

MINUTES OF THE MEETING
OF THE
CANTERBURY PLANNING BOARD

January 13, 2015

The Chair called the meeting to order at 7:00 p.m. It was determined that a quorum was present.

BOARD MEMBERS PRESENT: Jim Snyder, Vice-Chair, Alice Veenstra, Joshua Gordon (arrived at 7:30), Chris Blair, Doug McCallum, Cheryl Gordon (BOS representative), Tyson Miller (alternate), Kent Ruesswick (alternate)

BOARD MEMBERS ABSENT: Art Rose, George Glines, Seth Cohn

OTHER PARTIES PRESENT: Naomi Scanlon; John Wiencek; Tim Bernier, Attorney Paul FitzGerald; Concerned Citizens of the Region

In Art Rose's absence, Jim Snyder chaired the meeting. Jim invited Tyson to be the alternate for Art.

Draft Minutes of December 16, 2014: Chris made a motion to approve the minutes of December 16, 2014. Doug seconded the motion.

Discussion: Tyson had some minor revisions at line 41 to the Board's attention. The items were discussed and Tyson made a motion to amend the minutes. Chris seconded the motion. There was no further discussion and a vote was held.

Vote to amend minutes: Unanimous, minutes were amended.

There was no further discussion regarding the minutes of December 16, 2014.

Vote to approve minutes as amended: Unanimous.

Jim explained procedures for the evening and how minor changes to the proposed amendments work versus a substantial change, which will require a second public hearing.

Public hearing on Amendment 1 to Canterbury Zoning Ordinance: Revise Definition of a Farm Roadside Stand:

Tyson brought handouts that contained a copy of all amendments before the Board tonight.

Tyson gave a brief history of the farm stand question. He discussed the effects of the new and old wording and its relation to the Site Plan Review process.

Jim asked Board members if they had any comments. There were none.

Jim opened the hearing to members of the public.

Naomi Scanlon, Chair of the Agricultural Commission, spoke to say that the current farm stand language works against farm stands. The majority of our farms are tucked away and this language helps open new possibilities to bring farm stands closer to the customers.

Dave Emerson (Agricultural Commission) spoke to support this revision as well.

There was no further discussion.

Jim closed the public hearing portion for this issue.

Tyson made a motion to accept the amendment and bring it to Town Meeting, seconded by Alice.

Discussion: Jim advised the Board that the document Tyson handed out, "2015 Town Meeting, First Session Official Ballot Language" would now be referred to as the "Official Ballot Language" for purposes of tonight's meeting.

Vote on motion to accept the amendment and bring it to Town Meeting: Unanimous.

Public hearing on Amendment 2 to Canterbury Zoning Ordinance: Renew the effective dates of Article 11, Number of Residential Building Permits:

Jim introduced the next article as basically a house keeping issue in that the sunset date periodically needs to be addressed by the Board.

Tyson pointed out that the date lapsed last year and we are extending it for 5 years to stay on track.

Jim opened the hearing to members of the public: No comments.

Jim closed the public hearing portion of for this issue.

84 Tyson made a motion to accept question 2 of official ballot language and to add it to the
85 official ballot. Cheryl seconded.

86
87 Further discussion: None.

88
89 Vote on motion to accept question 2 and bring it to Town Meeting: Unanimous.

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91 **Public hearing on Amendment 3 to Canterbury Zoning Ordinance: Add new article**
92 **(Article 18) regarding campgrounds:**

93
94 Tyson gave a history of the development of this article. He explained that this proposed
95 article is not related to the campground project that previously received a special
96 exception from the Zoning Board. That project has not come to this Board with an
97 application. The only affect that issue had was that it woke us up to the fact that we had
98 nothing in our ordinances relating to campgrounds. Tyson explained we started from
99 scratch looking at regulations from many towns. We picked language we felt fit and put
100 it all together as a working document. The Board has gone through it to choose what
101 they felt was appropriate for Canterbury.

102
103 We then considered and discussed not allowing campgrounds at all. The Board chose
104 to go back to the proposed article, and have worked with that to come up with this final
105 version.

106
107 Jim asked if any other Board members had comments at this time. There were none.

108
109 Jim opened the hearing up to members of the public.

110
111 Donald Blajda spoke for the Concerned Citizens of the Region. Don thanked the Board
112 for their efforts and for incorporating some of their suggestions throughout this process.
113 However, they still have some concerns with the proposed article as written.

114
115 Don discussed recreational facilities, quite time/nuisance noise/decibel levels and pets.

116
117 Don stated with the revisions he suggested, they feel the ordinance would be an
118 effective tool without infringing on surrounding property owners.

119
120 Full text of Don's comments can be found in the "Campground Ordinance 2014" file in
121 the Planning Board office.

122
123 Jim asked if anyone else has comments.

124
125 Brian Harvey from Loudon spoke to agree with Mr. Bladja's comments and supports
126 them. Brian referred to line 105. He would like to see inserted "only the campers
127 occupying the campgrounds shall use the recreational facilities." This way it would not
128 become a commercial project with anyone having the ability to use it.

Mr. Harvey then referred to lines 154 and 175: Recreational vehicles should be fully licensed at all times and will not be allowed to deteriorate. He wanted to know who would be policing this requirement. He suggested language to fine tune this section including specific dates.

Tyson spoke to say the current languages say campers are allowed to be kept over the winter and asked if they object to that. Brian confirmed they would object to that.

Paul Fitzgerald, an attorney at Wescott Law office in Laconia, spoke. He represents Mourning Dove. Mourning Dove does have an interest in this ordinance. It appears to him that this ordinance is in reaction to the Mourning Dove proposal. He considers this proposed article to be a significant overreaction however, he does appreciate all the work the Board put into this document.

Attorney Fitzgerald said that the reality is we're not talking about a race track or casino, or a nuclear power plant. We're talking about a place where families go to camp with their kids. He's never seen regulations this intense or restrictive for this type of a use that he can remember. Attorney Fitzgerald began discussing issues of setbacks, open space use and number of acres per site. He discussed permits that may be required by the Board of Selectmen.

As Attorney Fitzgerald was speaking, Jim asked him if he could refer to a line number so the Board can follow along. Mr. Fitzgerald thought it might be better if he submitted his letter and he could hit the high points for the Board.

John Wiencek spoke to suggest that this is a public hearing and if Mr. Fitzgerald is going to make his comments, that he states them publicly, rather than submitting the letter he has to the Board. The citizens will not have the ability to read it. Jim asked Mr. Wiencek who he was and if he was a resident of Canterbury. He replied that he owns property in Canterbury and he is representing himself.

Tyson also requested that Attorney Fitzgerald refer to a line item of the ordinance language. If any changes are made for or against, Tyson needs to refer to which line and be specific. Attorney Fitzgerald was not prepared to refer to a specific line item and after some discussion, decided to read his letter aloud. His concerns addressed definitions, Board approvals/permits, traffic, acreage requirements, open space, size, number of sites, setbacks, impact limits, retail shops, accessory buildings, roadways and operational requirements. The full text of Attorney Fitzgerald's letter can be found in the "Campground Ordinance 2014" file in the Planning Board office.

Jim felt this was a good time for the Board to ask questions to Attorney Fitzgerald.

Joshua asked about accessory buildings and the need for staff to live onsite. Attorney Fitzgerald said there's no normal situation, but suggested if there's a restriction along these lines, there should be some flexibility. The current draft says one residence is allowed, period.

176
177 Jim had a couple comments. First he wished Attorney Fitzgerald had come to the
178 Board earlier in the process with his concerns. He said in his opening remarks,
179 Attorney Fitzgerald felt this proposed article was overly restrictive. Jim asked Attorney
180 Fitzgerald if he spoke with other towns. He said he received input from campground
181 consultants and other sources. He has practiced municipal law for more than 30 years.
182 Jim told him we've reviewed a lot of ordinances in other towns and felt we were quite a
183 bit less restrictive than others.

184
185 Jim went on to say that Attorney Fitzgerald, in his letter, referred to the grandfathered
186 status of Mourning Dove proposal. Jim pointed out that no one has been more
187 protective and careful in keeping Mourning Dove out of these discussions than he has.
188 The fact that the project was out there made the Board look around and realize we
189 didn't really have the structure in our Ordinance to deal with any campground proposal,
190 and some things we do have, just didn't make sense. This is the first time Jim was
191 comfortable even addressing their project and he's even hesitant now. Jim stated that,
192 yes they have Zoning Board approval, and Jim believed if Attorney Fitzgerald brought
193 his project forward to this Board, they would get a very fair hearing. They might get
194 some opposition, but they would see some support too. Whether this Ordinance goes
195 forward to a vote in any way, Jim has a question as to how much this would apply to a
196 project that has already gone through the Zoning Board. He needs help knowing
197 whether or not they are legally bound by this and if they need variances for anything
198 they don't like; and even if the Board doesn't approve their project, we've done the work
199 to familiarize and education ourselves about campgrounds and what is important.
200 That's what Site Plan Review is for, with or without this document. We can apply
201 whatever conditions we feel are appropriate up to an including denying the proposal.
202 Their use has been cleared by the Zoning Board, but the specific proposal still needs to
203 clear this Planning Board. Jim just wanted to assure Attorney Fitzgerald that
204 regardless, they would get a fair hearing.

205
206 Chris addressed the overall concern of being overly restrictive. He discussed removing
207 the use from the table of uses, which meant someone would need a variance. The
208 Board thought that was too restrictive. There was discussion with Attorney Fitzgerald
209 about the pros and cons of removing this from the Table of Uses and its affect.

210
211 Tyson discussed the 50% open space requirement. Mr. Fitzgerald feels that we don't
212 have it defined to the level needed. Tyson and Mr. Fitzgerald talked about the square
213 footage area of campsites in our language compared to other towns. Tyson suggested
214 the Board cutting the 200 foot buffer from a stream. He does agree that's a high
215 amount.

216
217 Mr. Wiencek asked if our town attorney reviewed and approved of this document and
218 what his opinion was. Tyson confirmed that he reviewed it twice. Tyson discussed
219 some of the changes the town attorney made, for example he was making sure there
220 wasn't anything in there that was illegal, he made some suggestions regarding the

definition, he wanted to make sure we had the ability to enforce this, and we had the teeth to do it. He also suggested removing the idea of cabins.

Jim asked if any Board members had any further questions for Attorney Fitzgerald. There were none.

Don Bladja spoke about some people not coming to previous meetings. The reason his group came to all the meetings was to see the amount of effort they put in to come up with the ordinances. He's disturbed by the tone of Attorney Fitzgerald's letter as almost having a threatening factor.

Tim Bernier, T.F. Bernier, Inc. spoke. He came on behalf of the Schmidt's. Jim asked if he represents the Schmidt's. Tim said he was asked to be here on their behalf, they are in Florida. Tim gave his professional background and that he's spent the last few months studying campgrounds. He's been on planning board and was the chairman in Weare NH, so he's very aware of what is going on. For the last several months he's been working on designing a campground in Canterbury. He found out last week that this process was going on and his understanding is that it won't directly affect the project he's working on. Once he was made aware of the current proposed regulation, he's tried to incorporate whatever he could to the project he's working on. Jim reminded him it won't be in effect unless it gets voted in at Town Meeting in March. Tyson said things would be on hold until the vote. Tim said they are well beyond a lot of these things in their design so they are relying on their interpretation that their design is grandfathered.

Tim spoke about his thoughts based on his experience and his review of the proposed language. He addressed camping cabins as being very popular and suggested the Board consider changing the language that prohibits them. Tyson said that was something specific the town attorney took out. He spoke about transient people, setbacks and density, fire standards, dates the campground would be open, and patios. Tim stated he'd really like to see a lot of the items addressed in Site Plan Regulations because zoning is very tough.

Aaron Roy, resident of Canterbury spoke to say Mr. Bernier was representing the Mourning Dove owners and his presentation seemed like he was asking the Board to modify the ordinance to suit his campground.

Jim responded by saying Mr. Bernier is representing Mourning Dove, who are land owners in Canterbury. Any landowner can come and give their opinion or send an agent to do the same thing. This Board will be making decisions based on merit, not who they're coming from. Tim responded by saying he's proceeding with the Mourning Dove project with the legal advice that this ordinance will not apply to us. Tyson asked if they have a permit into us yet. Tim said they have a permit into the town, but reminded the Board he's not an attorney, he's designing this thing. Jim corrected them to say they mean an application, not a permit. Tim was told this was a zoning change and he didn't need to worry about it. Jim said we don't have to worry or talk about this

tonight. Tim stated he really came because he has experience in this area. He has no opinion if the Board banned it completely. He feels if the Town is allowing someone to have a campground, then give them the tools to be successful.

John Wiencek who is a land owner on Harmony Lane, but not a resident of the state, spoke. He thanked Tim Bernier for being here because his comments about the changing nature of RV's and campgrounds and is proving the point that the Board can try to think of all the possibilities and definitions but the industry changes. Based on the comments from the representative of Mourning Dove, they don't care. They don't care about whether or not this Board prohibits campgrounds. They think that they're o.k., they're grandfathered in.

Mr. Wiencek went on to speak about whether there is a need for this ordinance. He wondered why the Board is going through this exercise. Mourning Dove doesn't care. Is there another project that this could affect? He felt that this ordinance opens up a can of worms that they don't have to open. The alternative is there should be no campgrounds, and they should be eliminated from the Table of Uses and zoning.

He discussed noise, recreational facilities and conservation. Chris spoke to say the Conservation Board was consulted. He asked if they approved of this ordinance. Chris said there was no position taken. Mr. Wiencek asked that they support removing it as an accepted use. He said the Board has gone down the wrong path here and suggested they remove campgrounds as an accepted use.

There was discussion among the Board about going back to changing the Table of Uses to not allowing campgrounds in any zone.

Jim closed public testimony and reminded all in attendance that it is this Board's job to balance the rights of land owners against the good of the rest of the community. That has to be our guiding principal.

Joshua made a motion to strike the proposal for article 18 as currently proposed and replace it with draft proposed version 2 that Tyson drafted a few months ago. Seconded by Chris.

Discussion: Chris read the language aloud. Tyson likes the idea of the Canterbury voters deciding if they want campgrounds at all and if they do, we can always pick up where we left off with this ordinance next year. Doug thanked Tyson for all the work he's done. We've all learned a lot in the past couple months.

There was continued discussion about the need for this ordinance versus simply not allowing campgrounds as a use in any zone and the desire to have detailed regulation versus no regulation at all. There was also discussion about variances. Jim has no problem dealing with something that comes in on a variance. Jim said the big difference is whether it's going to be allowed by special exception or only by variance. Scenarios dealing with regulations versus variances were discussed.

Tyson said if people decide to vote against campgrounds then the question is settled.

This is a 2 step process. Put it in as not allowed and if the voters turn that down, next year we try something like this ordinance. Jim felt putting it in with a line in every zone would be good.

Vote on motion to strike the proposal for Article 18: Jim polled members individually.

A vote of yes means it amends the current proposal by replacing it with a proposal to remove campgrounds from the table of uses.

Alice: Yes

Cheryl: No

Joshua: Yes

Tyson: Yes

Doug: Yes

Chris: Yes

Jim – not voting.

Tyson will get language to Lori to hold a second public hearing.

Other Business:

Right to Know Request: Joshua gave Lori a disk with his response to Mr. Wiencek's 91-A letter. Mr. Wiencek wants the Board to do their due diligence to come up with the documents requested and appreciated the effort made to collect the documents to date. He would just like to be kept apprised of the progress. If we have a document that we think is exempt, just tell him what the document is and why we're not handing it over. Tyson said our town attorney recommends we not turn over attorney client documents, but it is up to the Board. Jim said we shouldn't be supplying attorney/client documents.

Tyson said some things were said over the phone, and there are no documents. Joshua felt we shouldn't release them. The Board agreed not to turn over attorney/client privileges. Joshua said disclosing doesn't waive the privilege.

Jim made a motion to adjourn, seconded by Chris.

Vote: Unanimous. The meeting ended at 10:15 p.m.

Lori Venie, Secretary

Next meeting: July 27, 2015, 7:00 p.m.