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**CAMDEN PLANNING BOARD
MINUTES OF MEETING
February 6, 2014**

PRESENT: Chair Chris MacLean; Vice Chair Lowrie Sargent; Members Richard Householder, Jan MacKinnon, and John Scholz; Alternate Member Richard Barnhard; Don White, Select Board Liaison; Town Attorney Bill Kelly and CEO Steve Wilson

The meeting of the Planning Board was convened at 5:00 pm.

The Chair announced that because the notice of the Public Hearing for the P.A.W.S. Application was faulty -- there was no meeting date provided -- the Application cannot be heard this evening and the hearing will be re-advertised for February 20.

1. Public Input on Non-agenda Items:

1) Paul Gibbons:

Mr. Gibbons was here on behalf of the owner of the Knox Mill Condominiums, Kelm Acquisitions L.L.C. They have written to the Board requesting a zoning amendment to change the use of the far end of the building along Washington Street from commercial to residential. The Ordinance requires commercial use at street level, but the owners argue that this requirement does not work at that end of the building. There is not enough foot traffic up the street and they have had no luck in retaining a commercial renter in that space. They are asking to be on the agenda for the next meeting for a Public Hearing and are hoping to be on the Warrant in June.

Proposed amendment language:

Article VII Section 13: They would add this language: “...except no residential uses shall occur on a floor at street level with the exception of residential dwelling units fronting on Washington Street where single family dwellings are permitted on the first floor.” The CEO noted that the change would need to be made to the multi-family category instead. Mr. Gibbons suggested that perhaps they could say that a condo unit is allowed at street level.

The Board’s process in hearing zoning amendment requests includes two Public Hearings, and the language must be ready prior to advertising the hearing. In order to meet the Select Board’s deadline for receiving Ordinance amendments the Board would have to approve language at this meeting. Without holding special meetings, the Chair does not see how the amendment can be considered for June. Mr. Kelly informed the Board that State law regarding zoning amendments requires that two notices be published but only one Planning Board hearing needs to be held. Mr. Gibbons believes there is plenty of time to consider a simple amendment within the 45 days remaining to meet the ballot deadline.

Mr. Scholz: He supports a more in-depth review than one meeting would allow especially because the Town has supported retaining commercial spaces and has not supported spot zoning - which this is. He also understand that some owners of commercial space at the mill are looking for more space and questions removing that option from this property.

1 Mr. Barnhard: He suggests they try to accommodate the request even if it means holding an extra
2 meeting. The item was added to the next agenda to consider the proposal and discuss the
3 language.

4
5 2) Kristi Bifulco: Ms. Bifulco is also seeking an amendment to the Ordinance that she would
6 like considered at the next meeting as well. She has worked with Mr. Wilson to develop
7 language that would allow her to serve dinner to guests at her B&B if she meets the criteria for a
8 Special Exception Low Impact Use.

9 Article VI Section 2 Nonconforming Lots:

10 (2) Lots with Structures

11 (c) An inn located on a lot that is less than two acres in the Traditional Village
12 District, shall not add sleeping rooms offered for rent beyond those legally existing as
13 of the date of enactment of this ordinance, nor shall it be used more intensely with
14 respect to functions, services, or similar activities otherwise allowed in inns beyond
15 those being routinely and legally offered as of the date of enactment of this ordinance
16 except for Inn's directly abutting Route 1 may apply for a Special Exception that allows
17 them to serve meals to guests only if they can meet the standards of a Low Impact Use as
18 determined by the Zoning Board of Appeals.

19
20 As written, the only properties affected by the change would be Abigails, the Hawthorne
21 Inn and her Windward House. They meet the qualification for a Special Exception Low Impact
22 Use in the Village District because they are on lots within 500' of a commercial district – no
23 other B&Bs on High Street would qualify. She believes this, plus the fact that they can only
24 serve dinner to guests, will address some of the concerns expressed during the previous attempt
25 to amend the Ordinance. The proposal is business-friendly and is in line with the Comp Plan.

26
27 Ms. MacKinnon believes this revision is worthy of further review. She suggested that
28 Ms. Bifulco be prepared to address one of the concerns expressed previously -- that the change
29 will mean competition with downtown restaurants. Mr. Sargent recommended that she seek out
30 members of the group of High Street residents that were opposed to the previous proposal to
31 discuss their concerns before the next meeting.

32
33 Members agreed to add this item to the February 20 agenda for discussion.

34
35 *Future Amendments – Policy Discussion:*

36
37 Mr. Scholz asked that the Board find time to hold a discussion to focus on the various
38 zoning districts in Town to see if they should consider recommending changes to the Ordinance
39 to address the evolution of districts over time. He also believes they should adopt a policy
40 regarding proposals for zoning amendments that come before them. The subject was discussed
41 by the Board, sitting as the Comprehensive Plan Committee, later in the meeting.

42 43 **3. Discussion:**

44
45 Mr. Kelly is here to facilitate a discussion regarding the upcoming Site Plan Review of
46 Phase 1 of the Ragged Mountain Redevelopment Plan and the question of whether or not Mr.
47 Scholz should recuse himself from this review. Mr. Scholz initiated the discussion regarding a

1 possible conflict of interest on his part resulting from his involvement in the development and
2 oversight of the project, and wrote to the Chair expressing his concerns regarding the possible
3 perception of bias.

- 4 • From 2007 - 2009 he served as Chair of the Building Committee charged to develop a
5 plan for the proposed lodge. That plan has since been replaced by another, and the early
6 version won't be reviewed by the Board
- 7 • All Chairs were part of the Steering Committee responsible for oversight of the entire
8 project. When he left the Building Committee he was asked to continue on with the
9 Steering Committee because of his familiarity with the project, and to represent the
10 Hosmer Pond Association
- 11 • From this point on his only involvement with the project was attending the meetings of
12 the Committee four times a year
- 13 • He resigned that position a few days prior to this meeting

14 Mr. Scholz has no concerns about sitting in review:

- 15 • There have never been financial rewards involved
- 16 • This is a Municipal project that has received broad support from the Town – it is not
17 controversial and he expects no opposition
- 18 • He can be a source of in-depth knowledge and expertise during review

19
20 The Chair commended Mr. Scholz for making such a thorough disclosure, but he is
21 concerned about the perception that Mr. Scholz will not have the ability to be impartial. This is
22 not the normal question of conflict of interest for financial reasons that the Board is familiar
23 with, and he asked Mr. Kelly for advice on how to analyze a question of bias.

24
25 Mr. Kelly replied that the Board should look at the facts stated previously, but he believes
26 there is no question that Mr. Scholz is conflicted out of this review because of the length of his
27 involvement with the project:

- 28 ✓ It does not matter how much or how little he did, the simple fact that he attended Steering
29 Committee meetings for so many years makes it difficult to believe that he *would not* be
30 perceived as being a proponent of the project. Bias is a matter of perspective, and it
31 would be a fair argument for opponents to make that Mr. Scholz' role in the project
32 would influence his decision.
- 33 ✓ It doesn't matter that the position was voluntary or unpaid, or that it is a Town project.
- 34 ✓ The quality of Mr. Scholz's participation is not a factor, and he can still provide the
35 Board with information. However, sitting on the Board while offering this expertise can
36 create the perception that all the fact-finders are compromised simply because they have
37 a working relationship with the member.
- 38 ✓ All members are supposed to go into decision making having the same facts. Mr.
39 Scholz's experience means he will know many things the rest of the Board does not.

40
41 He believes this is a clear-cut case of conflict, and the Board does not want to build a
42 flaw into the process even though the likelihood of an appeal is not high in this case.

43
44 Mr. MacLean agrees that it may be unlikely there will be much opposition, but even
45 though it is a project endorsed by the Town, it must go through an impartial review. Planning
46 Board members should not be independent fact-finders, and if any member has information from

1 sources that others do not have, the process can be “poisoned”. The question here is not whether
2 this is an absolute conflict, but if it is a close call the appropriate thing to do is to recuse.
3

4 Mr. Sargent is swayed by the fact that three lawyers – Mr. Kelly, Mr. MacLean and Mr.
5 Kelly’s law partner – have all said this is a clear conflict without hesitation. He is troubled by
6 the impact issues like this may have on making the few citizens who may be willing to serve on
7 Boards unwilling to be put in these situations. It is a small Town, and people who participate in
8 Town Government also participate in many other local activities. It may be hard to find people
9 who don’t have some conflict, especially when they have professional skills that are valued. It
10 may also make it hard to fill other boards and committees if those members hope to participate in
11 a review process sometime in the future.
12

13 Mr. Kelly responded that Mr. Scholz sealed this conflict when he began participating in
14 2007; his offer to resign at this time does not cure that conflict. Due process requires the Board
15 to recognize the rights of the Applicant and the abutters to a fair and impartial hearing – they are
16 owed a hearing without bias.
17

18 Mr. Householder: As much as the Board would benefit from Mr. Scholz’s expertise, he
19 learned how easy it was for people to believe the Board was partial to the Applicant during the
20 Fox Hill review when all they were doing was making sure the language of the amendment was
21 correct. In this case, the entire Board could take a beating and he would avoid that situation
22 again without question. Ms. MacKinnon agrees that the perception of bias could be a problem
23 here and that it would be better if Mr. Scholz recused himself. Mr. Barnhard believes that with
24 the amount of knowledge that Mr. Scholz would bring to the table, he could not pass the straight-
25 face test that he could be objective.
26

27 Mr. Scholz volunteered to step down from review.
28

29 **2. Minutes:**

30
31 January 16, 2014:

32 Page 2 Line 8: “...had never formally been approved.”

33 Line 47: “~~but~~ and suggested that...”

34 Page 3 Line 39: “...the ~~Fist~~ First Aid Station...”

35 Pages 7 – 9 will be removed
36

37 **MOTION by Mr. Sargent seconded by Mr. Householder** that the revised Minutes of January
38 16, 2014 be approved.

39 **VOTE: 6-0-0**
40

41 **3. Discussion continued:**

42 1. There were no Minor Field Adjustments
43

44 2. Future Agenda Items:

45 February 20, 2014: P.A.W.S. Notice to abutters and republish Public Hearing

46 Coastal Opportunities: Minor Subdivision Pre-App

47 Two proposals for Ordinance amendments

1 Mr. MacLean will not be in Town next meeting, and that leaves only three members to
2 hear the P.A.W.S. Application for an Amended Site Plan -- the Vice Chair and Mr. Scholz are
3 recused. Richard Householder will chair.

4
5 3. Pending Applications: Camden Harbor Inn: Site Plan Review Application
6 Ragged Mountain Phase 1 Site Plan:

7
8 Mr. Scholz understands they will be coming soon because they want to be finished with
9 Planning Board review by the end of March so they can begin work this June. He believes the
10 main issue will be lighting because there are many lights proposed for the new lift and trails to
11 encourage more night skiing. He informed the Board that residents of Hosmer Pond, including
12 himself, continue to express their concerns that the lighting requirements of the Ordinance
13 requiring shielded lighting should be adhered to. The engineer has discussed LED lighting with
14 the Committee because it would reduce the lumens and the light-spread, but cost is a factor. The
15 engineer has discussed LED lighting because it would reduce the lumens and the light-spread,
16 but cost is a factor.

17
18 Mountain Arrow Subdivision abandonment of Amended Plan

19
20 4. Reimbursement for costs associated with Zoning Amendment Proposals:

21 Mr. Kelly has said the Town is permitted to make these charges, but there is no other new
22 information. The Board again Tabled discussion until they hear from more Mr. Kelly and Mr.
23 Wilson.

24
25 5. Other:

26 February 11, 2014: Select Board will discuss the creation of a new TIF District at the Southern
27 Gateway. This will have to go to voters so they want to get the discussion going now.

28
29 February 18 at 6:30pm: Joint Meeting with Rockport Planning Board, Rockport Select Board,
30 Camden Select Board and Camden Planning Board: Don White, Select Board Liaison, reported
31 that the meeting would take place at the Rockport Opera House with the focus on the Southern
32 Gateway project as it crosses Town lines.

33
34 Depending on time, there may be some mention of developing a Regional Recreation
35 Policy to encourage more use of all the local facilities. Mr. Wilson informed the Board that the
36 Spear Farm Subdivision would be back for a joint review required for a change of lot lines.

37
38 The Board discussed the proposal for the revised intersection at Camden and John Streets
39 and Route 1 and the plan drawn up last year during discussion. They hope to proceed with that
40 plan and meet with affected property owners soon.

41
42 There being no further business before the Board they adjourned at 6:45pm

43
44 Respectfully Submitted,

45
46 Jeanne Hollingsworth, Recording Secretary