

The Planning Board of the Town of Cambridge held a joint meeting with the Cambridge Town Board, at Town Board's request, on February 4, 2010, 7:30 PM at the Town Hall.

Planning Board Members present: Charlotte Banzhaf, Earl Horton, Mark Rogers, Dan Thomas, Gerald Moppert, Eric Pearson, Stuart Ziehm, Secretary Sally Eddy

Town Board Members present: Supervisor William Watkins, Cassie Fedler, Alan Davis, Ted Berndt, Frank Ziehm,

Others present: Town Clerk Heather Greenawalt, Chris DeBolt, Leah Everhardt, Rani Bass, Henry & Harriet Peabody, Gerald Skiff, Bonnie Farrell, Tony Millington, Dan Schmitt, Nancy Mabeus, Scott Keller, Jim Buckley, Robert McIntosh, Theresa Scully, Gloria Collery

Planning Board Chairman Eric Pearson called the meeting to order and presided.

Minutes

Charlotte Banzhaf motioned, seconded by Gerald Moppert, to approve the minutes of the January 7, 2010 meeting as mailed by the Secretary with no additions or corrections.

Vote: 7 – Ayes 0 – Noes

No Communications

No Unfinished Business

New Business

Chairman Pearson opened up the discussion with Town Board.

Supervisor Watkins began by citing a subdivision at the corner of Cobble Road and County Rt. 59 consisting of 70ft. x 73ft. which was part of the Robert McIntosh Subdivision. Mr. Watkins did not fault the Planning Board for approving the small lot because the town has no regulations in place which control the size of lots. He said we need regulations to future govern the size of parcels being subdivided.

Supervisor Watkins suggested a Master Plan would help develop the town into what we want the town to look like. It's an agricultural/residential community and we need to maintain it. You (the Planning Board) need to set down and write up ideas and bring them to the Town Board.

Charlotte Banzhaf interjected that's what we tried to do with the Comprehensive Plan.

Supervisor Watkins responded that we don't need a Comprehensive plan but rather a Master Plan.

In reference to the lot Mr. Watkins spoke about, Chairman Pearson offered a clarification by saying the parcel did not stand alone but was to be combined with a larger adjacent parcel. Combining it with the adjacent parcel was a condition for approval and a note on the subdivision map confirms it.

Chairman Pearson added that the last attempt at a plan for the town went nowhere.

Gerald Skiff said we're here to start a dialogue. Mr. Watkins added that's why he invited Washington County Planner Chris DeBolt to the meeting.

Town Board member Alan Davis asked if there was a minimum lot size? Chairman Pearson responded “no”. He added that when the board approves a subdivision the approval is governed on the fact that the parcel has enough room to adequately accommodate a well and septic. Code Enforcement LaVerne Davis assists in determining if the lot is big enough.

Mr. DeBolt remarked that NYS Building Code Law says that septic and well can be installed on a lot of 1/8 of an acre. However, the distance from the septic and well of adjoining properties has to be taken into consideration.

Mr. Pearson said the Planning Board cannot do a lot without zoning. He asked Mr DeBolt if you can have site plan review. Without zoning? Mr. DeBolt stated yes, but even with site plan review the board is limited. They can oversee safe ingress and egress but cannot control minimum lot size or set backs. Minimum lot size constitutes zoning and it’s considered a taking of property by the government because it limits what a person can do with their property; and you cannot have a taking without due process. Therefore, an appeals process has to be available and that’s accomplished through establishing a zoning board of appeals (ZBA). A Planning Board decision has no appeals process.

Leah Everhardt, an attorney from the firm of Miller, Mannix, Schachner & Hafner LLC, Glens Falls, NY, stated the firm does a good share of municipal representation over planning and zoning matters in Washington, Saratoga and Essex Counties. She disagreed with Mr. DeBolt by stating that even though a planning board decision can’t be appealed at the town level it can be appealed at higher level through an Article 78 proceeding where a court examines the decision. She stated having zoning doesn’t save you from regulatory taking. Zoning and regulatory taking are two different things. She added that the Planning Board has broader powers and more authority than a Zoning Board of Appeals. The ZBA addresses hearings only on zoning issues.

Rani Bass asked if the town could have minimum lot size without zoning?

Ms. Erverhardt responded that’s a bit of a gray area. The purpose of zoning is to divide the town into zones in order to regulate certain criteria through an ordinance. However, the town needs a Master Plan in order to adopt zoning.

Ms Everhart didn’t necessarily think zoning was the answer. . She spoke about the Town of Argyle which, currently, does not have a zoning ordinance. A previous Town Board favored zoning and the residents did not. Nevertheless, the board adopted it. Following the next election, the new officials in office repealed it and kicked it out.

The town could adopt separate and distinct ordinances to address items of concern. She spoke about the usefulness of site plan review.

Supervisor Watkins inquired how does the town begin to develop a Master Plan?

Ms. Everhardt replied a Master Plan is not necessarily a single document. She stated you need to ask yourselves where do you see your town going? You may already have a number of documents in place that address the town’s direction which could be incorporated into a Master Plan. It does not have to be a complicated, all encompassing, restrictive document.

Resident Nancy Mabeus urged the Town Board and Planning Board to work off of the ordinances that are already in place. They are opened ended and can be amended. When there is a problem work together to try to solve it. She is against zoning and a Comprehensive Plan.

Resident Robert McIntosh distributed a small seven sheet pamphlet that contained a zoning ordinance from the town of Alstead, NH that was adopted in 1989. Mr. McIntosh stated Alstead is a small rural town similar to Cambridge with a lot of forest land. The town is divided into three zones; Lake, Village and Rural. There is a two acre minimum lot size for subdivisions and the document lists all land uses, approximately 40, that are regulated to various degrees. The ordinance provides a lot of flexibility and is written in plain, easy to understand language. He stated he was not advocating zoning or that the town should copy their plan. He wanted to related how that particular ordinance worked for that particular town.

Chairman Pearson commented that one of the best things we can do is to investigate what has worked and not worked for other towns similar to ours.

Gerald Skiff asked if Alstead's plan could be implemented by the Board?

Ms. Everhart commented that zoning is a tool to fix a problem or address a concern. She asked what is the evil in the town that zoning is supposed to address?

Gerald Skiff responded dumps and junkyards.

Ms. Everhardt stated there is a state law in existence regulating junkyards. You don't need zoning to regulate them. If you adopt a junkyard law, the applicant has to come before the Town Board for approval.

Mr. DeBolt remarked that the town can pass a local law regulating junkyards using the state model or it could pass a more restrictive one. However, the town's law cannot be less strict than the state's. The Town of Whitehall just updated theirs along with restricted use of dumps.

Scott Keller asked what's the enforcement if the owner is out of compliance?

Mr. DeBolt responded that it's written into the regulations under the Enforcement Clause. Some towns require the owner to post a security bond.

Rani Bass commented that we can all probably agree there are some things we don't to see in the town such as dumps, junkyards and rendering plants. She stated we don't need a zoning ordinance like Alstead which could prove to be divisive. She stated the Town of Greenwich has a very complicated zoning law. She suggested we be specific and address only those items that concern us as a town. She recommended the town amend the subdivision regulations and/or pass specific ordinances addressing the concerns.

Chairman Pearson expressed a concern he had regarding large developments such as a 100 acre parcel being subdivided to accommodate 100 houses. We can't stop that. He asked what type of action would it be that would address it?

Mr. DeBolt responded no with the town's current regulations as they stand. The NYS Health Department Law of 5-5-3 may help control it but not stop it. The law states that if the subdivision contains 5 or more lots on 5 or fewer acres over a period of 3 years then the subdivision is subject to health department review. It may influence the access roads.

Site Plan review was discussed again at length. Ms. Everhardt assured both boards that the town has the authority to pass site plan without having a zoning ordinance in place. She added that the subdivision regulations can be amended to include site plan review, a valuable tool. Each site plan should be looked at separately and specific to the individual property while exercising reasonableness and fairness to the applicants.

Planning Board member Gerald Moppert stated he thinks there are three areas of concern that the town needs to look at:

- 1) large adverse impacts such as dumps, junkyards, race tracks
- 2) Subdivision concepts –what's the vision for the town? Lot size –do we want to control it?
- 3) ridge top and hillside development, set backs from roads, lighting concerns
- 4)

Robert McIntosh asked if non-permitted land uses could be included in site plan review?

Ms. Everhardt responded no. Site plan addresses location and set backs.

Jim Buckley said the state has a lot of regulations. Can't the town use some of them?

Scott Keller asked if the town could supersede the NYS building code law with regard to the septic and well distance. The state requires 100 ft between them. Can the town establish 200ft? Since the town enforces the law through a local code enforcement officer can the town increase it? Could it be used as another means of regulating the build ability of the property?

Mr. DeBolt responded that the town would probably have to show rationale behind it. However, he doesn't know for sure if the town could change the distance requirement.

Ms. Everhardt said she thought it could be changed.

Chairman Pearson stated we should invite the town's people in and ask them what they want for the future of the town. It should be an open and honest process.

Mr. Keller stated we should use the criteria of health, safety and general welfare of the town as a basis for planning the town's future and not get into specific issues such as aesthetics.

Stuart Ziehm asked if we adopt site plan review could it be clearly defined and tailor made specifically for the Town of Cambridge and not have to adopt what other town's have in place?

Mr. DeBolt answered it can be whatever you decide it to be.

Rani Bass suggested we focus on what we agree upon making it limited and easily understood rather than a comprehensive piece of legislation,

Nancy Mabeus stated that when the Comprehensive plan was presented, she understood the people in the town were concerned about individualism, losing their individual freedoms. She encouraged both boards to incorporate the ordinances they have and use their authority.

Dan Thomas urged both boards to address the issues that are of concern: dumps, junkyards and toxic waste. He said his daughter lives next to a junkyard (licensed as an auto repair business). She pays taxes and it's just not right. He was told by the last town board there was nothing to stop it but tonight he learned there is a state law regulating junk yards.

A discussion ensued around the loop hole that exists between junkyards and auto repair business.

Supervisor Watkins stated we need to start with site plan review first.

Scott Keller asked if the Town board could pass legislation regulating the posting of a performance bond for certain business such as junk yards? Its content could say that as of a certain date if you want to continue in business prove to the town you can furnish insurance or post a bond.

Ms. Everhart suggested passing an ordinance dealing with blight throughout the town and not just limiting junkyards. There would be no need to post bonds. The ordinance would force properties to be cleaned up. A grandfather clause would allow the owner to keep the use as is, however, it would be mandatory to clean it up and remove the blight or face consequences.

Gerald Moppert stated there are two issues that need to be addressed. The Town Board should deal with junk yards and dumps and the Planning Board deal with site plan review. Let's get them assigned and move ahead.

Stuart Ziehm asked if anyone knew why the Town of Salem threw out their site plan review?

Rani Bass answered that it was unbelievably restrictive.

Councilwoman Cassie Fedler suggested that since the Planning Board is familiar with the planning process and knows what concerns they have, they should come up with recommendations for site plan review and present them to the Town Board for review and approval.

Councilman Frank Ziehm stated the site plan review ordinance can be reviewed periodically and added to as needed. Everything doesn't have to be in it now.

Supervisor Watkins thanked the Planning Board for their cooperation and said we will continue to communicate with each other over the future planning of the town.

There being no further business before the Board, the meeting was moved and carried to adjournment at 8:53 PM.

Respectfully submitted,

