

MINUTES OF THE MEETING
OF THE
CANTERBURY PLANNING BOARD

December 10, 2019

BOARD MEMBERS PRESENT: Jim Snyder, (Chairman), Tyson Miller, (Vice-Chairman), Joshua Gordon, Hillary Nelson, Kent Ruesswick, Lucy Nichols, (Alternate), Scott Doherty (Alternate), Brendan O'Donnell (Alternate), Cheryl Gordon (BOS Representative)

ABSENT: Art Rose

OTHERS PRESENT: Chance Anderson, Joe Halla, Lisa Carlson, Al Edelstein, Lori McLaughlin, Nancy Roy, Pamela Goss Powers

Review of 11/26/19 Minutes: Kent Ruesswick moved the Minutes, second by Hillary Nelson. Discussion: None. Vote to approve Minutes: Unanimous – 11/26/19 Minutes approved.

Public Hearing: Short Term Rental Warrant Article proposed by Board of Selectmen:

Jim Snyder opened the public hearing by advising all that this short-term rental article is being proposed by the Board of Selectmen. It is their amendment, and at the end of the hearing they will vote whether they want it placed on the ballot for the 2020 Town Meeting, or if it requires a second hearing. The Planning Board will then make a motion to approve or disapprove the amendment as proposed, and the Planning Board's position on the amendment is included on the ballot.

Jim turned the floor to the Chairman of the Board of Selectmen (BOS), Art Hudson. Art explained that Canterbury has a permissive Zoning Ordinance, which means if a particular use isn't expressly permitted in the Ordinance, it is prohibited. Art briefly discussed the complaints previously received about a campground in Town that was being advertised on the internet as a short-term rental. The Board issued a cease and desist order and found that there were 4 or 5 others that were operating in town as well. They issued cease and desist orders on those. The BOS felt the best course of action was to create an ordinance relating to short-term rentals so residents and the town would have guidelines to follow. It was decided that the cease and desist orders would be revoked which would allow the people to operate until this ordinance came to the ballot. The BOS collaborated with the Planning Board and then had Town Counsel review the language before us tonight. Art reviewed the language in the proposed Ordinance for the Board and attendees.

45 Jim opened the floor to Planning Board and BOS discussion.

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- 47 - Joshua requested a minor clarification relative to criteria. He also discussed
- 48 conditions.
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- 50 - Joe Halla, Chairman of the Zoning Board (ZBA), felt the Ordinance should say
- 51 they have to get a special exception, period.
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- 53 - Brenda O'Donnell had some substantive concerns and outlined each to include
- 54 fire, septic, and ZBA requirements or conditions.
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- 56 - Hillary discussed square footage concerns relating to number of people for the
- 57 size of the septic system and asked if we could approve an outhouse rather than
- 58 a septic system. Brendan said you could require suitable sanitary facilities.
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- 60 - Jim said it's possible that all of this doesn't have to be spelled out in the Zoning
- 61 Ordinance. If you have an application, it's then a permitting process that the
- 62 BOS would have the ability to regulate and generate without every word having
- 63 to be in the Zoning Ordinance. There can be some minor adjustments and the
- 64 concerns we have could be incorporated into the permitting procedure. It sounds
- 65 to him as if the zoning approval is only one part of the process. The BOS could
- 66 still deny it even after a special exception is approved.
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- 68 - Tyson Miller discussed septic system design, enforcement, and the definition of a
- 69 dwelling unit.
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- 71 - Hillary's concern is that you may rent to 6 people according to the number of
- 72 beds advertised and then they show up with 20 people. She wondered whether
- 73 the approval could be for a specific number of people. Brendan agreed and
- 74 expanded on the criteria outlined that the ZBA would follow.
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- 76 - Joshua said it sounds like we need some type of form that indicates what is
- 77 required for the ZBA and applicant in order to obtain a special exception.
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- 79 - Jim was curious about Short-term rentals as a primary or accessory use and
- 80 whether it applies to the use or the structure.
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- 82 - Brendan discussed the recent Portsmouth Supreme Court decision.
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84 Jim then opened the hearing up to the public:

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- 86 - Joe Halla questioned how much thought was given to these being owner or not
- 87 owner occupied, or a restriction on size. It looks like you could build 4 bathrooms
- 88 with 8 bedrooms and never live there. From a zoning standpoint, the term
- 89 "dwelling unit" needs to be removed since a dwelling unit requires a kitchen. On

the 2nd page, unless the RSA has changed, if you come for a special exception, ZBA has to give a decision in 30 days, not 60. Or have a hearing within 30 days. Jim thinks the 60 days refers to the Selectmen's process. Art confirmed that paragraph 4 is the whole process. Jim also stated that the permit renewal would be with BOS, not ZBA.

- Brendan suggested changing dwelling unit to "one family" or "two family" and reviewed other suggested revisions.
- Joe said we're talking about room rental. If someone comes to the ZBA for a special exception for short-term rentals with this proposed language, they're going to ask if they have a dwelling unit and ask if they have a kitchen. If they don't have a kitchen, they get denied. The minute you include dwelling unit, you're including a kitchen. Joe feels this prevents people from renting rooms.
- Lisa Carlson felt the language was unclear. It doesn't say whether people would go to the BOS or code enforcement with complaints.
- Pamela Goss Powers suggested that it would help to have an application process and list out what the person has to do, and with whom.
- When Joe first read the language he thought people would apply through ZBA, not the BOS. He thinks there should be a note at the bottom of a special exception application that if you're applying for a short-term rental, see another document that spells out other steps required.
- Lisa Carlson spoke about the 5-year approval timeframe and who would keep track of when it's time for the owner to come in and renew. We all know there's an abundance of apartments and living situations in town, some of which haven't been approved and nothing is done about those, it's the way we've lived. Now we're changing that. If we're going to have enforcement, all need to be in compliance.
- Ken Folsom, Town Administrator, said there are only 4 short-term rentals in Canterbury right now and it's been like that for the past few years. It won't be a big job for the town office to look at these. Right now Mandy Irving, Town Assessor, is drawing up an application listing all the requirements, but this is a work in progress. Right now there is no other zoning regulation that spells out what has to be included for a special exception. If we start duplicating efforts on this, it will make zoning more complicated than it is now. A one-page document will turn into a 5-page document.
- Hillary discussed daily rates. She wondered about weekend or weekly rates. Hillary also mentioned permissions on Class VI roads and accessibility by the fire department.

- Brendan assured the BOS that most of the Planning Board members were in favor of a short-term lodging ordinance, but all had varying reasons as to why we felt like this proposal wasn't fully developed. He sees a lot of issues that this ordinance could consider. He supports short-term rentals, it just needs to be logical.
- Joe Halla said he can only emphasize the need to get "dwelling unit" out of here. If the ZBA looked at the Zoning Ordinance its hands would be tied. Use "rental unit", or "rental room".
- Lucy Nichols pointed out that State and national laws are rapidly evolving. The takeaway from the Portsmouth Supreme Court decision is that Portsmouth was allowed to ban short-term rentals in the residential neighborhoods because they were clear that this was a residential use. If we allow these in the commercial district, she thinks it will open it up to challenge.
- Joshua said Portsmouth and that case show the typical difficulty that short-term rentals have run into nationwide. You have residential neighborhoods that are no longer residential. That's not at all like Canterbury. He's not sure what we accomplish by this proposed ordinance that we really about. This language very modest and if that's all we're requiring, why are we doing this?
- Ken said if nothing is passed this year, short-term rentals would continue to not be allowed, and the cease and desist orders will probably go back into effect. The BOS will be forced to reissue them.

Jim ended public and Planning Board discussion and returned the meeting the Selectmen to decide where they want to go.

- Art reiterated the reasons for this language. They discussed owner occupied vs not. He feels we should do something now that would take care of the 4-5 current rentals. The language can be revised, but we need something. Cheryl Gordon agreed but was concerned about "dwelling unit."
- Jim asked if they'd be amending it or voting on it. Art wondered whether we could change the dwelling unit language without another hearing. Jim read RSA 675:3, III and IV and said the Selectmen need to be the judge as to whether they're editorial revisions or if they are substantive alterations. The penalty for making an error here is unclear.
- Tyson pointed out that there is time for a second public hearing if needed.
- Art would like to submit this to be put on the ballot as written.

After Art and Cheryl's discussion, he moved we put the ordinance on the ballot as written. Vote of Board of Selectmen members: Unanimous.

Jim returned the hearing to the Planning Board to vote whether it approves or disapproves of the Zoning Ordinance amendment as written. He would appreciate a motion in the positive that the PB approves of the Zoning Ordinance amendment.

Hillary moved to approve the zoning amendment for short term lodging as approved by the Selectmen. Second by Kent.

Discussion: Joshua didn't feel like the language was fully developed and he'd vote against it. He agreed with suggestions made by Brendan. Brendan understood that the BOS wanted something in the Ordinance for next year. He pointed out that if the Ordinance is voted in as written, we can work to modify and clarify the language for the 2021 Town Meeting, but at least now we could get the initial push out the door. Hillary feels people are relying on this for next year, agrees we can fix things, but the BOS has spoken and we should provide protection for people who have these rentals. Tyson would approve it as is to have something on the books.

As a matter of procedure, Jim said he should have appointed an alternate to serve in Art Rose's absence and, being that all 3 alternates have participated in the hearing, any one of them could be appointed. Without any objection he'd appoint Brendan. No objection. Brendan stood in for Art and will be able to vote.

Prior to a vote, Jim clarified who would be voting: Other than regular PB members present, Brendan is voting in Art Rose's place and Cheryl Gordon will be voting because she's a member of the Planning Board as the BOS representative. Further discussion: None. Jim explained if you want the warrant to state the Planning Board approves the short-term rental zoning amendment vote yes. If you don't want the Planning Board to approve it, vote no. Vote: Unanimous yes. Amendment to Zoning Ordinance Approved.

The Planning Board and Board of Selectmen thanked each other for their collaboration on this project.

Joshua asked that this get on our agenda for early next year. Jim felt maybe we should wait and see how it goes. Brendan doesn't see the dwelling unit issue as a problem. Jim pointed out that it's a problem if the ZBA thinks it's a problem. Art felt waiting to see how things go before working on modifying it would be good so they could get some experience with it.

Tyson felt B&B's should also have to come back for approval after 5 years since the short-term rentals would have to.

Discussion and vote to sign an agreement to obligate the remaining 2019 balance in the Planning Board Professional Services 2019 budget line item, to procure technical assistance for a revision of the Town of Canterbury Master Plan:

Tyson explained that what we're doing is obligating the money left in our 2019 budget toward a project to revise the Master Plan. It's not obligating us to spend it, it's just allowing us to spend it after meeting with CNHRPC on 1/14/20. Without taking this step tonight, the money disappears.

Tyson reviewed the Letter of Agreement with CNHRPC pointing out that he spoke with Mike Tardiff and included a termination paragraph. Art Hudson said the BOS is meeting with Mike Tardiff next Monday. The Planning Board would have to sign the Letter tonight, the Selectmen would sign next Monday. The BOS is in favor of the proposal.

Tyson made the following motion:

To see if the Canterbury Planning Board will vote yes to:

1. Sign the presented Agreement with the Central New Hampshire Regional Planning Commission for the purpose of providing technical assistance to the town to revise the Canterbury Master Plan;
2. Obligate to expend \$7,800 from the 2019 Planning Board budget line item, Professional Services, as authorized by the 2019 Town Meeting, understanding that the Agreement may be terminated or revised for convenience by vote of the Canterbury Planning Board, with said obligated payment being pro-rated for services rendered.

Second by Hillary. Discussion: Joshua didn't think the numbers sounded realistic for the task we're trying to accomplish. He felt they were too low and was concerned about additional funds. The Board discussed the terms of the contract. Tyson said the cost considers the Board's participation. Vote: Unanimous

Other Business:

None.

Motion to adjourn by Kent Ruesswick, second by Joshua Gordon. Vote: Unanimous.

Submitted by Lori Gabriella, Secretary
Canterbury Planning Board