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CAMDEN PLANNING BOARD
MINUTES OF MEETING
August 29, 2013

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PRESENT: Acting Chair Lowrie Sargent; Members Richard Householder, Jan MacKinnon, and John Scholz; Alternate Members Richard Bernhard and Kim Tuttle; Don White, Select Board Liaison; Town Attorney Bill Kelly; and CEO Steve Wilson
ABSENT: Chair Chris MacLean

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

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1. Public Input on Non-agenda Items:

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Gian-Angelo Gallace: There is development with clear cutting occurring in the Bayview Street area. The residential character has been altered and neighbors fear property values will suffer. He asked the Board for an amendment that would require that a certain percentage of a lot is left in its natural state when it is developed for residential use.

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2. Minutes:

August 15, 2013:

The date in the footer was corrected to read August 15, 2013.

Page 4 Line 26: "In his letter of August 13 to Mr. Kelly, Mr. Manahan raised the question..."

Page 6 Line 32: The word "neighbors" was changed to the possessive "neighbors' ", and the word "looking" was changed to the word "look".

Page 8 Line 6: "Change last allowable time for ~~starting~~ finishing a procedure..."

MOTION by Mr. Scholz seconded by Mr. Householder that the Minutes of the Camden Planning Board of August 15, 2013, are approved with the changes made.

VOTE: 6-0-1 with Mr. Bernhard abstaining due to his absence

3. Subdivision: Minor Amendment

Mountain Arrow Village Green: Map 123 Lot 4-9: Village and Rural Residential 1 Districts (V and RU-1) and Map 121 Lot 138 (RU-1)

Mountain Arrow Village Green, Inc., 38 High Street

The Application packet under review consists of:

- Application for Subdivision Amendment dated July 24, 2013
- Letter to the Planning Board from agent Gartley and Dorsky Engineering and Surveying dated July 24, 2013
- Third Amended Subdivision Plan, REC-2 dated July 18, 2013

The Applicant was represented by Will Gartley of Gartley and Dorsky seeking permission for a third amendment to the Mountain Arrow Village Green Subdivision. The developer wants to move a lot line in an approved subdivision and remove the portion of Lot 9 that lies within the Rural Residential – 1 District from the subdivision. The removed portion of Lot 9 will be included in the land retained by Mr. Bratz' company, Mountain Arrow, LLC, and the entire portion of Lot 9 remaining in the Subdivision will be within the Village District.

1 Questions from the Board:
2 Mr. Bernhard: The portion of the lot with the best view is being removed, and he wonders why
3 this change is being made. Mr. Gartley replied that the lot has been on the market awhile and
4 has not sold; the developer hopes making this change will help. The developer is also thinking
5 about what he will do with the remainder land, and this will give him more options.
6

7 Article XII of the Subdivision Ordinance: The Board first must determine if the request is
8 a minor one that can be accepted as an amendment without going through a complete review.
9 Then they must decide whether the change is appropriate and reasonable and should be
10 approved.

11 Mr. Bernhard will be sitting as the fifth voting member of the Board.

12 **MOTION by Mr. Scholz seconded by Mr. Householder** that the amendment can be heard
13 because it is only a change in lot lines.

14 **VOTE: 5-0-0**

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16 **MOTION by Mr. Householder seconded by Mr. Scholz that the Mountain Arrow Village**
17 **Green amendment be approved as presented.**

18
19 The Acting Chair agreed to a request to hear questions from abutters before the vote was taken:
20

21 Pat Skaling – Mountain Arrow Drive: Ms. Skaling asked if the Planning Board was aware that
22 this change will create a land-locked lot. She understands that when this happens Planning
23 Boards are often inclined to approve some point of access to that lot, and she wonders where that
24 access would be. She informed the Board that the Homeowner’s Association is just being formed
25 and they are concerned that they may have another road that they must pay to maintain.
26

27 Mr. Gartley responded, saying that the area will not become a separate lot but will merge
28 back into the parcel that is the retained land owned by the LLC. If there were to be development
29 on that part of the lot in the future, the Planning Board would have to approve access either via a
30 new private way or from the existing approved private way.
31

32 Mr. Bernhard asked if the area in question was common area or limited common area,
33 and Mr. Gartley replied that it was not. Ms. Skaling added that this was originally proposed as
34 common area, and that marketing materials for the subdivision still show the area as a common
35 area.
36

37 Bob Wolff – Mountain Arrow Drive: Mr. Wolff noted that the lot was originally marketed on a
38 subdivision plan as a common area set aside for a park. If this change goes forward, and a new
39 land-locked lot is created behind Lot 9, it would have to be served by a road going through the
40 area they thought was intended to be a park. Mr. Gartley replied that it had not been part of the
41 Approved Subdivision Plan, but he did not know how it had been marketed. Mr. Wilson added
42 that the only place he could find the area referenced as a park was on the pre-application sketch.
43 Ms. Skaling stated that she has seen promotional materials distributed as late as 2012 that still
44 show the area as a park, and Mr. Sargent suggested that those buyers might speak with their
45 realtors about this situation.

1 Gian-Angelo Gallace: He is sure that Mr. Bratz is making these changes to give himself more
2 options for future development because he plans on developing the top of the mountain. Mr.
3 Sargent replied that Mr. Gallace is speculating about Mr. Bratz future plans, and the Board
4 cannot act on speculation. Mr. Gallace believes that the Board cannot ignore this possibility.
5 They should consider what this change might mean to the residents there, and not put the
6 interests of Mr. Bratz, the developer, ahead of the lot owners.

7
8 Mr. Sargent called for a vote on the Motion.

9
10 **VOTE: 5-0-0**

11 The Board signed the amended plan before adjourning.

12
13 **3. Public Information Gathering Meeting: Request for a Zoning Ordinance Amendment to**
14 **the Coastal Residential District:**

15
16 The Acting Chair suggested there still seems to be some misunderstanding of how the
17 Zoning Ordinance amendment process works. There are emails to the Board and letters in the
18 *Camden Herald* which suggest that the Planning Board will be making this decision, and that is
19 simply not the case. The Board will only vote on whether or not they feel the proposal should
20 be passed on to the Select Board. The Select Board only determines whether or not to send the
21 question to Town Meeting; the voters are the ones to decide whether or not to make this change.

22
23 For the record Mr. Sargent noted that Mr. Bernhard was absent at the last meeting, but
24 that he has stated that he has watched the streaming video and read the minutes and is current on
25 the process.

26 *Applicant's Presentation:*

27
28 Dr. Philip Levendusky, Senior Vice President of Program Development at McLean Hospital:
29 McLean would be operating a facility at the Fox Hill campus with a long-term lease with FHRE.
30 They will be the sole tenant providing services, the sole licensee under the State of Maine, and
31 the sole employer of all people providing the clinically-related services. The program here is
32 modeled after Fernside, a program the hospital has been operating for nearly seven years in
33 Princeton, Massachusetts.

34
35 When Fernside was first proposed, the citizens of Princeton expressed many of the same
36 concerns that are being heard in Camden today. The hospital is now considered a strong citizen
37 and a good neighbor. Two of the people that were involved in that process in Princeton
38 volunteered to travel to Camden to speak about their experience and to answer any questions
39 people might have.

40
41 Jim LaChance, former member of the Princeton Planning Board who sat in review of Fernside:
42 Princeton is an affluent community of 3500 people -- a very scenic community with many
43 beautiful homes. During Fernside's review, he heard many of the same concerns that have been
44 raised in Camden about traffic and patients, all of which were thrashed out before the Planning
45 Board and before Fernside was eventually approved. Fernside is located in an antique 19th
46 century mansion that is a local landmark. The property now looks better than it ever did, and
47 McLean has proven themselves to be very good citizens. They have hired local contractors and

1 local businesses to work with them; they have hired local people to staff the facility; and they
2 hire local restaurants to cater their meals.

3
4 This is an exceptionally private program. Patients are brought to the facility by car; they
5 are there for four to six weeks; and then they go away without having any impact on the local
6 community – you never see them on the streets. He visited Fox Hill today and that campus is
7 much more private. Based on their experience with Fernside, he doesn't think that there will be
8 any sign of patients except as they come and go on the driveway.

9
10 Mr. LaChance offered to answer any questions or address any concerns:

11
12 Q: How is Fernside zoned?

13 A: Residential/Agricultural District. Mr. LaChance added that Fernside is surrounded by many
14 beautiful homes.

15
16 Q: What kind of business was there before Fernside?

17 A: A grandfathered Bed and Breakfast and it served time as a private residence.

18
19 Q: How many patients were there when Fernside opened?

20 A: Dr. Levendusky replied the capacity is eight patients – that number has not changed in spite
21 of having to turn away patients because of the incredible demand. They are committed to
22 keeping the capacity at eight patients so they can retain the quality of treatment.

23
24 Q: Out of all of New England, what made McLean pick Camden and Fox Hill with the number
25 of patients they propose?

26 A: Dr. Levendusky: The availability of Fox Hill; the nature of the facility; the expanse of the
27 facility; and the privacy of the facility and the setting. This all meets the needs of the program
28 which are identical to the needs of the neighbors – they want privacy for their clients, they want
29 serenity for their clients, they want safety, and they don't want intrusion.

30
31 Allen Senkowski, former Selectman when permitting for Fernside was going forward. They did
32 not have to take the application to Town Meeting, but they did hear lots of community concern
33 regarding traffic, the impact on taxes with the new non-profit ownership, who would the patients
34 be and who would be coming to see them, what the costs would be to the Town for police
35 protection, etc. None of those concerns have ever been an issue. They have been a great
36 neighbor. They make payments in lieu of taxes, and the business is so low-profile that he
37 believes many new residents probably have no idea what goes on in the building.

38
39 Q: Is Bayview Street the same kind of road you have in Princeton?

40 A: The road in Princeton may be a little wider and a little straighter, but not a lot and there are
41 some very similar roads near Fernwood. The issue is that Fernside has no traffic - the people
42 staying there are not allowed to have cars, and a local restaurant delivers meals.

43 Q: No delivery trucks or office supply trucks come?

44 A: Only the caterer who benefits from the year-round business. Dr. Levendusky added that the
45 staff picks up things like office supplies as they do other errands around Town.

46
47 Q: You said this did not involve an ordinance change - what is the zoning district?

1 A: An ordinance change was not required because, under Massachusetts law, non-profits have
2 the right to establish their business in residential areas without going through zoning changes,
3 and this is a residential area.

4
5 Q: How close is the closest driveway?

6 A: Immediately across the street.

7
8 Q: How many other driveways are close by?

9 A: The frontage requirement for lots in this area is 225' and there are probably driveways about
10 every 225'.

11
12 Q: Is the road a State road or a street? What is the speed limit?

13 A: Mountain Road is a Town road – at least it isn't a numbered State road - and the speed limit
14 is Rural 40 mph. There is a ski area out further so the road is maintained year-round for access.

15
16 Q: How close is the nearest Town to Princeton and how large is it?

17 A: Westminster is five miles away and has a population of about 8,000.

18
19 There was a discussion about the amount of traffic on the road including how people
20 from surrounding towns travel to the ski area. Dr. Levendusky ended the discussion by saying
21 that McLean is not trying to “put a shine on a sneaker” – this is a broader, straighter road than
22 Bayview Street and it gets more traffic and they are not trying to say it is the same. Learning
23 about the public aspects of the operation is more pertinent – the notoriety of it, the drawing of
24 people to the place – it just doesn't happen here.

25
26 Q: How can they say there will not be extra traffic resulting from the 35 employees that are
27 expected to be working at Fox Hill, and from delivery trucks serving the 12 patients' needs?

28 A: Dr. Levendusky provided information on the number of employees that would work at Fox
29 Hill:

30 There are never 35 employees on the property at Fox Hill at the same time, and he
31 repeated the same information on staffing at the facility that he provided at the last meeting:
32 There are a total of 21 full time employee (FTE) hours that will be filled by 25 – 27 actual
33 employees over the course of seven days during the following shifts:

34
35 7 am – 3 pm: 3 nurses
36 8:30 am – 7 pm: 10 professionals straddle 2 work shifts
37 3 pm – 10 pm: 3 nurses
38 10 pm – 7 am: 2 nurses

39
40 There will be an on-property van that will be used to run errands, and the facility is for
41 eight clients not twelve. The comings and goings are more like those of a large family, not a
42 large enterprise. The notion that there are dozens of employees all there at the same time is
43 inaccurate.

44
45 Q: How does the monthly cost in Princeton relate to the rumored cost of \$60,000/month at Fox
46 Hill?

47 A: Princeton costs \$1700/day which is about \$51,000/month.

1 Q: How far is Princeton from McLean's central hospital? Is there an argument to be made to be
2 closer to the parent hospital?

3 A: Fernside is 47 miles from McLean, but it is totally self-sufficient in that they rely on the
4 community hospital for their emergency medical needs. The interaction between the facility and
5 the hospital on a day-to-day basis is fairly limited, although consultants do come from the
6 hospital to Fernside on occasion to offer advice and consult. They would expect to have the
7 same interaction via telecommunication with the main campus and Fox Hill.
8

9 Q: What is the group paying as a lease? There are no financial feasibility studies to show that
10 with eight patients paying \$60,000/month the operation can meet their obligations.

11 A: Attorney Gibbons replied that 1) The exact finances of what is happening here have not yet
12 been determined; and 2) The financial capability of McLean Hospital to make this work is not
13 relevant to the discussion of whether this zoning amendment is appropriate or not. However, to
14 be successful they must be competitive with similar operations on similar properties, and the
15 lease arrangements have to be competitive. The questioner replied that financial feasibility is
16 important because the place is not free and clear, and the mortgage is held by the widow of the
17 former owner. Mr. Gibbons ended by saying that by the time this happens, there will be no
18 mortgage.
19

20 Q: What is the situation going to be at night considering there are patients with irregular sleep
21 patterns with regard to security; what will happen if there is a medical emergency – will there be
22 ambulances or helicopters; how many lights will be on at night?

23 A: Dr. Levendusky replied that the program is staffed 7/24; all patients will have their own
24 bedrooms with private baths; and patients will be screened with regard to patients being able to
25 use that level of care. The patients that would be of concern to McLean – and a concern to
26 neighbors – would not be brought into the program.
27

28 Dr. Levendusky ending his presentation by reading a letter from the Town Manager of
29 Princeton who wanted to assure the Board of the following: The assessor reports that Fernside
30 has had no negative impact on near-by property values; the police chief says that the facility is in
31 no way burdensome to the Town's police, fire or EMS; although the facility is tax-exempt, the
32 Town has executed a 20-year agreement for payments-in-lieu of taxes; Fernside contributes to
33 the local economy by way of employment and business with area vendors; and, he can assure the
34 Board that there have been only positive impacts to the Town resulting from Fernside's presence.
35

36 In summary, Dr. Levendusky stressed the following points about the Fox Hill program:

- 37 • It will serve a clientele that is carefully screened who have referred themselves to the
38 program to make sure they are able to take advantage of the services offered. No court-
39 referred patients or institutional-mandated referred patients will be accepted
- 40 • Clients will be seeking care for alcoholism and other related substance-abuse disorders
41 and any behavioral problems that exacerbate their alcohol problems
- 42 • The facility will have twelve beds with an average of 8.5 patients staying from a
43 minimum of 21 days with an average stay of 28 days; an average of two new clients will
44 be admitted each week; and the facility will serve from 95 – 110 patients per year
- 45 • As the program matures, approximately 75% of these patients will be new admits, and
46 25% will be re-admits

- 1 • The patients will be self-pay
- 2 • The days' rehabilitation program is highly structured and includes on-going therapy
- 3 sessions, group sessions, coaching, counseling, and physical fitness opportunities
- 4 • Staff includes psychiatrists, psychologists, social workers, rehabilitation specialists,
- 5 nurses, dieticians, and client support staff to meet needs
- 6 • Rehabilitation services are only provided to residential clients who are in the program
- 7 full-time
- 8 • The facility will be licensed for residential treatment only and there will be no de-tox or
- 9 out-patient services provided
- 10 • Clients will be adults with average ages of 35 – 55 in equal numbers of men and women
- 11 who are mostly employed, part of in-tact families, are well-educated and have means
- 12 • All clients have private bedrooms and baths with access to all common areas of the
- 13 facility and to substantial physical activity resources
- 14 • On the occasion that patients do leave the grounds – usually to attend local self-help
- 15 groups or for recreational activities - they will always be accompanied by staff
- 16 • Patients will not be allowed to have cars on the premises (except under special
- 17 circumstances) and transportation will be provided in tasteful, inconspicuous vehicles
- 18 • They have begun good, productive discussions with Pen Bay Hospital staff
- 19 • They held a focus group to meet and hear from about 25 local mental-health providers to
- 20 learn how McLean might assist the area's residents with addiction problems
- 21 • They will create approximately 30 jobs filled by highly-qualified candidates from within
- 22 and without the mid-coast region
- 23 • They have a financial impact study to show the benefit to the community that will be
- 24 discussed later

25
26 *Public Comment Session*

27
28 Mr. Sargent informed the audience that in the last two weeks the Board has received
29 about 35 letters and emails which are all on file in the Town Office, and he invited anyone
30 wanting to make further comments to do so.

31
32 Mr. Kelly reminded the audience that the Board is considering a potential Zoning
33 Ordinance amendment. It happens to be that this particular applicant has a particular plan, but
34 this is not an application for a permit to run the facility. If the amendment does go forward and is
35 approved, there will be Public Hearings held if there is an actual application for a permit is made.
36 That is the time that the Board will be getting into the specifics of the operation of the facility at
37 Fox Hill. All of the things specifically related to their proposal will be subject to a complete set
38 of public hearings and the opportunity for the public to ask questions. Tonight, however, is only
39 about the proposal for a Zoning Ordinance amendment.

40
41 Asking speakers to limit themselves to five minutes, Mr. Sargent invited anyone wishing to
42 speak to come forward:

43
44 Felicity Ferrell: Her understanding is that contract zoning is not permitted in Camden at this
45 time because it is not included in the Zoning Ordinance. If the Town is interested in this concept
46 the incentive ought to originate in the Comprehensive Plan. There is no Town water available,

1 and she is aware of problems with sufficient water and of special water treatment measures that
2 were required to make the water on an abutting property useable year-round. Ms. Ferrell
3 discussed the problems with the curve in the road saying that the option of blasting to make the
4 curve safer could cause damage to other properties. Ms. Ferrell believes that changing the
5 zoning rules in this beautiful and valuable part of Town will create insecurity among property
6 owners and buyers which will drive down property values leaving the rest of the community to
7 make up for the loss.

8
9 Ms. Ferrel wonders why the property, which was purchased for \$6.5M and recently sold
10 for \$2.9M, was not put up for auction when the previous owner died. The property could still be
11 put up for auction. She presented a copy of the mortgage deed transferring ownership from Ellen
12 Simmons to FHRE that shows Ms. Simmons serves as President. It appears to her that this was
13 done to give the investors standing to make the request for the zoning amendment; they did not
14 have this when they appeared before the Board in May. Ms. Simmons is in Texas, yet she still
15 owns this company – Ms. Ferrell believes this may be a wolf in sheep’s clothing. And while she
16 supports the concept of a rehab facility, this one is in the wrong location. There are other places
17 in Camden on Route 90 or Route 1 where the facility would be a huge success.

18
19 Mr. Sargent asked Mr. Kelly to address the contract zoning issue that Ms. Ferrell had
20 raised: Mr. Kelly replied that there had been a joint Planning Board/Select Board meeting to
21 discuss the concept. There was no interest in the concept, and this zoning ordinance request *will*
22 *not* involve contract re-zoning.

23
24 Mr. Wilson announced that he had received an email from the Fire Chief that the number
25 of people in the conference room exceeds the legal capacity of the room. They should limit the
26 capacity of the number of people in the room to the number of chairs available. Mr. Sargent said
27 they would do the best they could and called the next speaker forward.

28
29 David Hague: Abutter: He disagrees with Mr. Kelly. Because the request is so specific to that
30 one spot for this one use, now is the time to address the specific issues. He then asked the men
31 from Princeton to clarify that there was no choice in Princeton regarding Fernside’s application,
32 and they replied that local zoning is more lenient. Towns are required to accommodate certain
33 non-profit medical facilities. With regard to Fernside’s coming to Town, they had no choice.

34
35 At a meeting at Fox Hill he asked if the treatment program would have any benefit to
36 local people without means, and the answer was no. None of this is non-profit – the investors are
37 in it to make money, and McLean has been upfront that this will be a profit-making venture that
38 will help fund other programs they offer. But, none of this will help people here without means.

39
40 He knows this is a weird property that has been difficult to sell, and at first impression
41 this proposal seems like a nice thing to do, but this is simply a business trying to establish itself
42 in an area that has been preserved as a residential neighborhood for over 100 years. It should
43 stay that way, and they should not be able to take advantage of the peaceful, beautiful nature of
44 the neighborhood to make a profit.

45
46 Parker Laite: He doesn’t question McLean’s intentions, but long before zoning the whole area
47 has been residential and it should remain residential. This change puts us on a slippery slope.

1 There are lots of properties down there that are questionable if they are going to be sold or not,
2 and they could be sold and converted also. Creating a subdivision here is fine, and the investors
3 could come out of this purchase whole financially by subdividing. This property doesn't qualify
4 for a change to the Ordinance as a Special Exception.
5

6 Jay Evans: Zoning is the issue here. Even if McLean is a non-profit, the entire venture is a profit
7 maker. All the information on the facility and McLean's program is irrelevant, including the
8 financials.
9

10 Mark Dierckes: Hope: He was the project manager for work done at Fox Hill, and he witnessed
11 firsthand that the precedent has already been set for the commercial use of this property. Traffic
12 at the property was a nightmare, and he understands why neighbors might be concerned. Part of
13 his job was bringing hundreds and hundreds of trucks to that property during construction, and
14 he believes that 95% of Bayview Street will not be used by traffic to the facility. Just as they did
15 when he was there, truck drivers will use Chestnut Street and turn onto Bayview at the lower end
16 to reach the property. It is a very short section of the street, and it is bordered on one side by a
17 cemetery and on the other by two residences. It makes no sense to go the long way along
18 Bayview Street, and he does not believe there will be any impact on most of Bayview Street
19 from traffic at the facility.
20

21 Don Abbott: He lives on Bayview and knows that the area was kept a residential area after much
22 consideration when zoning was developed. People from all over Town walk down the Bayview
23 Street neighborhood and stop and talk. To breach the Zoning Ordinance for this neighborhood
24 would be a travesty, and he opposes any changes to the zoning.
25

26 Meg Sideris: She agrees with Mr. Dierckes that change has already come to this property, and
27 the changes were made under the rules for residential properties. If the Town is actually
28 considering how to keep neighborhoods intact, we need to look to the best use for that property
29 today. It is hard to imagine that a subdivision would be an improvement of the neighborhood
30 even though it would preserve the residential character. She sees this proposal as zoning
31 catching up to reality as we think about the next best use for this property.
32

33 Charlie Cawley: Former owner of Fox Hill: If he had to vote he would oppose this change for
34 one reason - making this change will create a significant change in the character of the Town
35 some day. As far as Fox Hill being used commercially in the past, he can say for certain that not
36 a dime of income has ever come into the house in over twenty-three years. It is a hard piece of
37 property to sell, but he would never have sold it for this purpose.
38

39 Dyke Messler: A sensitively done subdivision is a good use of this property: The Mountain
40 Arrow Subdivision was created out of a 40 acre parcel off Route 1 and there are currently 13 lots
41 in the lower portion - this kind of development would be allowed at Fox Hill. The properties at
42 Mountain Arrow pay well over \$100,000 in taxes, and a well-planned development at Fox Hill
43 could pump a lot of revenue back into the Town.
44

45 Joe Fey: He is concerned about traffic as his family walks and bikes on Bayview, and as children
46 wait at the bus-stop on Chestnut Street. The year-round traffic that will result from this proposal
47 will be like the summer traffic. He is a former Planning Board member (not in Camden) and

1 knows what changing zoning can do. He is nervous thinking about what changes to other similar
2 properties might be. This facility will be treating alcoholism and drug abuse and psychotic
3 disorders. If these other properties want to make changes, a cluster of these clinics could result –
4 that is what often happens once the door is opened.
5

6 Gina-Angelo Gallace: Members of his family used to own property across from Fox Hill but
7 sold it because they grew tired of what was happening there. There is truth to the comments that
8 speak to the commercial activity and the amount of traffic that used to come in when Mr. Cawley
9 owned Fox Hill. It was being used in a commercial manner that substantially changed nature of
10 the neighborhood. There was a lot of traffic on a constant basis including tour buses bringing
11 people to corporate retreats. The property feels industrial in nature, and that is one reason that it
12 hasn't sold. Another reason is high taxes: Properties on outer Bayview are meant to be large
13 parcels of land with high end houses, and the Town should look for a way to reduce those
14 property taxes like they do for businesses so they can remain single family. This area is the
15 breadbasket of Camden with regard to the amount of taxes paid by the property owners along
16 Bayview Street. The Town should keep in mind, when they think about making changes, that
17 they could be endangering that income if they lower the property values in this area.
18

19 Dave Waulk: Lincolville: He has started several businesses in the area and knows the need for
20 jobs. Many people in the area are concerned that the community is getting older in age and
21 smaller in year-round population; we are not creating jobs so young people leave the area.
22

23 Fox Hill has not been used as a residence for over 20 years, and no one is going to buy it
24 as a residence. A subdivision would result in heavy traffic and noise for years.
25

26 There are many reasons to support this proposal: McLean will create about 27 jobs with
27 an anticipated payroll of \$1.25M at the facility alone; the bill to maintain the facility and grounds
28 will put about \$600,000 in the hands of local contractors; the facility will bring business to the
29 community with estimates for food at \$100,000; hospital care at \$150,000; and catering at
30 \$250,000. A forensic accountant estimate discretionary spending by patients, staff and visitors
31 could be as much as \$6M. Some of these patients may move to the area, and they could start
32 businesses here. After staying at the McLean facility at the Dunes in East Hampton, 17 patients
33 moved to the area after the first 2 ½ years of operation. None of this will happen if the property
34 remains residential.
35

36 Phil Fowler: He understands the need for jobs and new businesses that Mr. Waulk just spoke to,
37 and he commends McLean's work with rehabilitation of people. But, the underlying subject here
38 that is under-emphasized tonight is zoning. None of this would be necessary if this proposal had
39 been approached on one of the 83 parcels that this Town currently has zoned for this purpose.
40 Zoning has given sanctity and comfort to both the residential people and the commercial people.
41 It is incomprehensible to him that a business like this has to locate in a residential area. This is
42 spot zoning, and every citizen in Town needs to think about where they live and what spot
43 zoning can do to their houses. The boundaries of zoning have been established for everyone's
44 well being, and the sanctity of that needs to be protected.
45

46 Franklin Walker: When he bought his Chestnut Street property he relied upon Camden Zoning.
47 The purpose of zoning is to provide protection and certainty and to guarantee homeowners'

1 rights to the quiet enjoyment of their properties. To take a large commercial property and insert
2 it into a residential neighborhood goes against these principles of zoning. Camden has defined
3 districts with defined uses. Why have zoning at all if you can make this change? This use is not
4 appropriate here, and it is not fair to the neighbors to allow it.
5

6 It is also in violation of the Comprehensive Plan to allow this use. Although the
7 proponents say that property values will not be harmed, realtors say property values in the area
8 will be diminished. He believes there is no reason to continue this discussion and hopes the
9 Board will cut off the process of considering this proposal at the earliest stage possible.
10

11 Wendalynne Augunas: She is a clinician, and she believes this is a great idea. What if it does
12 work well; what if this can be worked out so this use of the property is not a big deal; what if it
13 puts the subject of substance abuse on the table instead of under the table? What are the
14 possibilities of a good business coming here - a good enterprise – something that ends up being a
15 good thing for Camden? She works with families and addiction and thinks that having the
16 presence of McLean in the community would be an incredible opportunity to shape this into a
17 wonderful opportunity.
18

19 Will Pfau: He has seen the kind of unintended results of zoning changes that will result from
20 this proposal. It will lead to other facilities wanting to come in, and the Town won't be able to
21 say no. This proposal is about the economy and helping these property owners out of a real-
22 estate challenge with a zone change. The Comp Plan doesn't say that the Town should do real-
23 estate bail-outs. The economy *is* turning around, and this is one of the most iconic properties in
24 Camden, and in a good economy properties like this will sell.
25

26 He wonders who will monitor Fox Hill to make sure the requirements they outline in
27 their proposal are met. They also make no mention of the burden to the Town's infrastructure
28 that will result from their facility. This is the wrong thing to be doing on this property.
29

30 Judy Emery: She is a small business owner and knows there are a lot of other business people
31 who would like to see more year-round businesses in Town; they are afraid to speak out because
32 of the "politics." She also knows that there is a huge problem in Maine with drug and alcohol
33 abuse, and many people who need help. This is the opportunity to have a well-respected and
34 well-known entity come here to help with this problem, and the developers think Fox Hill is the
35 perfect place for their facility. It would be a shame to miss this opportunity.
36

37 Matt Manahan: The Abramsons, his clients, are abutters who feel strongly that zoning is in place
38 to protect the character of Camden. Mr. Manahan noted that his co-counsel, Jack Sanford, could
39 not be here this evening, but that as far as Mr. Sanford knows, this is the first time the Board has
40 ever considered converting a residence into a commercial use – this will be a precedential
41 decision. It will be precedential as far as others wanting to bring a commercial use into the
42 Coastal Residential District, and precedential as well because all these facilities will now be
43 protected by the ADA. Once the Town has said that this use is appropriate here, courts have said
44 that similar facilities for substance abuse treatment must be accommodated in the residential
45 district.
46

1 He agrees with Mr. Kelly that the specifics of the proposal are not before the Board at
2 this time; that will happen during Site Plan approval if this project moves forward. But, it is
3 important to recognize that the Applicant has brought these details forward in what looks like a
4 request for conditional zoning for this property; the Board does not have the authorization to
5 consider a request for conditional zoning. State law defines Conditional Zoning as a specific
6 proposal for a zone change on a specific property, and that is how this request is presented. If it
7 is approved as regular re-zoning, that will violate the State law on conditional or contract zoning
8 and open the Town to a lawsuit on that point. In addition, there is no need for this proposal
9 because these facilities are already allowed within Town in the B-2 and B-3 Districts.

10
11 Tim Stallmaker: He is a trained economist and a business lawyer and believes the Board needs
12 to question the impact on the fundamental economic model of Camden. The further you go out
13 Bayview the more taxes are paid, and that is a fundamental part of the business model of
14 Camden. If you call into question the appeal of those properties - if those values are harmed -
15 the Town's actual viability may suffer over time with the loss of tax dollars.

16
17 Franklin Walker: He asked Dr. Levendusky to explain the licensing request for treatment of co-
18 dependencies, and wonders if this could include opiate addiction. Dr. Levendusky replied that
19 they will be treating alcoholism and other co-occurring mental health issues such as anxiety,
20 depression and mood disorders. They will *not* be treating psychoses as another commentator had
21 suggested; that is not a co-occurring disorder and this program is not appropriate for treatment of
22 this disorder. He added that the majority of patients will be treated for alcoholism, some of
23 whom will have co-dependencies for prescription drugs for example.

24
25 Mark Dierckes: He spoke to the 83 other properties that speakers mention as supposedly
26 available as sites for this facility. There is no other property that is so uniquely suited to serve
27 this purpose as Fox Hill, and the people making this application are intelligent enough to realize
28 that. People also don't need to worry about other kinds of clinics coming into the area if this is
29 approved. They can worry about a Methadone Clinic on Bayview Street, when a Methadone
30 Clinic can afford that kind of property.

31
32 The floor was closed for comments from the public and the Applicants were given the
33 opportunity to comment on what they had heard:

34
35 Paul Gibbons: He wants to focus on Mr. Manahan's interpretation of the law that a very
36 specifically written ordinance cannot be approved as regular re-zoning. He cited his firm's work
37 for the Town in *Vella v. Town of Camden*. In that case, Camden enacted a zoning amendment
38 that applied only to the Whitehall Inn and to no other property in Town. He read that section of
39 the Ordinance (Article VII Section 7 B (12)). The provision was challenged as spot zoning and as
40 being in violation of the Comprehensive Plan; the Maine Law Court disagreed. They upheld the
41 Town's ordinance and they said that it was not in violation of the Plan. There is both legal and
42 illegal spot zoning, and he contends that a proposal can be very specifically written to apply to a
43 particular property and be legal. Mr. Gibbons cited the Decision: "Spot zoning" is a neutral term
44 encompassing both legal and illegal land use controls. The fact that a zoning amendment benefits
45 only a particular property or is adopted at the request of a particular property owner for that
46 owner's benefit is not determinative of whether it is an illegal spot zoning." The charge that the
47 Applicant's proposal is illegal because it is spot zoning is in error; and the assertions that it is

1 impossible to write a very specific zoning proposal that applies to one property that is legal are
2 wrong. It is possible as long as the language of the ordinance is written correctly.
3

4 Mr. Scholz questioned how effective the amendment had been in controlling the problem
5 that it was trying to address if it is not being enforced. Mr. Wilson suggested that the Whitehall
6 Inn was grandfathered from having to comply with the changes, and Mr. Scholz replied that it
7 gives little comfort to those who have concerns about Fox Hill to know that an amendment that
8 includes restrictions, and sets controls on expansion of the use, may end up not having any teeth.
9

10 Mr. Manahan rose to claim that Mr. Gibbons had misrepresented his position, but the
11 public comment portion of the meeting had been closed and he was not given permission to
12 speak out of turn. He will be allowed to address that point at his next opportunity to speak, or he
13 can send a letter to the Board. Mr. Manahan went on to add that the case (*Vella*) is not applicable
14 here.
15

16 Mr. Sargent asked Mr. Gibbons to do a synopsis of the case so they have something to
17 read. He should provide a copy to Steve Wilson to distribute to the Board and give copies to Mr.
18 Manahan and Mr. Kelly as well.
19

20 Cliff Goodall: Co-counsel for the Applicant: He has spent over 40 years practicing Land Use
21 Law and has represented both clients and Towns in making zoning amendments. This proposal
22 is to create a Special Exception; it would amend the Ordinance by adding a new use to the
23 district that is allowed only as a Special Exception. The Maine Law Court has said, and the
24 Camden Ordinance says, that when there is something unique about a property a proposed use
25 can go on that property if it has conditions attached to it. This is a Special Exception. The
26 conditions can be contained within the Ordinance itself like the one they are proposing, or the
27 Zoning Board of Appeals, after receiving public comments, can add specific conditions to apply
28 to each unique piece of property. The ZBA considers, among other things, if the property is
29 unique in that it can no longer sustain its current use; and they must determine if the use is
30 compatible with the residential character of the neighborhood. The Planning Board must also
31 review the Application, and after hearing public comments and reviewing the specific site, they
32 can add additional conditions to their approval.
33

34 Mr. Goodall extended an invitation to the Board to hold a site walk to look at the property
35 to help them in determining whether or not it would be appropriate to add this use as a Special
36 Exception at this location with conditions. Because a meeting of the Board is a public meeting,
37 the public could also attend.
38

39 Bill Kelly: He suggests that Mr. Manahan's saying that this proposal would be in violation of
40 the Contract Zoning Statute doesn't make sense; you can't violate a law you have never adopted.
41 Mr. Kelly thinks a visit Fox Hill is a good informational opportunity for the Board.
42

43 *Questions from the Board:*
44

45 Mr. Bernhard: He is glad of the visit to Fox Hill because so much of this proposal has to do with
46 the actual physical plant.
47

1 Ms. Tuttle: She asked Dr. Levendusky what kind of community outreach has been done by
2 McLean in Princeton. The Dr. replied that Princeton has not asked for their involvement. He
3 added that they have started conversations with local providers; they have entered into
4 collaborations with staff at Pen Bay treatment center; there will be access by local providers to
5 McLean's Continuing Education program; and they will be pleased to take McLean's Pair
6 Program into schools to discuss early intervention and education around substance abuse if
7 asked. They will provide a list of their resources to local providers to see what they might find
8 useful. Tom Rodman, a partner in the investment group, clarified that *none* of these outreach
9 programs would take place on the Fox Hill campus.

10
11 Mr. Householder: He asked about the Princeton zoning situation: If the facility had not been
12 permitted within the district how it could have been approved without a zoning change? Mr.
13 LaChance replied that the Dover Amendment to Massachusetts Zoning Law supersedes local
14 zoning laws with regard to educational or charitable organizations. Dr. Levendusky added that a
15 Massachusetts Planning Board can add conditions of approval to these applications, and that
16 happened in Princeton.

17
18 Mr. Sargent: He heard many concerns voiced this evening that if Camden were to let one of
19 these facilities in that many more would follow. He asked Mr. LaChance what had happened in
20 Princeton in the years since Fernwood was approved, and Mr. LaChance replied that they had no
21 other applications come before the Planning Board. There are a large number of properties in
22 Town that would be suitable, but as far as he knew, no one else has shown interest.

23
24 Bill Kelly: Mr. Kelly addressed the upcoming site walk and what the Board should consider
25 when they go to Fox Hill. He reminded them that this is a zoning amendment request and the
26 only thing they should take from the property is information about context – what would this use
27 look like on this property if the request is approved. They should also bear in mind that ADA
28 means that the treatment of disabilities cannot be legally limited by the language of the
29 amendment.

30
31 With regard to the legal concepts raised in these discussions, he is not convinced by Matt
32 (Manahan) that there is a legal frailty to the proposal with regard to a violation of contract zoning
33 law. Mr. Manahan interjected and said that there is still a valid question regarding whether or
34 not the proposal is inconsistent with the Comprehensive Plan.

35
36 *The Process*

37
38 Site Walk: The Board and FHRE representatives agreed on the date of September 18 at 3pm -
39 notice will be posted on line.

40
41 September 19 Board Meeting: The Board will discuss the language of the proposal with the
42 FHRE Team. The Board agreed to hear public comments if there is time.

43
44 Venue: At the 9/19 meeting the Board will consider whether or not to move meetings where Fox
45 Hill will be discussed to the Opera House so more citizens can be accommodated legally.

46
47 The Fox Hill portion of the meeting was concluded.

Discussion with Bill Kelly

1
2
3 Mr. Kelly suggested again that the Site Walk at Fox Hill is so the Board can better
4 understand if the Special Exception would be appropriate for this property -- the interior of the
5 buildings is not pertinent.
6

7 Mr. Scholz: He asked if all the conditions that the Applicant is proposing can be included in the
8 amendment: Is it appropriate to include them? Is it legal to include them? How much of the
9 language can be included? Ms. MacKinnon believes that most of the conditions should be
10 handed down by the ZBA. Mr. Kelly replied that the language is an attempt to explain the
11 likelihood of what will occur on this site. The Applicants want to provide some level of comfort
12 to the neighbors so they can understand what they intend to happen. Including all this language
13 does have some political implications, but there is nothing to legally control this level of detail.
14

15 Mr. Kelly informed the Board that they can restructure the Applicants' proposed
16 language and come up with their own definitions or their own conditions if they wish. If they cut
17 down on the Applicant's proposal it may be that Applicant says the changes won't let them
18 accomplish their goal. In that case, the Board could chose to send the Applicant's version
19 forward and submit an alternate proposal to the Select Board that they would write themselves.
20

21 In summary, Mr. Kelly said that he is not worried about the contract rezoning issue, but
22 that he is concerned that the proposal not be written so it is inconsistent with the Comprehensive
23 Plan. In order to be found inconsistent, the Comp Plan must specifically prohibit the use, and he
24 will have to research the Plan to assure that the proposal complies.
25

26 Ms. MacKinnon noted that she is surprised that no one mentions that there are
27 commercial uses that are already permitted in this District – a day care center and a nursery
28 school. It would seem to be a good argument that the proponents would have used on their
29 behalf.
30

31 Mr. Kelly warned the Board to stay together on the Site Walk; they should not accept or
32 solicit testimony from the Applicants or the public; and there should be no discussion that
33 everyone on the Board is not party to. The entire Board has to see and hear the same thing and
34 receive exactly the same information.
35

- 36 • Seeing the inside of the buildings at Fox Hill may give the Board some indication of
37 whether or not this is a unique situation that is deserving of unique consideration,
38 however much of this kind of information can be gotten from floor plans
- 39 • A visit will give the Board a sense of whether the property already has a commercial
40 appearance, or if there is support for the claim that there has been commercial-style use
41 on the property
- 42 • One of the criteria the ZBA applies is how the use fits in relationship with surrounding
43 properties, and that can be seen in a visit to the area
44

1 Ms. Tuttle asked if the Planning Board members should discuss ways to limit the
2 language of the amendment. Her recommendation was seen to be premature since the Board has
3 not decided whether or not they will proceed with further consideration of the amendment.
4

5 Mr. Householder recommended that the Board review the Comp Plan to look for relevant
6 statements that either support the proposed use or speak against the use. Mr. Sargent will assign
7 a chapter to each member to read with this goal in mind.
8

9 There being no further business before the Board they adjourned at 9 pm.
10

11 Respectfully submitted,
12

13
14 Jeanne Hollingsworth, Recording Secretary