

CAMDEN PLANNING BOARD
Minutes of Meeting
June 2, 2010

PRESENT: Chair Chris MacLean; Members Richard Householder, Jan MacKinnon, Kerry Sabanty and Lowrie Sargent, Alternate Member Sid Lindsley; CEO Jeff Nims and Select Board Liaison Deb Dodge

ABSENT: Alternate Member Nancy McConnel

1. PUBLIC COMMENT:

No one from the Public came forward.

Mr. Sargent congratulated Mr. Lindsley on behalf of the Planning Board for being chosen as the citizen to whom the Annual Town Report for 2010 was dedicated in thanks for his many years of service to the Town.

2. MINUTES:

May 19, 2010

Page 1: Line 41: Because the letter mentioned here from the abutters to the Wharf expansion project had only been referenced and not provided, the Recording Secretary was asked to clarify the language and a new sentence was added. The entry now reads: “Mr. Neville informed the Board of a letter from the neighbors abutting saying that they approve of the project – there is no controversy. A copy of the letter was not provided.”

Note: During the discussion of this correction Mr. Householder asked Mr. Nims if a document referenced in a review should be submitted. Mr. Nims replied that when an applicant mentions a letter, for example, and it is not provided, the Board must rely on the Applicant’s statement alone without having the actual wording of the letter as part of the record.

Page 7: Line 4: Mr. Householder questioned the accuracy of the entry regarding the creation of the Historic Standards Subcommittee – he asked if there was a record of a motion having been made to formally create the working group. After listening to the tape recording of the meeting the recording Secretary could not find that motion.

Mr. Householder was also concerned that the discussion regarding the intent of the Board in forming this group had been misstated. Beginning at Line 4, the paragraph now reads:

(1) “Mr. Householder asked the Board to move forward with their decision to address historic buildings and their features and how to develop design standards to accomplish this – either as part of the Downtown Design Standards the Board is currently working on or as a separate ordinance all together. He believes it is time to address this issue and asks that a committee be formed...”

Page 4: Line 49: Mr. Dickey does not represent the public he is simply a member of the public sitting as a member of the working group.

Page 7: Line 18: “They were ~~unanimous in~~ supportive of wanting to see her attend...”

MOTION by Mr. Sabanty seconded by Mr. Householder that the Minutes be approved with comments made.

VOTE: 5-0-1 with Ms. MacKinnon abstaining due to her absence

3. SITE PLAN REVIEW: WHARF EXTENSION

Fred Blake: 50 Bayview Street: Map 119 Lot 9: Inner Harbor (BTH District)

PUBLIC HEARING

The owner was represented by Gary Neville of Permit Consultants, agent for Fred Blake, seeking permission to extend an existing wharf. Mr. Neville briefly introduced the proposal to the public attending as an approximately 11' x 16' extension of an existing wharf at the property next to the Waterfront Restaurant and will look exactly like the work that was done to the Waterfront area during recent repairs there. The wharf will be installed behind already existing floats and will be pile supported so the tide will flow through. All the required permits approvals from the State and the Army Corps are in place.

During the review of the submission requirements at the previous meeting three items were found to be outstanding:

- A revised Site Plan dated May 26, 2010 has been submitted.

Section 3

(4)

(m) Location and dimensions of any existing easements and copies of existing covenants or deed restrictions.

According to Mr. Nims, the deed submitted indicates that there are no covenants that apply to the area covered by this project, and none of the easements shown on the revised plan are relevant to the wharf expansion.

(5)

(a) A site plan stamped and sealed by an engineer registered in the State of Maine.

The revised Site Plan prepared by Landmark associates is stamped and sealed by both a registered engineer and a licensed surveyor.

(b) An elevation showing the height of the pier in relation to normal high water.

A revised Sheet 2 prepared May 26, 2010, shows the Mean High Water Mark (MHW) of 9.8'

- A letter dated May 24, 2010 providing additional information on the method of construction was also provided.
- Mr. Nims confirmed that the required notice to abutters had been mailed. An email from the Harbor Square Association was placed in the record. (The abutter letter Mr. Neville had referenced at the previous meeting discussed during review of the minutes.) The email dated February 4, 2010

The Board was in agreement that the submission requirements have been met.

Questions from the Board:

Mr. Sabanty: He had looked at the site from the water and noticed that there were several dinghies that tie up inside the existing floats. He wonders if the owners of these boats will still have access to use the area and asked how they would deal with the fact that the cross ties will make it more difficult to come and go. Mr. Sabanty noted that on the Site Walk Mr. Blake had indicated that he didn't want the crossbars used so the dinghies could come and go. Mr. Neville

replied that the boats are tied there now as a courtesy, and Mr. Blake hopes he will be able to maintain at least one or two of these slots after the construction.

The Chair opened the floor to comments from the Public – there were none and the first portion of the hearing was closed.

SITE PLAN APPROVAL CRITERIA:

The five regular members are voting:

(1) Preserve and Enhance the Landscape

MOTION by Mr. Sargent seconded by Ms. MacKinnon that there is no landscaping required because the activity will take place in the ocean.

VOTE: 5-0-0

(2) Erosion Control

MOTION by Mr. Sargent seconded by Mr. Sabanty that erosion control is not applicable to this proposal because all of the work will take place in the ocean and not on the shore.

VOTE: 5-0-0

(3) Relationship of the Proposed Building to Environment and Neighboring Buildings

MOTION by Ms. MacKinnon seconded by Mr. Householder that the project does fit harmoniously with the site and with similar structures nearby and that it will not interfere with solar access of nearby buildings.

VOTE: 5-0-0

(4) Vehicular Access, Parking, and Circulation

MOTION by Mr. MacLean seconded by Mr. Sabanty that Vehicular Access is not applicable to this application.

VOTE: 5-0-0

(5) Surface Water Drainage

MOTION by Mr. Householder seconded by Ms. MacKinnon that the proposed addition does not impact drainage because surface water will drain down through the structure.

VOTE: 5-0-0

(6) Public Utilities

MOTION by Mr. MacLean seconded by Mr. Sabanty that this is not applicable because there are no public utilities.

VOTE: 5-0-0

(7) Special Features of Development

MOTION by Mr. Sargent seconded by Mr. Householder that Special Features of Development is not applicable because there are none.

VOTE: 5-0-0

(8) Exterior Lighting

MOTION by Mr. MacLean seconded by Mr. Sabanty that Exterior Lighting is not applicable because the Applicant has stated that no exterior lighting is proposed for the wharf addition.

VOTE: 5-0-0

(9) Emergency Vehicle Access

MOTION by Mr. MacLean seconded by Mr. Sabanty that this criterion is not applicable to this application.

VOTE: 5-0-0

(10) Special criteria for Piers, Wharves...and other uses requiring site plan approval under the terms of the Ordinance. In addition to the above approval criteria, the site must be demonstrated to be suitable for the proposed use according to the following special criteria.

(a) The project must not cause undue erosion on or near the site.

(b) The proposed use must not cause degradation of marine life in or near the area.

MOTION by Ms. MacKinnon seconded by Mr. Householder that based on the submission of the DEP permit, the Department of Conservation Submerged Lands Lease, and accompanying submissions from the Army Corps of Engineers and the May 24, 2010, letter on construction methods that the Board is satisfied that there is no impact on the criteria of this section.

VOTE: 5-0-0

The Chair opened and closed the second portion of the Public Hearing when no one came forward. The Chair then closed the Public hearing.

MOTION by Mr. Sargent seconded by Mr. Sabanty that since all ten Approval Criteria were found to be satisfied or not applicable by the vote of the Board the Application for the Wharf Extension should be approved.

VOTE: 5-0-0

Although not required to do so, the Applicant had added a signature block to the Plan. Although not required to do so, the Board members signed the Plan stating that it is their policy to do so. It is in the best interest of the Applicant and the Town to have a signed copy of the plan as approved as part of the official record.

Mr. Neville responded to a question about a start date for the project by informing the Board that the DEP has a new rule in effect starting this year that there can be no drilling for pilings from April 1st to October 1st; they will start construction in October.

DISCUSSION:

1. *Site Plan Review pre-applications:* There were none.

2. *Minor Field Adjustments:* There were none.

3. *Proposed New C-R Use*

The Chair stepped down for this review because his law partner, Jim Elliott is presenting the proposal. Mr. Sargent sat as Acting Chair.

Mr. Nims began by informing the Board that he and Mr. Elliott met to discuss changes recommended by Mr. Nims to the previous draft language only to the extent that the wording was consistent with other ordinance language.

Jim Elliott, an attorney with Elliott and MacLean, LLP, and Michael Thompson, Managing Director of Fox Hill Properties, were present to discuss two proposed Ordinance Amendments necessary to permit a Conference Center in the Coastal Residential Districts of Camden. Mr. Elliott's clients, Matt and Ellen Simmons, own the Fox Hill Property complex where they would like to develop such a center if voters approve the amendments.

Mr. Elliott explained that the Ordinance currently does not specifically define Conference Centers as a permitted use, and he could find no other defined use that even came close to what the Simmons would like to do with their property. The proposal comes in two parts: Adding the permitted Use to the C-R Section, and including a Definition of Conference Center. He realizes that it is hard for Board members to look at a proposed definition without the benefit of a particular application, and he offered to share the Simmons' goal for this property to help make their proposal easier to put into a context.

1. They want to promote a sector of the local economy that would not be based on seasonal tourism.

2. They want to support and enhance the same kinds of intellectual endeavors that this area has become known for.

3. They *do not* want to compete with the larger conference centers for business; they do not want to take business away from local inns and B&B's and restaurants; and they have designed their proposal to limit use by the general public:

- No guests will be accepted for lodging or meals who are not pre-registered and attending a specific conference. This will not be a hotel with a restaurant that accepts guests off the street when a conference is not in session. They estimate days, and even weeks, when there will be no conference activity on the site.
- They will have, perhaps, 25 rooms at the most; there are 18 currently. So, there will certainly be a need for additional lodging to house conference attendees.
- There will be a demand for two or three meals a day for attendees since the conferences will be catered events, and not all meals will be included, even for those lodging on site.

Their model is a high-end site holding small and medium-sized conferences that will provide economic benefits to the area by way of increasing the demand for rooms and meals when the business is most needed. The hope is to create an economic asset that results in keeping local businesses busy year-round.

They sent letter to neighbors in an area encompassing outer Bayview and Chestnut Streets. 21 letters just went out, and since many of the neighbors are seasonal residents, letters were sent to out-of-state owners' home addresses. When those addresses were available, letters were sent to the local address as well.

The Simmons realize that in order for the proposal to succeed, they will have to work to collaborate with neighbors to refine the amendments. The proposal has been designed to offer neighbors many avenues of input into the process from the very beginning. First, at the Ordinance drafting stage itself the public will be given several opportunities to speak. Then, the Simmons are asking the Board to permit this Use as a Special Exception, which will add an extra layer of permitting by involving the Zoning Board of Appeals. Review for a Special Exceptions Permit requires addressing the impact of the business on the neighborhood, and there will be a

Public Hearing as part of this process. This is the opportunity to address issues like noise because, in granting Special Exceptions, the ZBA can set conditions of approval that go beyond the limitations of the Ordinance as written to further reduce impact.

In addition, a project would also require Site Plan Review and the Planning Board would be able to assess other impacts from their perspective. This would be an additional opportunity for neighbors to express their concerns.

Mr. Thompson re-stated the concept that activity at the site would be limited to invited guests (conference attendees).

Questions from the Board:

Mr. Sargent: The Board realizes that it is not just the Simmons who would be able to have a conference center, and that this proposal would affect all the C-R Districts. He asked Mr. Nims how he thought the Board should proceed. There is much more information they will need. Mr. Nims suggested holding a Public Information Meeting at the June 16th Board Meeting. The Simmons hope to go to the voters in November and to do this the Board would have to use their July 7th and 21st meetings to work on the draft, hold the required Public Hearings in August and send the proposal on to the Select Board by early September.

Mr. Householder: Addressed the Definition by saying that he thought that it needed more work to define “General Public” or “Attendees” – Mr. Elliott agreed saying that it has been a struggle to come up with the right wording for the concept.

Mr. Elliott stated that a *Village Soup* article before the meeting outlining the proposal before the Board and abutters were informed of the details was not the plan – they were not looking for press, but a reporter called and asked questions about an advertised agenda item.

Mr. Householder also asked about the cemetery in Rockport that is an abutter and wondered if there was anything in the Ordinance that controlled what can take place within a certain distance of a cemetery. Mr. Nims will check.

Mr. Sargent suggested that the first question the Board needs to answer is: “Is this change to the Zoning Ordinance good for Camden as a whole?” Then they will have to define a set of Performance Standards for a Conference Center so they can measure an application against them – they will have to determine how to measure as well. There may well be something in the current ordinance requirements similar enough that can be used. He asked about High Mountain Hall the most recent new Use added – a Function Hall, but Mr. Nims responded that there are no noise standards for this use.

He believes that this is a good idea and that the Board would be negligent if they did not address the proposal, but it needs some discussion.

Mr. Householder asked how many properties in the C-R District have 12 acres or more – the minimum proposed to permit this Use. Mr. Nims will check the maps but thinks there may be 3 or 4 large properties in the C-R north of Town on Route One, but isn’t sure about others in the same C-R District as the Simmons.

Mr. Sabanty asked about parking and Mr. Elliott replied that this requirement, when defined, may be one of the limiting factors on what can be done with a property. Others are the lack of sewer and water – that could limit the numbers of guests that can be accommodated as well as allowable lot coverage that could limit the size of a complex.

Mr. Householder suggested that since the C-R District is such a large area, much research needs to be done on what would be good for the entire area. There might be properties that could house a Conference Center where the impact would be much greater on abutters than the Simmons' property. Especially with regard to noise and outdoor music – some places could be much closer to neighbors' houses. Mr. Elliott replied that was the purpose of involving the ZBA in the review process. The ZBA review will address the impact based on the specific components of each application – and will be able to set special conditions to address each situation accordingly.

Mr. Elliott then added that they would like to get on the ballot for November because it will take so long to do the work necessary to transform the property and they would like to be ready sometime next year.

Ms. MacKinnon: It is a good idea for the Town. She also wonders if there might be other Districts in Town where the same Use could apply if it were adjusted or fine-tuned for that District.

Mr. Sargent wants to see the Town's District map showing just where the boundaries of the districts are and the locations of the other eligible properties.

NOTE: The portion of the minutes up to this point was approved with amendments at the 6/16/2010 Meeting, and those changes have been made to this revised draft. It should be noted as well that this portion forward was transcribed from tape as the Recording Secretary had left the meeting.

4. Revised Downtown Design Standards

The Board discussed the changes made to the proposal regarding the "triggers". Mr. Nims did not include "the bulk of the building" as a trigger in this version of the draft, but included it by making a change instead that would cause non-residential expansion of an existing building of over 1000SF or new construction of a non-residential building to undergo Design Review in addition to the already required Site Plan Review.

The major change to the concept of this proposal is that review will be mandatory but compliance with the Board's recommendations will be voluntary. This is modeled after Belfast's experience in successfully adapting the business community to their new standards. There, they made the change from voluntary to mandatory at the end of an 18-month trial period with good support from businesses.

The Board discussed a time-frame during which changes would be counted in a cumulative manner and limiting changes that would, therefore, not require individual review to no more than three within a five-year period. Mr. Sargent brought up the point that under this concept a business may have already made three changes without review and then the fourth comes to review – what happens if the work that was already done wouldn't have passed the review? Ms. MacKinnon believes that changes made all at once with a major renovation (4 triggers or more) would have more of an impact than the same changes made over a span of years, and are more

important to review than reviewing single projects one at a time. Mr. Householder noted that in going back to the original purpose of the Standards, the Board wanted to review *all* changes to ensure that they were looking at projects that might change the character of the Town. They created the first loophole from total review to reviewing only when a project involving more than three triggers was proposed. Now, if they spread out the timeframe it will create a second loophole – make three changes within five years then make more changes – all this will be done without review and the loopholes are so big the purpose is no longer being met. Ms. MacKinnon does not want to review every change but understands Mr. Householder’s point and suggests reviewing the 2nd change made within a five year period. Mr. Sargent thinks the best option is to review all the triggers but does not believe that will pass voters – Mr. Householder agrees and suggests that making two changes or more in any two-year period triggers review. Mr. Sargent noted that repairs are not included so it will not trigger review if a roof has to be replaced or other required maintenance is needed. Mr. Nims assured the Board that this will be easy for the CEO to track with the system using separate folders for individual-property that the Code Office uses – Site Plan Review records and building permits are easy to track this way.

All agreed that the changes made have created a better proposal. But, Mr. Sargent questioned Mr. Nims further about how the Code Office will be able to keep track of changes being made that will require review with this proposal but may not even require a building permit at this time. He used the example of changing the exterior lighting for instance: Mr. Nims replied that any changes requiring more than \$2000 worth of work will require a permit, and some others will require permits otherwise -- like a new lighting fixture in a commercial building for example, requires an electrical permit – that would come to his office. Awnings with wording needs a sign permit, but he noted that the Code Office might not catch a change to a new awning if it cost less than \$2000. All the other triggers would come as a building permit if they reach the dollar threshold, so he thinks most of these changes will come to their attention.

Mr. Householder asked if the next step, if the Board approves this wording, would be a Public Hearing and Mr. Nims said it would. Mr. Householder thinks that the Board is ready to vote tonight and start the process without approving the one change they made this evening. Mr. Sargent brought up the history of opposition from the Downtown Business Group and suggested that perhaps they should be shown the proposal and asked for opinions before it goes to hearing. Ms. MacKinnon noted that there were other parties interested, and Mr. MacLean agreed with Mr. Sargent that at least the Downtown Business Group should be involved. Mr. MacLean noted that the group has a large turnout at their meetings that probably couldn’t be matched if they were asked to come to the Board. Mr. MacLean thinks he and Mr. Sargent were successful in going to the group last time, even though they were hostile to the concept as a whole, they had a large audience and it was a good forum to try to get good information out and to discuss some of the misunderstandings. Mr. Sargent commented that now is the busiest time of year for these folks and it might be hard to get a good group together. Although the Board had decided that the Downtown Review Standards Committee’s formal involvement in the drafting process had ended with their submission of a revised proposal, Mr. Nims reminded the Board that Arthur Kirklian had been a member of that committee, and as the Downtown Group’s representative it might be good to catch him up on the changes that have been made to the Committee’s draft proposal. He may know when the Executive Committee meets next. Ms. MacKinnon suggested that David Dickey be involved as well and also recommended that the fact that this proposal is voluntary be stressed again and again.

Ms. Dodge had a comment on trigger “f” and didn’t understand the intent – General Lighting. The Board agreed that the language needs clarification.

5. Gateway 1/Comp Plan amendments

Don White sent a HUD application for grants to “Sustainable Communities” – 80%/20% match community/federal government, and Gateway 1 is making an application on behalf of the entire corridor – evidently there a sizeable amount of money available. They have come up with a list of possible projects and are looking for feedback from the communities about these projects – or other projects all together. The corridor would get the 80% money and then communities would apply for their project and, if awarded, get the match when they raise their own matching funds. Mr. Nims thought this might be a way to fund the Public Landing project the Downtown Group had put forward. Mr. Sargent asked the time-frame but it is unknown. Gateway 1 wants to know if these kinds of projects are the type they would want funded.

The Board discussed the concept – and will come back to their next meeting with suggestions. Mr. Nims thought the proposal should have been a few projects that would relate to the corridor as a whole. Mr. MacLean thinks that Gateway 1 should stick to the project at hand and not take on this project as well just because there is money there; they should stick to refining this project instead.

5. June 16th Meeting:

- Proposed C-R new use
- Other ordinance amendments
- Gateway 1 Comp Plan Amendments

There being no further business before the Board they adjourned at 7:15pm.

Respectfully submitted,

Jeanne Hollingsworth
Recording Secretary