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CAMDEN PLANNING BOARD
MINUTES OF MEETING
April 17, 2014

PRESENT: Chair Lowrie Sargent; Members Richard Bernhard, Richard Householder, and John Scholz; Don White, Select Board Liaison; and CEO Steve Wilson

ABSENT: Member Jan MacKinnon

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

1. Public Input on Non-agenda Items:

No one came forward.

3. PROPOSED ORDINANCE AMENDMENT: PUBLIC INFORMATION GATHERING MEETING

Article III Definitions: To the definition of Inn add the following language: “An inn located on a nonconforming lot shall be subject to the terms of Article VI, Section 2(2) (c) of this Ordinance;” and

Article VI Section 2(2) (c) add the following language”, except an Inn abutting High St and within 500' of a zone where restaurants are an allowed use may be granted a Special Exception to be allowed to serve meals to overnight guests only, subject to meeting the standards of a Low Impact Use as determined by the Zoning Board of Appeals.”

The CEO explained the request for a Special Exception for a Low Impact Use which limits the applicability to Inns on the southern end of High Street because they are the only ones within 500' of a zone where restaurants are allowed. He added that Low Impact Uses are intended to extend some uses already permitted within a commercial zone to a 500' “transitional zone” where the commercial zone abuts a residential zone. The Ordinance imposes stricter standards and additional limits to development within these areas than apply within the commercial zone itself. Low Impact Uses are a planning tool that addresses district boundaries and the difficulty in drawing strict boundaries between allowed uses; it allows some give and take while protecting abutters from adverse impacts.

Kristi Bifulco: Owner of Camden Windward House B&B: Ms. Bifulco is bringing this request to the Board for the third time. She stressed that this version of the amendment, which she has been proposing in various forms for over three years, limits the applicability of this provision to only three B&Bs on lower High Street – the Windward House, Abigail’s Inn, and the Hawthorne Inn.

In addition: The change will encourage growth in a densely commercial area; allow small family businesses to grow; retain the charm of the neighborhood; provide additional income to cover the expenses of maintaining their old building; there are no plans to increase the footprint or change the style of the house at all. In all, nothing will be done to change the character of the neighborhood. Passage of this amendment does not mean that these three B&Bs can automatically start serving dinner to their guests – first they must go to the ZBA for determination of whether or not they are a Low Impact Use. The owners of Abigail’s and the

1 Hawthorne Inn have not indicated that they are interested in pursuing the option of going to the
2 ZBA anytime soon.

3
4 The Chair explained the process the Board would go through in considering whether or
5 not the amendment has sufficient merit to send the request forward to the Select Board with a
6 recommendation that it be sent on to a Town vote. He also explained the criteria for ZBA
7 approval of a Low Impact Use and the ability of that Board to add conditions of approval.

8
9 *Questions from the Board*

10
11 Mr. Scholz:

12 He asked Mr. Wilson to explain any additional requirements – code compliance or
13 licensing - that would apply to serving dinner. Mr. Wilson explained that after ZBA approval,
14 the Bifuclos would have to obtain additional licenses from the State to serve dinner to guests.
15 They would have to have separate kitchens for use by the B&B and the residence – something
16 that is not required now in order to serve breakfast. There are other requirements as well that are
17 not the purview of either the Planning Board or the ZBA – the Bifulcos are well informed in this
18 regard.

19
20 Mr. Scholz asked Ms. Bifulco if there had been any discussion with other B&B owners
21 on High Street whether the ability of the three inns on lower High Street to serve dinner would
22 put other B&Bs at a disadvantage in marketing to the same clientele. In the interest of
23 maintaining a level playing ground, he wonders if this is fair. Maine Stay, A Little Dream and
24 Timber Cliff on High Street and the Swan House on Mountain Street would not qualify for a
25 Special Exception. Ms. Bifulco maintains that other inns in Town can apply for Special
26 Exceptions to serve dinner, but the three High Street inns, because they are in the Traditional
27 Village District, cannot – that is discrimination. If the 500' limit allows other businesses in
28 Town to apply Low Impact Uses if they are within 500' of a commercial district then it should
29 apply to the three inns on lower High Street as well. If those other inns mentioned are not within
30 500', then they are not being discriminated against. They are fully aware that this discussion is
31 taking place – if they want to come to advocate for themselves, they should.

32
33 Mr. Bernhard: He asked Mr. Wilson if the State provides an upgraded license, do they
34 essentially re-classify the Windward House from an inn to a hotel with all that means within
35 Camden's Ordinance. Mr. Wilson replies that the change would require an eating and lodging
36 establishment license. However, there will be no change of status for the Windward House
37 within Camden's Ordinance, even by inference, just because they have the same license required
38 of a hotel.

39
40 Mr. Sargent: He asked Mr. Wilson to clarify whether or not the inns Ms. Bifulco referred to that
41 can serve dinner in other districts of Town have the advantage of applying for a Special
42 Exception while Ms. Bifulco does not. Mr. Wilson explained that those other inns first must be
43 non-conforming because of lot size - just like the Windward House – in order to be able to apply
44 for a Special Exception. But, because restaurants are a permitted use in the B-3 District where
45 these inns are located, and because there is a provision which permits that use as a Special
46 Exception, they qualify to apply for that use. A Low Impact Use – a category of Special
47 Exceptions - applies anywhere in Town within 500' of a commercial district where the use being

1 applied for is already permitted; the inns in the B-3 do not have to go that route but Ms. Bifulco
2 would.

3
4 The Chair read the Special Criteria for a Low Impact Use at Article VII Section 4 (9).

5
6 *Comments from the Public*
7

8 Tom Phillip: A former owner and innkeeper at the Captain Swift Inn noted that inns in the B-3
9 and inns on High Street are all non-conforming with regard to lot size. However, the inns on
10 High Street are non-conforming uses as well since inns are not allowed in that District – they *are*
11 a permitted use in the B-3. He cited the Ordinance as it applies here – “a non-conforming
12 property shall not be made more non-conforming.” He believes that the addition of another
13 major use – like an in-house restaurant – would make these properties more non-conforming. He
14 also believes that this usurps the rights of hotels which are allowed to serve dinner. However,
15 hotels are only permitted as a grandfathered use in this district and are not allowed to be started
16 from scratch. This change essentially makes the Windward House a hotel – that is not allowed.

17
18 He believes that the addition of an industrial vent system – and the noise and odors it will
19 generate – *will* create an impact on the neighborhood. He addressed the impact on traffic that the
20 five food delivery trucks permitted for Low Impact Uses – even if parked for only 10 or 15
21 minutes on Route 1 – will create an incredible impact on traffic in that area and could back
22 traffic up halfway to the State Park in the summer. Trucks going to the back entrance must drive
23 through residential streets – another impact on neighbors.

24
25 Deb Dodge: She and many others in the room would rather be working with the Town to
26 increase the livability and sustainability of the High Street area rather than discussing the
27 expansion of a business in the neighborhood. Zoning is meant to protect neighborhoods and this
28 language is much too vague to offer any protection against the creep of expanded businesses up
29 the street. The protective language that was intentionally restrictive is being removed from the
30 Ordinance, and although this proposal is less invasive than past proposals put forward by the
31 Bifulcos, it is still a step toward more commercialization. What keeps them from coming back
32 later and arguing that it is not much of a change from serving dinner to their guests than serving
33 dinner to the public? There is no language here that prohibits that from happening especially
34 since they will already have the necessary State license to do so.

35
36 There will be negative impacts beyond this zone including on the downtown restaurants
37 and other inns where dining *is* allowed. She asks the Board not to erode people’s confidence in
38 the Ordinance and the protection it offers for property owners’ investments.

39
40 Betsy Perry: Although the proposal seems benign, the neighbors don’t see it that way. She
41 disagrees with those who argue that the residential character of High Street is hard to maintain
42 because it is Route 1. There have been twelve new residents constructed in the past couple years
43 and this underscores the residential character of the neighborhood. These residences bring new
44 residents –including families with children – who have built to the architectural character of the
45 area and will be paying taxes. This proposal moves the area one small step toward
46 commercialization and is not in the best interest of the Town. She hopes the Town recognizes
47 the value to the Town of these historic and beautiful homes as people enter Camden from the
48 north, and appreciate its role in protecting the overall value of Camden’s real estate.

1
2 Dennis McGuirk: Mr. McGuirk circulated copies his testimony which addressed the ways in
3 which these inns are nonconforming. (See Attachment 1) He asked the Board not to create
4 another “Norumbega Loophole” in the Ordinance, or to create a situation where the definition no
5 longer applies because a restriction within the definition was lifted . He commented on the
6 specific situation at Norumbega that permits the new owner to exceed the number of special
7 events that had applied to the property as an inn, but did not carry forward when the business
8 was re-classified as a hotel. They wanted to serve dinner to guests, to live off the property and
9 continue to have more rooms than permitted for an inn. The previous owner adhered to the nine
10 event limit that had applied to an inn. The new owner is of the opinion the limit does not apply to
11 hotels, and is soliciting special event business where he can serve dinner to attendees at the
12 event.

13
14 No one else came forward and the Public Comments portion of the meeting was closed.

15
16 *Questions from the Board*
17

18 Mr. Scholz: He asked the CEO to comment on Mr. McGuirk’s testimony that a loophole had
19 been created when Norumbega was classified as a hotel instead of an inn because no limit on
20 Special Events was included in that Definition. Mr. Wilson replied that he has discussed this
21 matter with Town Attorney Kelly who is of the opinion that the Norumbega meets the Town’s
22 definition of a hotel. He suggests that it is common State-wide for hotels to make hosting
23 functions part of their business plan. Because Camden’s Ordinance does not address the issue of
24 functions at hotels, Mr. Kelly believes Norumbega is permitted to operate within the scope of its
25 State license and serve dinner to guests attending functions. Mr. Wilson agrees that there is no
26 violation as long as the owner is serving only those attending the function, and not serving public
27 coming in off the street.

28
29 Mr. Scholz asked if Camden’s Ordinance were to be changed to contain a restriction on
30 events at hotels could the Ordinance could be appealed. Mr. Wilson replied that it could be
31 appealed, but towns are allowed to be more restrictive than the State and the Ordinance would
32 probably stand.

33
34 Mr. Householder: He asked how many lodging rooms would be covered by this change. Ms.
35 Bifulco replied that she has 8 rooms, Abigail’s has 4 and the Hawthorne has 10.

36
37 Mr. Bernhard: He asked for clarification regarding where else in Town the 500' qualification to
38 apply for a Low Impact Use for a restaurant applies. Mr. Wilson replied that, as the Ordinance is
39 written, it would apply only to properties abutting the B-3 District since it is the only district that
40 allows restaurants as a Special Exception. No new B&Bs can be created within that distance in
41 the Village District that could apply under this provision – especially since the proposal contains
42 the restriction that the property be located on High Street. The Belmont Inn, the only other inn
43 in the Village District that is within 500' of the B-3, is already grandfathered to serve dinner to
44 the public.

45
46 Mr. Sargent asked Mr. Wilson to comment on Mr. McGuirk’s contention that permitting
47 dinner for guests means the other restrictions contained in the Definition of an Inn would no
48 longer apply because these inns are no longer defined as an Inn. Mr. Wilson replied that it was

1 the Special Exception permit that ruled here, not the Definition, and the Special Exception is
2 very specific in what it allows. Ms. Bifulco added that it is their intent was to craft the language
3 so specific that it would only permit serving dinner to guests – there would be no other form of
4 expansion of use permitted by this amendment.
5

6 Mr. Scholz asked Mr. Wilson to comment about the concerns over noise from the
7 commercial kitchen fan. Mr. Wilson replied that the size of the vent system required by the State
8 depends on the quantity of meals served and the number of employees – those criteria are totally
9 up to the State. However, with the small volume of food that would be served at the Windward
10 House, it is anticipated that a minor upgrade in the vent system would be all that is needed. An
11 interior commercial system with a built-in fire suppression system would work in many of these
12 cases and there would be no change to the exterior required.
13

14 Mr. Bernhard: He asked if Ms. Bifulco had done any market study regarding the numbers of
15 guests that might be interested in having dinner provided to determine, among other things, how
16 many more employees they may need. Ms. Bifulco replied that they employ four people now to
17 serve breakfasts and it may just mean additional work for these four people – they have no way
18 of knowing for sure. They also plan to serve dinner only during the season – from mid-June
19 through the end of October.
20

21 Mr. Householder: Ms. Bifulco provided the following responses to Mr. Householder’s several
22 questions:

- 23 • Although they are open year-round, their busiest time is from mid-June through the end
24 of October
- 25 • They have averaged 70% capacity during this time-frame for the past two years and in
26 the single digits during the off-season
- 27 • It is not possible they will ever be at full capacity for the entire year and serving sixteen
28 people for dinner each evening
29

30 Mr. Sargent: He asked Ms. Bifulco if she had heard anything this evening that might suggest a
31 change to her proposal; she has not. Members of the Board agree that the proposal is ready to be
32 sent to a Public Hearing.
33

34 Deb Dodge: She had some recommendations for stronger language: That no new additional
35 signage could be added that mentioned dining; that all service vehicles must off-load off-street;
36 there be no out-door dining permitted; that there be no amplified music permitted; and that the
37 word “their” be inserted before “overnight guests”. Mr. Sargent informed her that it was the
38 Applicant’s prerogative whether or not to make changes to their proposal, so it was up to Ms.
39 Bifulco to decide whether or not to accept these suggestions.
40

41 The Board set the first Public Hearing for May 15 and the second, if needed, for June 5.
42

43 Ann Szicklas: She asks the Board not to open the door to more commercialism – this is one step
44 closer to High Street becoming Elm Street.
45

46 **4. SITE PLAN REVIEW: PRE-APPLICATION MEETING**

47 **Mixed Commercial and Residential Development:** Map 113 Lot 41:

1 Business River District (BR): Mt. Battie Street
2 Paul Cartwright, Sherry Frazer and Bill Gerrard

3
4 Mr. Cartwright explained the proposal:

- 5
- 6 • The two couples want to build two buildings each: 1 entirely residential in use
7 (Frazer/Gerrard); 2 entirely commercial in use (both parties); and one mixed
8 residential/commercial building (Cartwright)
- 9 • The total commercial space in each instance is greater than the corresponding residential
10 space as required by the recent zoning amendment that outlined the criteria to create
11 mixed use on this lot
- 12 • There will be three curb cuts: One driveway serving both Gerrard buildings which will be
13 located at the top corner of the property; and two on the Cartwright piece along Mt.
14 Battie Street – one to each building
- 15 • They will be leveling off the portion of the lot in back of the Cartwright residential floor
16 of the second building and in front of the Frazer/Gerrard residence. There will also be
17 some grading required to put in the driveways, but the contractor is of the opinion that no
18 fill will have to be brought to the site
- 19 • Mr. Cartwright is using an engineered plan done for MBNA when they considered a
20 proposal for this lot years ago. None of the work they plan will change the storm water
21 flow which is illustrated on the Plan

22
23 The Board discussed the detail they would like to see on the actual Plan and whether or
24 not Mr. Cartwright's submission is acceptable for the purpose of Site Plan review. Mr. Scholz
25 believes the Board would be setting a precedent if they did not require a Plan stamped and sealed
26 by an Engineer or Landscape Architect. Mr. Sargent noted that this is not required by the
27 Ordinance because some Site Plans are very simple. However, there are several reasons he
28 believes it is prudent to involve an engineer in this project design: The property abuts the
29 Megunticook River; there is a great deal of stormwater that flows over this property already;
30 there are wetlands on the property; and the possibility of erosion contaminating the river during
31 construction exists because of the topography. He recommended that Mr. Cartwright contact an
32 engineer that is familiar with Site Plan review and work with them to obtain a letter stating that
33 the engineer has reviewed the Plans and finds that it satisfies the requirements of the Ordinance
34 that involve engineering and that the storm water calculations are correct.

35
36 The Board reviewed the submission and noted the following:

- 37
- 38 • Distances and dimensions for driveways, pathways, parking areas and streets need to be
39 added to the Plan
- 40 • Mr. Scholz suggested that Mr. Cartwright look at the standards for driveway entrances
41 and determine if they have left enough room for an additional development to fit in
42 between the proposed drives and still meet the driveway entrance separation
43 requirements. They might want to make sure they have not eliminated the option of
44 adding another drive. He suggested that a combined entrance to the Cartwright portion
45 would reduce curb cuts and leave more distance between the parties' driveways might be
46 an alternate design option
- 47 • If there are separate sewer and water taps those need to be shown on the Plan

- The size of the buildings, the first floor elevation and the height of the buildings need to be provided. Mr. Cartwright will provide a maximum building footprint – Mr. Wilson has told him that any changes to make it smaller would be a Minor Field Adjustment. Making a building larger than proposed requires returning to the Board for review
- An abutter list must be provided that includes names and addresses – property owners opposite the river are considered abutters for this purpose
- The building setback lines already on the Plan need to be labeled
- Pictures and locations of *all* exterior lighting need to be provided
- The Board knows the site and will require 2' contour lines in the steeper parts of the lot
- The wetland impact will be less than 1/10th of an acre so no permit is required
- The Board will require an Erosion Control Plan from an Engineer or Landscape Architect
- One of the above must verify the Stormwater Drainage Plan as sufficient

Before a Site Walk can be held, Mr. Cartwright must stake out the four corners of the lot as well as the three curb cuts. He should let Mr. Wilson know when he is ready and a date can be advertised. Mr. Cartwright will return on May 15 for a review of submission requirements.

5. PRIVATE WAY: RE-APPROVAL

Vernon Dent, LLC: Map 134 Lot 35: Coastal Residential District: Belfast Road

Andrew Hedderick from Gartley and Dorsky Engineering and Surveying returned to the Board seeking re-approval of the Private Way originally granted approval on November 7, 2013. The Plan had never been recorded as required, and the Site Plan Approval has expired. A new application has been submitted along with the very same packet of Plans and documents that accompanied the original.

The driveway is in but not paved. The owner wanted to let it sit to compact over the winter and will pave it as approved once construction to the residence is completed. There is a pile of fill on the site, and Mr. Hedderick suggests that the road crew probably got caught by winter weather before they had time to finish the work. Mr. Wilson has been to inspect the site; he informed Mr. Hedderick that the site needs to be stabilized as soon as possible in advance of spring rains. The hay bale sediment barriers that the owner installed are not staked correctly and will not be effective until this is remedied.

Mr. Hedderick discussed the submissions: He left all the dates on all the Plans and other submissions the same as the original – the only document that changed was the Application. He responded to the Chair’s question asking if anything in the design had changed by saying “No”. The only question was the accuracy of the Abutter’s List. By examining tax records the CEO confirmed there was one new owner. The change to the list will be made, and today’s date added to that particular submission. The Site Plan letter will also be changed to reflect the new submission and re-dated.

MOTION by Mr. Householder seconded by Mr. Bernhard that the Board will not do a Site Walk because they already conducted a Site Walk, and based on the engineer’s statement, nothing has changed.

VOTE: 4-0-0

1 The Board reviewed the Site Plan Approval Criteria and found that because nothing had
2 changed in the design, the Plan met the requirements.

3
4 **MOTION by Mr. Householder seconded by Mr. Scholz** that Vernon Dent, LLC’s Private
5 Way Plan for the Vangel property meets all the conditions of the Ordinance and is approved
6 pending the receipt of an updated abutter’s list.

7 **VOTE: 4-0-0**

8
9 **2. MINUTES:**

10
11 **April 3, 2014:**

12 Page 1 Line 43: The sentence now reads: The CEO informed the Board that the Chairman’s
13 signature on the Order of Abandonment approved by the Board on March 19 has been notarized.

14 Page 2 Line 39: The word “many” was changed to the word “may”

15 Page 4 Line 16: The word “loge” was changed to the word “lodge”

16 Page 7 Line 14: The word “regarding” was changed to the word “regrading”

17 Page 7 Line 38: The word “net” was changed to the word “met”

18 Page 7 Line 39 now reads: “... with the condition that ~~the~~ Item 8...”

19 Attachment 3: Mr. Scholz does not believe the document inserted as Attachment 3 is an accurate
20 representation of his submission. The Recording Secretary explained that the document had
21 been converted from a PDF format and reformatted to fit into the Minutes, but that content had
22 not been altered. Mr. Scholz prefers that his original format is used and will supply a new copy
23 of his letter for that purpose.

24 Attachment 4 was not included with the Minutes and will be added to the Final version.

25
26 **MOTION by Mr. Householder seconded by Mr. Bernhard** that the Planning Board Minutes
27 of April 3, 2014 as changed be approved.

28 **VOTE: 4-0-0**

29
30 **6. DISCUSSION:**

31 1. There were no minor field adjustments.

32
33 2. Future Agenda Items:

34 The Spear Subdivision is returning for an amendment which requires joint review with
35 the Rockport Planning Board. The change involves the adjustment of lot-lines and the creation
36 of 4 large lots – two in each of the Towns. Because this land is in the rural district the two-lot
37 subdivision in Camden requires review as a Major Subdivision.

38
39 Mr. Wilson provided copies of the information gathered for the previous joint review by
40 Bill Kelly: The same process will be followed – a joint review, joint Sitewalk and joint public
41 hearing. Camden’s process also requires a pre-application and Public Informational Meeting.
42 Then the Boards separate to deliberate and review their own Approval Criteria. Each Board
43 must be acting on exactly the same information and all questions of the Applicant after review
44 must be submitted to the other Board along with the answers.

45
46 Last time the Camden Board met in Rockport on their schedule. This time Camden
47 wants Rockport to meet in Camden.

1 3. Other:
2

3 The CEO informed the Board that the Select Board has hired a two-man team to serve as
4 interim Assessor's Agents. Tom Murphy and Kerry Leichtman will each work part-time. They
5 will divide responsibilities and collaborate to get the tax commitment ready for Town Meeting.
6 In the meantime, the Town has advertised for a permanent full-time replacement for Wes
7 Richardson. Mr. Wilson will take on more field work to assist the assessing team until their
8 work is completed, so they are also looking for a part-time assistant to the CEO who is certified
9 in Land Use and Planning and who is familiar with the area who can step in without a lot of
10 training.

11
12 Mr. Bernhard informed the Board that Paul Cavelli is interested in serving on the Comp
13 Plan Committee; he had come to this evening's meeting but had to leave before the Comp Plan
14 discussion began. Neither he nor Mr. Bernhard is available for the Committee meeting on the
15 27.

16
17 Mr. Sargent went over the agenda for the March 27 Comp Plan meeting.
18

19 Mr. Scholz will attend the Transportation Study presentation. Mr. Wilson informed the
20 Board that the Committee will propose implementing some form of public transportation in
21 stages – this concept of controlled growth was very successful on Mt. Desert.
22

23
24 There being no further business before the Board they adjourned at 7:30pm
25

26
27 Respectfully Submitted,
28 Jeanne Hollingsworth, Recording Secretary