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TOWN OF WINCHENDON



Planning Board

Telephone (978) 297-5414

109 Front Street
Winchendon, Massachusetts 01475-1758
Minutes of February 4, 2014

PLANNING BOARD MINUTES

SEPTEMBER 16, 2014

PRESENT: Chairman Fedor Berndt, Vice Chair Guy Corbosiero, Clerk James McCrohon, and Greg Vine.

Doneen Durling, recorder

Robert Van Dyke

Shawn Bator

Kelly Bator

Joseph Bulger

MATERIALS:

Agenda September 16

Millers Rum URD Layout WSK 3375-1 MA Electric/National Grid.

Letter to Garry Bator

Letter to PB concerning Annabelle Bulger Estate ANR from ZEO Paul Blanchard

Zoning Bylaw amendment proposal

Definitions proposals

MRPC Data Presentation to the Master Plan Committee

Call to Order: 7:02 PM

Pledge of Allegiance

The chairman asked the members of the board if there were any announcements

The chairman announced there are two positions, a seat and an alternate vacant on the board. He invited letters of interest and said applicants would be invited to visit the board.

Mr. Corbosiero said the Central Street Revitalization Workshop is Monday September 9 at the Old Murdock High School and said he hoped people would come. He said discussion would include Regional Planning and Landscape Architecture graduate students from UMASS would be running the workshop attempting to determine what the members of the town would want in the center of town. He said he believed the workshop would be a catalyst to start the whole process, and encouraged all to show up at the Senior Center at 5:30 PM Monday September 29.

The chairman said he would like to see the workshop advertized on the town website and throughout the town.

Mr. Corbosiero said at the previous day's Master Plan Committee meeting, the planning agent announced it would be on the website and posted around town. It was also in the Winchendon Courier.

The chairman said he would like to get word to the schools.

Mr. Corbosiero said that was also part of the discussion; that the student member of the MOC would get out word to other students so they might attend.

MILLERS RUN DISCUSSION

The chairman called Millers Run developer Robert Van Dyke. Mr. Van Dyke said he was invited in to update the board on the status of Millers Run and the sidewalk in front of the Cournoyer's residence.

Mr. Van Dyke said his company has retained Arlington Paving to pave. He said they are on call. Mr. Van Dyke said the issue on the sidewalk is that they are waiting on National Grid to reach a determination. It has taken three and a half months so far. He said there was a contract in 2006-07 and they had put all the underground wires in down Pinewood Dr. in front of the Cournoyer's house, and had all the inspections done with everything laid out where the planning board approved the lots,

Everything is in the ground and has been inspected. They had a contract of \$7,800 to put the wire in the ground for the rest of the development. He said in dealing with National Grid, if you don't do something within 18 months, your service number is not prioritized. He said there are new houses built down Pinewood with service requests committed to them for the houses but National Grid does not have the manpower in the summer with employee vacations etc.

Mr. Van Dyke showed a plan with the layout. He said PVC pipe and wiring has been laid out. An engineer from National Grid came out and said it all looked good, but he needed to make sure what was put down in 2006-07 was in compliance with today's regs. He said he is in a catch 22 because if they decide he needs to make changes after he has paved, he will have to pull up the newly laid walk.

Mr. Van Dyke said the plan is to finish the last house and finish paving the driveways and to get the other sidewalk done in the fall

He said Mrs. Cournoyer said she didn't use the sidewalks anyway.

Mr. Corbosiero clarified that the wiring would be going in directly under the sidewalk in front of 14 Pinewood Dr.

The chairman said that he could understand Mr. Van Dyke's predicament, but he also understood the Cournoyer's point of view.

Mr. Vine asked how long it might be before Mr. Van Dyke hears from National Grid.

Mr. Van Dyke said they are on the phone 3-4 times a week. He said it goes through Verizon to National Grid and it is a strange set up, but that is how it works.

Mr. Corbosiero asked when the paving plant would close.

The chairman replied it was usually in mid-November.

Mr. Van Dyke said it would be by Thanksgiving. He said if they do not get it before then, they will lose the sale on the houses.

Mr. Van Dyke said one house would have a driveway paved, and the paving crew would be coming in.

Mr. Corbosiero asked when Mr. Van Dyke would have the final paving done. Mr. Van Dyke said it would be done before Thanksgiving, regardless of the whether National Grid approves the wiring or not, he would bite the bullet and build a sidewalk.

The chairman suggested Mr. Van Dyke keep the board in the loop. He advised the developer to call the planning agent to let her know how the project is progressing.

The chairman said the board would like it to work. He said Mr. Van Dyke was losing money if it does not work.

Mr. Corbosiero said that he should contact the planning agent before the first of the month so the board could be updated at their meeting.

Mr. Vine asked if the board would need something in writing, to cover themselves, that said the sidewalk would be done by Thanksgiving, because if they make a decision on that tonight, and it is not done...

Mr. Corbosiero and the chairman agreed there is a valid reason for the hold up. Mr. Corbosiero said even though he was insistent at the previous meeting that Mr. Van Dyke bite the bullet and pave, he understood the reasoning, and said if they were regularly updated, it was easier.

Mr. Van Dyke was advised again to connect for updates with the planning agent. Mr. Van Dyke told the board he would also keep in touch with Beverly Courmoyer.

7:20 PM: DISCUSSION OF 50 FRANKLIN ST>

Shawn Bator, brother to Garry Bator, and Kelly Bator, wife to Garry Bator came before the board to answer complaints on Garry Bator's business.

The chairman read the letter sent to the Bators by the planning board requesting a presence September 16, where the board would discuss site plan approval dated on April 28, 2009 on property located at 50 Franklin St. to address the fencing/screening of the property installed February 26, 2014. In addition it appears the current use of the property is in conflict with the

site plan approval and exceeds permitted use as allowed by Article 5 of the Winchendon Zoning Bylaws to include sections 5.2. 3 E Contractor's Yard.

The chairman said the first question concerned the fence. He said they had talked to Garry Bator in October of 2013 and discussed the fence not being completed. He said Mr. G. Bator shared that there was a possibility he was going to purchase abutting property, so the board understood it made sense not to complete it at that time, but also agreed that once it was determined he was not purchasing the property, he would enclose the area.

The chairman said, at this point it is not closed, and that is the reason for the meeting.

Shawn Bator, representing his brother, explained that Mr. G. Bator has been once again deployed to Afghanistan. Mr. S. Bator said that when his brother left, he was still talking about purchasing the property.

The chairman noted that there had been a reasonable time frame. It had been a year. He said he knew the market was tough.

Mr. S. Bator said his brother has been gone since April.

The chairman said he understood the property deal fell through at some point. He said his predecessor John White was emphatic that it be done. He said it was at a point now where construction of the fence needed to be completed.

The chairman said he noted that some of the fencing has been knocked down by some of the debris behind it, so it was beginning to look in shambles. He said there was a lot of concern because there were children across the street.

Mr. Corbosiero said it was a concern of his own because he was on the board when site plan approval was given. He said there was a big difference as to what was originally promised and what is there now. He said there was no building and landscaped vegetation. There was not even screening now to cover the mess. Mr. Corbosiero said they would love to see the fence.

The chairman said he understood this is the second time Mr. Bator has been deployed since the proposal first came before the board.

Mr. S. Bator agreed. He said helping with the business has been a learning experience for him.

Mr. Vine asked how often Mr. S. Bator communicates with his brother now deployed.

Mr. S. Bator said once a month maybe.

The chairman pointed to concessions made for Mr. Bator including the lack of a building and a grinder on the property.

He told the representatives that they have agreed to everything Mr. Bator has asked for, and the board wanted them to at least complete the fencing.

The chairman said they wanted to see a viable business in town, and wanted to see them succeed. He asked if Mr. S. Bator could get a fence up.

Mr. S. Bator said he could. He added that he could not do it tomorrow.

The chairman said he understood the BOH gave 30 days.

Mr. Vine said the fencing needs to be in keeping with the fencing that is already there.

Mr. S. Bator said his brother bought rugged fencing that cost more than he could afford at the moment. He said the BOH has found issues that will cost money for him to complete. Conservation also wants fencing on the back side. Each demand would cost money. He said he could make a valiant effort, but did not know if he would have enough to make it all happen.

The chairman said they would try to work with him, but noted it had already gone on for a year. He said the board has to answer to the people in town.

Mr. S. Bator said he is currently fighting with clients for money they owe.

Mr. Corbosiero said that he would advise that the Bators communicate with the planning agent to tell her what has been completed. The planning agent could update the board. He said the board meets the first and third Tuesdays of the month.

Mr. Vine said as long as they see he is making a good faith effort it would help.

Mr. Corbosiero told him to call Planning Agent Tracy Murphy.

The chairman said members could drive by to take a look at the progress.

Mr. Corbosiero said that Mr. S. Bator should call and give a verbal progress report to the planner before October 7.

The chairman said to fix the fence that is popped out. He said Mr. S. Bator's willingness to work with everybody said a lot about him.

Mr. S. Bator said he has made every effort to appease everybody. He said he would like to set the record straight from the last meeting. He said the town manager accused his brother of being a poor character; somebody who starts these LLCs in different communities, fills the property with garbage, and leaves it for the town to clean up. He said this was the first property his brother owned in which he has run an operation. He said prior, the two brothers had two pieces of equipment that they parked at their home.

Mr. Corbosiero said he was there when the project was proposed on the property, and had never heard anything else.

Mr. S. Bator said he was approached on the street by people referring to the town manager's comments, and has been approached by reporters with those comments.

The chairman said that maybe Mr. S. Bator should go talk to the town manager. He said the town manager's door was open and he would talk to him any time.

Mr. Vine said those comments were not made before the planning board.

Mr. S. Bator said this is Garry Bator's 4th deployment for the Army. He is a highly decorated officer having received a Bronze Star and a Purple Heart.

The chairman said Mr. S. Bator owed it to his brother to talk to the town manager and clear things up.

The chairman asked if there should be a motion and vote to clarify what was being asked of the Bators.

Mr. Corbosiero said he believed it was already on record, and no vote was needed.

Annabelle Bulger Estate ANR

The chairman said the board had talked and looked over the plan at the last meeting.

Mr. Corbosiero said he reviewed the ANR by email and saw no problem with it.

He said he wanted it noted that the board was waiving the frontage requirements and the board has to state they are waiving the rules and regulations in regards to ANR as it pertains to this parcel,

The chairman asked if anyone on the board had questions. He said it was self-explanatory.

Mr. Bulger said the property once belonged to his grandparents from West St. to Brown St. He said his mother decided to sell off lots so she could have company. One piece was left for his sister after she got married. He said he was executor of the estate and wanted to fix the problems now.

Mr. Corbosiero moved that the board endorse the ANR as presented, waiving the regulation/second by Mr. Vine

Corbosiero (Y) McCrohon (Y) Vine (Y) Berndt (Y) 4 – 0 Approved

Mr. Bulger noted that Planning Agent Tracy Murphy was very good, and he appreciated her help.

FALL TOWN MEETING DISCUSSION

Mr. Corbosiero said he had other things for town meeting. He passed out definitions to be added to the Zoning Bylaws.

Mr. Corbosiero said tonight they would be deciding on when to hold a public hearing and what would be included in the hearing.

Mr. Corbosiero said he came up with the amendment for deleting dimensional requirement in Article 6 Section 2.3.

Mr. Corbosiero said in cases such as Mr. Bulger's, a variance is required. He said a variance is a very tough item.

The chairman said variances are illegal but allowed.

Mr. Corbosiero read a definition, saying Variances are exceptions to the language of the zoning bylaw that should only be granted by a super majority vote only in very narrow circumstances.

Mr. Corbosiero read the current bylaw. "Any lawful, pre-existing non-conforming structures or buildings or uses may be reconstructed, extended, or altered provided that the alteration or extension is in accordance with the applicable dimensional requirements of Article 7 of this Bylaw."

Mr. Corbosiero said in Mr. Bulger's case that means he has to have the square footage for the zone he is in. He is in an R80 zone, which has changed over the years, and he only has 70,000 square feet, which forces him to get a variance.

Mr. Corbosiero said that by striking "is in accordance with the applicable dimensional requirements of Article 7 of this bylaw," and adding instead "does not create any new nonconformity," would allow Mr. Bulger and others to seek a Special Permit as opposed to a Variance.

Mr. Corbosiero said it would help the ZBA keep in spirit of what a Variance is. He said the board has time to check it out, but having a hearing would be a good first step.

The chairman said they could introduce it at the hearing and have time to tweak it a little bit. He asked how it would reflect with the Master Plan.

Mr. Corbosiero said it would not have an effect on the Master Plan because it just has to do with the zoning areas. He said an SJC decision two months ago concerning non-conforming that stated what was suggested in the bylaw.

He said it does not create any new non-conforming.

The chairman said if the board was in agreement they would put the proposed amendment on the agenda for the hearing.

The chairman asked if they should get town counsel to give an opinion.

Mr. Corbosiero said he believed it could be okay, but left it up to the chairman.

The chairman asked if the rest of the members felt comfortable.

Mr. Vine said he was just finishing up his first year, and deferred to the long-term members, saying if they were comfortable with it, he was comfortable as well.

Mr. McCrohon said he did not like the last sentence which reads, "In addition, no such building shall be added to, enlarged, or reconstructed to an extent greater than 50% of its area at the time of the adoption of this bylaw or such amendment or except as provided for in Section 4.7.4M.

Mr. McCrohon said he did not know what that means.

Mr. Corbosiero said that a non-conforming structure could not ^{be} added to by adding over 50% more of the original area. A variance could be granted if the increased area has no impact, and is not detrimental to the neighborhood.

The board moved on to definitions submitted by Mr. Corbosiero.

The chairman reminded members what they had spoken about in the beginning including Open Air Storage, Motor Vehicle Repair, Motor Vehicle and Equipment Sales, Contractor Yard,

GVWs, Stockpile, Motor Vehicle Classification, Fabrication, Hydro Power, Intermittent Lighting, and Trailers.

Mr. Corbosiero said he did not find anything on Open Air Storage. He said he would bring Motor Vehicle Repair, and Motor Vehicle/Equipment sales to the next meeting he found on line from the state of Michigan.

Mr. Corbosiero said he did not find anything on equipment sales.

Mr. Corbosiero found something on Contractor's Yard.

The Board decided on the more specific bylaw which was altered to read, "Contractor's Yard — A facility used for the provision of general contracting services associated with business including, but not limited to general construction and landscaping trades, which may include office and workshop areas and areas for the storage of equipment, including but not limited to motorized vehicles, parts and/machinery, and/or materials used in association with the contractor's business."

The board discussed stockpile. The chairman said that they have run across it at many sites, and they need to get control because it is excessive.

Mr. Corbosiero said he could find no definition because it was very generic.

Mr. Berndt said Motor Vehicle Class I, II, and III operation which is defined by the state.

GVW is also defined in MGL

The board agreed MGL trumps local bylaws.

The board agreed to choose one of three definitions provided by Mr. Corbosiero under Fabrication

Fabrication — Manufacturing Process in which an item is made (fabricated) from raw or semi-finished materials instead of being assembled from ready-made component parts."

The Board chose one of two Hydro Power definitions submitted by Mr. Corbosiero.

"Hydro Power — Power derived from the force of energy of moving water."

The board chose one of three of Mr. Corbosiero's submissions for Intermittent Lighted. Mr. McCrohon said "sequentially" should be inserted.

"Intermittent Lighted — Light alternately ceasing and beginning again sequentially or alternately."

The chairman said he did not find much on trailers. He said it would give the enforcement officer something to work with. Right now he can do little because a trailer is not considered a motorized vehicle, so if there are 20 trailers on a lot, the enforcement officer can do nothing about it.

The chairman said he would do more work, and asked if someone else would do some research.

Mr. Vine asked what the board was trying to accomplish.

The chairman said if one drives around there are many trailers in yards unregistered. They do not have to be registered because they are not motorized. He said if there is an unsightly situation setting up, the enforcement officer has no law to go by to deal with it.

The chairman said the things for town meeting would include the article amended by Mr. Corbosiero, the definitions described, and the Special Permit Article previously approved by town meeting, but withdrawn when it was learned Gardner was not informed.

DISCUSSION ON INDUSTRIAL ZONE/ SPECIAL PERMIT

Mr. Corbosiero owns property in the industrial zone, and excused himself as a board member from the table, but stated he would join the audience, and if the board sought input, he would come forward.

The chairman said landowners of what was once the Lost Lake Campground wish to reopen a campground on site, but can't because the property is in an industrial zone. The chairman said the property would never invite industrial use because of where it is located. He said what they wish to do is include in the Zoning Use Table for Industrial Zones that Recreation is allowed by Special Permit.

The chairman said Lost Lake and Glenallen Mills, are two examples of industrial land where recreation could be allowed by Special Permit.

The chairman said it opens up a lot of properties that are currently not useable.

He said they were looking to use the special permit as a tool now, but when the Master Plan is completed, hopefully it would allow for a look at more useful zoning. Right now it gives a solution to a problem.

The chairman said racing is allowed by special permit.

The chairman asked if the board would be interested in putting it on the public hearing agenda.

Mr. Vine said on the face of it he has no problem with it.

Mr. Corbosiero stepped forward for public input and introduced himself to the board. He said he was speaking as a private citizen and as an owner of property in the Industrial Zone. His property abuts an R10 zone, but it is industrial. He said he would like to open up his land and take everything that is NO in and industrial zone, and make it Special Permit. He said the town of Winchendon could use any new business that could come in. He said by keeping large chunks of land like his in Industrial use only creates a situation where the town has missed opportunities for business. He said it would not take a lot to do it. Instead of going and changing the zoning on his land,

Mr. Vine said he was willing to discuss.

The chairman said applicants for other uses could come before the board for a special permit.

Mr. Vine said he would fully support putting it before the public to vote on.

Mr. McCrohon agreed.

The chairman said the Industrial land use table would be included in the public hearing agenda.

Mr. Corbosiero was invited back to his seat.

MASTER PLAN COMMITTEE UPDATE

Mr. Corbosiero brought a packet from the Master Plan Committee Meeting where John Hume from the MRPC made a presentation compiling data.

The chairman said the committee is still in its defining stages.

Mr. Corbosiero said he attended the meeting and they had large maps made up by the MRPC that showed the topographical area in 30-foot increments. He said there was a map made up using colors. There was also a computer-generated map showing the area from Wachusett to Monadnock.

He said data shows that the median age in Winchendon is increasing. He said Winchendon's elderly population is increasing while its 0 – 18 population is decreasing.

The chairman said the town has little to offer its children.

Mr. Vine said that was why he was excited about Ingleside, because of what it might offer for children.

APPROVAL OF MINUTES — September 2, 2014

Mr. Corbosiero noted 3 corrections

He said the first error was under when Attorney Glenny was present. Fall Town Meeting Articles is missing the T.

Above it the W is missing for the first week in October.

Under Master Plan Committee Update it should read 5:30

Mr. Corbosiero moved to accept the minutes as corrected// second by Mr. Vine.

Corbosiero (Y) McCrohon (Y) Vine (Y) Berndt (Y) 4 – 0 Approved

CORRESPONDENCE

There will be a Boot Drive run by the Winchendon Lions October 11 from 9AM to 1PM.



MRPC/MJTC

There was nothing to report.



OTHER BUSINESS

The chairman said he had a letter of interest from Beverly Cournoyer. The chairman said he would invite Ms. Cournoyer to the next meeting.

The board agreed that out of respect, the BOS would retain the right as appointing authority.

The chairman said that Diane Sevigny has a new job, and though he has invited her to attend, he thought her hours might be prohibitive.



Mr. Corbosiero told fellow members to watch their emails for the upcoming fall training opportunities.

Mr. Corbosiero said that Master Plan training in November might be a good opportunity for some members of the Master Plan Committee.

The chairman said he wants the Master Plan Committee to know they are supported. He said they have offered all their resources. He said maybe the MPC Chairman should be involved in the training when they see it.

The board said maybe the chairman of the MPC should be invited to the next meeting.



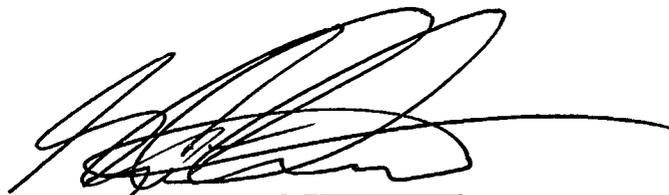
Mr. Vine made a motion to adjourn/second by Mr. Corbosiero

Corbosiero (Y) McCrohon (Y) Vine (Y) Berndt (Y) 4 – 0 Approved

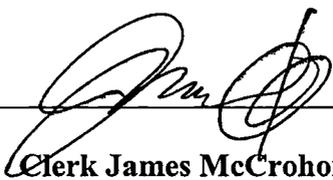
ADJOURNED 8:52 PM



Chairman Fedor Berndt



Vice Chairman Guy Corbosiero



Clerk James McCrohon

Greg Vine