and will reschedule. Jim Snyder informed the Board he spent a little time reviewing this application in preparation for the meeting and suggested the Board review RSA 674:41. Jim will also check with lawyers at NHMA relative to the interpretation of that RSA relative to discontinued roads.

Board Discussion of Ordinances:

Nuisance Ordinance: Hillary Nelson created a draft Nuisance Ordinance for the Board’s review and discussion. She was looking to find a reliable and objective process that provided a way to resolve a problem for residents affected by nuisances. The Select Board is the enforcement agency and this document would provide guidance to them when a nuisance does occur. The Board discussed the reasonable person standard versus the use of a decibel meter for noise. Hillary felt it becomes too expensive and difficult for the complainant to address issues if we rely on a decibel number. The reasonable person standard has been held up by courts across the county. No special training is required.

Art Rose looked at this draft ordinance from a developer’s perspective and believes he and his attorneys could beat the reasonable person standard all day long. They can’t beat an instrument that measures the loudness of the noise. That would be clear cut. If he exceeds a decibel limit, he has to adhere to the required number. Hillary and Art will research case law supporting each of their views.

41 Art discussed light meters and setting criteria for projects that involve outdoor lighting.
42 Jim mentioned the greenhouse in Loudon that lights up the clouds. The boards in
43 Loudon should have looked further into the lighting issue. It doesn't appear that they
44 required a light study and took the applicants word it wouldn't be a problem. Hillary said
45 they requested a light study, but it only applied to exterior lighting, this problem is with
46 the interior lighting that is so bright it lights up the sky. The applicant was supposed to
47 put material above the lights to eliminate the problem. They haven't done that and are
48 now moving on to build additional greenhouses. Jim pointed out that if a board does
49 their job right, they anticipate the problems, how much light can light the sky, noise
50 level, etc., which are enforceable issues. When there's a failure in the process, or
51 something doesn't have Planning Board approval, that's when the reasonable person
52 standard could come into play.

53 There was discussion about agricultural uses that are reasonable in Canterbury that
54 may not be reasonable in Concord. Roosters could be normal in Canterbury, but not
55 Concord. Lucy Nichols discussed the frequency of a use that could be considered
56 obnoxious and whether that means a one or two time use, or a constant use. The
57 reasonable person standard is flexible and would work in most cases where someone
58 isn't determined to go to court. She also sees the benefit of quantifiable limits and felt a
59 two tiered process could work.

60 The Board talked about enforcement, court action, and fines. Tyson referred to RSA
61 676:17 regarding penalties.

62 Art is going to coordinate a lighting expert to come discuss these issues with the Board
63 in the future.

64 Joshua will give Hillary revisions, adding language about measurable levels,
65 consequences and RSA's. Hillary will bring an updated draft to a future meeting.

66 Short term rentals: Tyson Miller talked about the Portsmouth court case that is now in
67 Supreme Court which will hopefully clear up some of the questions we have relating to
68 short term rentals. Lucy's understanding of the Portsmouth case is that they will have
69 oral arguments at the end of the year.

70 Hillary discussed meals and room tax and whose job it is to collect the funds. Jim said
71 this isn't our job. The Board discussed a resident in town who has never gotten a
72 special exception for the rental he has and is now building more. Nobody is cracking
73 down on this. We need to be writing up short term rental rules that also state you need
74 a special exception for them. Tyson thinks we should wait for the State to come out
75 with their RSAs first. Lucy believes the \$2/night tax idea was tabled by the State and
76 doesn't think we'll get cover from the State any time soon. She thinks the state
77 agreement with Air BNB is that Air BNB needs to collect room/meals tax from all hosts

78 but the agreement is secret. Lucy will email Joshua some information on the Air
79 BNB/State agreement and he'll look into a 91-A letter.

80
81 Campground Ordinance: Tyson reminded the Board that in 2015 we had a campground
82 ordinance that incorporated our town attorney's comments. The attorney for Mourning
83 Dove, Attorney Fitzgerald, came to a meeting with a letter outlining a list of problems he
84 saw with the proposed ordinance. At that meeting we all decided not to move forward
85 with an ordinance and to make campgrounds illegal in the whole Town. At the following
86 meeting we discussed it again and reversed that decision. Right now we have nothing
87 in place. Tyson asked that Joshua look at Fitzgerald's letter in comparison with what
88 Tyson drafted. Joshua agreed.

89 Land Growth Ordinance: Tyson mentioned that the Land Growth Ordinance will sunset
90 in 2020 if we don't act on it. It was brought to Town Meeting in 2015 and voted on. It
91 was agreed we would bring it to next Town Meeting again.

92 The items the Board would like to complete this year are the Nuisance Ordinance which
93 is 1/3 done; A Noise Ordinance; A Campground Ordinance which is $\frac{3}{4}$ done; The
94 Growth Ordinance, which is easy; and the revision of the Commercial and Industrial
95 Uses in the Table of Uses. These will be discussed again at the 2nd meeting in August,
96 which is the Board's work session.

97

98 **Other Business**:

99

- 100 - Tyson discussed House Bill 2 and a proposed land use board that would be
101 made up of State employees who would look at cases and try to settle them
102 outside of court. The opinions could be appealed to the Supreme Court. Joshua
103 likened it to a BTLA type of situation.

104 Motion to adjourn by Joshua, second by Tyson. Vote: Unanimous.

105 Submitted by Lori Gabriella, Secretary
106 Canterbury Planning Board