

MINUTES OF THE MEETING
OF THE
CANTERBURY PLANNING BOARD

FEBRUARY 13, 2018

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

BOARD MEMBERS ABSENT: Art Rose, Vice Chairman, George Glines

Draft Minutes of December 19, 2017: Kent made a motion to approve the minutes. Joshua seconded. Hillary abstained from voting since she was not present at that meeting. Discussion: None. Vote: Unanimous. 12/19/17 Minutes were approved.

Conditional Use Permit Discussion: Jim thought we should delay a detailed discussion of this topic when all Board members were present, but an introduction to member's thoughts could be heard tonight and entered in the Minutes.

Tyson spoke about documents he previously provided Board members. Some were legal documents and some talked about what a conditional use permit (CUP) is. He added that there are three ways to treat applications for this permit: 1) You can allow it; 2) You can determine it is not an allowed use; and 3) You can be somewhere in between and place conditions on the project. Conditional use permits allow you to tailor a project that might not fit into a certain zone, but with certain conditions applied to the project, it would. CUPs can be done through the Zoning Board of Adjustment (ZBA), but Tyson felt the Planning Board would be the more logical place for applicants to come. Jim asked about the appeals process. Tyson responded that if the Planning Board gives a CUP, the appeal would be to Superior Court. If the ZBA granted a CUP, it would be appealed to the ZBA first and then to Superior Court.

Joshua also provided information to Board members and discussed the following points: Some uses are easily permitted. Some uses are absolutely banned. For uses that are banned, the constitutional safety valve would be a variance through the ZBA. There is also the area in between where a use isn't banned, but is not clearly permitted either. This is where you could utilize a conditional use permit. What is important is that the CUP might be dependent upon conditions which are either temporary or changeable in some way. It is also important to understand that the use could also be permanent. Joshua feels it will be important for us to pay attention to how we word any conditions placed on CUP's.

There was discussion as to how CUP's are handled if a property is sold. Hillary stated its permanent just like a special exception is. If a property is sold, the CUP or special exception goes with it. If the use discontinues after a sale, the CUP can expire. It was

45 also pointed out that a conditional use does not get signed off on until the applicant has
46 proven that they've met all conditions placed on the project.

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48 One of the documents Tyson provided was a sample CUP. After review, Joshua
49 pointed out paragraphs B through I on page 3, and #6, which is the catchall phrase "any
50 other condition." We would need to focus our attention on the conditions we want to
51 empower ourselves to apply to a project. We need to find the balance of having the
52 authority of creating the conditions and the onerous of the applicant who has to comply
53 with a possibly wordy set of conditions. The goal would be to avoid the conditions being
54 vague since the landowner has the burden of proof of meeting conditions. Tyson felt
55 residents may read those items and feel it gives them the ability to mitigate the project.

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57 Lucy asked for an explanation of how a variance is harder to obtain than a special
58 exception. Members explained that a variance is really for a hardship. It is for a person
59 who has such a unique instance that it's creating a hardship relating to the use of their
60 land. A special exception is a lower bar to reach than a variance.

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62 Jim felt that one of the problems with our current Zoning Ordinance is that a use that
63 comes in can seem completely reasonable for a particular zone, but because it's not
64 called out as a permitted use, our only alternative is to send them for a variance, and
65 felt that is wrong.

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67 Hillary would like to see us use more concrete language in conditions we set. The word
68 "materially" can mean different things to different people. We need objective criteria
69 clearly spelled out. Joshua also felt the words we use are going to matter quite a bit.
70 We need to think about the regulatory burden and how our words will affect that. We
71 can't have it too vague, such as "substantially" and "reasonably", and should aim to use
72 more direct language.

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74 The goal is to set up a system where the community and landowner feels heard, and
75 proper conditions are placed on particular projects. There are needs and rights of the
76 community that need to be addressed.

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78 Jim said this is a good overview and thinks we should spend some time thinking about it
79 and discuss it again with additional members.

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81 Lucy discussed implications of going to Superior Court. It is costly and the law is more
82 rigorously enforced, and they don't like to overturn town decisions. Joshua doesn't want
83 to subject the landowner to a costly situation, and the town certainly doesn't want a
84 costly situation either.

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86 Lucy also wants us to think about the translation of this document to the average
87 landowner. How do we prepare this discussion to review with residents? Jim
88 suggested we try to put a presentation together for Town Meeting to introduce residents
89 to the idea. The Board felt this was a good idea.

Discussion of Exit 17 Intersection Lucy discussed Laurie Rauseo's proposed plan that will be discussed at a public hearing before the Concord Planning Board in March. Lucy likes the plan, it is well researched and they've been considerate of the needs of Concord and Pembroke. Right now the project includes a grocery store, office buildings, a bank, and a sit down restaurant. They want Concord to rezone the Whitney Road area and they've done their political footwork. However, Lucy doesn't see anything in Rauseo's proposal about the intersection getting resolved. Laurie writes that they would like to have the road improvements and projects done. No solution is proposed.

(Jim needed to leave the meeting and appointed Hillary to act as Chair in his absence)

Hillary asked Lucy what she wanted us, as a Board, to do. She'd like Laurie Rauseo to come in and explain her plan. She'd like to see a process that leads to a resolution. Kent suggested Andru Volinsky come in as well. Lucy also felt it would be helpful for the Canterbury residents living in that area to come and hear what Laurie and Andru have to say.

It was unclear to this Board whether the Exit 17 project has been deemed regional impact by the Concord Planning Board. We have not received notification. The Board's secretary will call Concord Planning Department to determine where they're at with regional impact and report back to the Board.

Other Business:

- Tyson discussed a warrant article in Sanbornton to change frontage requirements in their Zoning Ordinance.

Kent made a motion to adjourn, Joshua seconded. Vote: Unanimous. Meeting adjourned at 8:20 pm.

Lori Gabriella, Secretary

Next meeting: February 27, 2018