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**CAMDEN PLANNING BOARD**  
**MINUTES OF MEETING**  
**October 3, 2013**

**PRESENT:** Chair Chris MacLean; Vice Chair Lowrie Sargent; Members Richard Householder, Jan MacKinnon, and John Scholz; Alternate Members Richard Bernhard and Kim Tuttle; Don White, Select Board Liaison; and CEO Steve Wilson

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

**1. Public Input on Non-agenda Items:**

No one came forward.

**2. Minutes:**

August 29, 2013:

Page 1 Line 46: The word “his” was changed to “Mr. Bratz”.

Page 4 Line 39: “~~It~~ The road in Princeton may be...”

Page 15 Line 4: “understand if the ~~Zoning Ordinance~~ Special Exception would be appropriate for this property...”

Other minor changes and corrections recommended by members will be included in the Final version.

Discussion: Mr. Scholz noted that at Page 12, beginning at Line 38, Mr. Gibbons erred when he said that *Vella v. Town of Camden* applied to the Whitehall Inn. Mr. Gibbons has since corrected himself agreeing with Mr. Scholz that it was the Norumbega Inn instead, as stated in his memos to the Board. The information is noted; this section of the Minutes stands as recorded.

**MOTION by Mr. Scholz seconded by Mr. Householder** to accept the Minutes of the Camden Planning Board of August 29, 2013 as amended.

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

September 19, 2013:

Page 3 Lines 44 – Page 4 Line 4: Mr. Scholz recommendations for changes to this section of the Minutes led to a conversation regarding the accuracy and adequacy of the summary of Mr. Bernhard’s comments. The Recording Secretary will check the audio and re-write the section accordingly.

Page 8 Line 17: “grandfathered structures.”

There were no other comments or corrections. Voting on the Minutes was deferred until replacement language for the section above is presented to the Board.

1 **VANGEL SUBDIVISION: Preapplication Meeting Major Subdivision**  
2 **David Vangel: Map 134 Lot 35: Belfast Road**  
3 **Coastal Residential District (CR) and Rural 1 District (RU-1)**  
4

5 Mr. Vangel was accompanied by his representative, Andrew Hedrich of Gartley and  
6 Dorsky Engineering and Surveying, seeking permission to divide the lot he purchased in 2012.  
7 The division would be the third within five years and require subdivision approval. (By the time  
8 of Preliminary Plan Review, the owner will be Vernon Dent LLC.)  
9

10 Mr. Hedrich noted the following with regard to the proposed development:

- 11 • The subdivision, with only two lots, is considered a Major Subdivision because it is  
12 located in the Coastal Residential District
- 13 • They intend to bring power underground either down the new drive from the pole serving  
14 the Belfast Road residence, or across Lot 1 from an abutting Millay Road site
- 15 • Entrance from Route 1 is by way of an easement over an existing driveway; no MDOT  
16 entrance permit will be required
- 17 • There is uncertainty over the exact location of the flood zone, and it was located using the  
18 best information available and shown on the revised Plan
- 19 • The shoreline has been classified by DEP as an Unstable Bluff Area, but because there  
20 appears to be ledge outcropping they are asking DEP to re-evaluate the classification.  
21 This decision will determine whether the 75' building setback begins at the mean high-  
22 water mark or at the top of the bluff
- 23 • The portion of the new road serving Lot 2 will begin and end in a hammerhead turn  
24 around; a private driveway will continue down the easement to serve Lot 1
- 25 • The pond on the Route 1 property appears not to be part of a storm water drainage  
26 system, and, because of the grade they do not believe run-off from overflow would pose  
27 any problem to Lot 2. It has been in place for many years with no sign of erosion. There  
28 appears to be a stone overflow system nearby, but no sign this is meant to be a retention  
29 pond
- 30 • The wetland shown on Lot 2 appears to be a depression in a flat area that collects water  
31 and maintains a sufficient level of saturation to act as a wetland  
32

33 **Section 2 Preapplication Meeting Requirements:**

34 ✓ The CEO confirmed that nine copies of the packet were submitted, with fees, at least 22 days  
35 in advance of meeting.

36 The packet consists of the following dated September 19, 2013, as well as other required  
37 submissions:

- 38 ➤ An Application for Minor Subdivision Review
- 39 ➤ A Preapplication Letter
- 40 ➤ Plan C-1: Preapplication Subdivision Plan  
41

42 ✓ The Board reviewed the Preapplication Submission Requirements and found they had been  
43 satisfied. (See Attachment A)  
44

45 **MOTION by Ms. MacKinnon seconded by Mr. Scholz to find the Application complete.**

46 **VOTE: 5-0-0**

1 **Section 3 Submission of Waiver Requests:**

2 ➤ A request for a waiver of design guidelines was dated, and submitted on, October 3, 2013

3 The request is to waive the requirement at Appendix E, Public and Private Road  
4 Dimensional Requirements Residential Districts, for a 16' road width to allow for a 14' road  
5 width for the first 135' of the Private Road.  
6

7 Waivers of design guidelines are reviewed under Article 11, and the Chair informed the  
8 Applicant that the Board could discuss the waiver in general, but they cannot commit to an  
9 answer until they hear from abutters. A Public Hearing is required before a vote can be held, and  
10 this will be scheduled prior to the review of the Preliminary Plan.  
11

12 The Applicant made his arguments in support of the waiver request:

- 13 • There is an existing, 14'-wide newly paved driveway with 1' shoulders serving the Belfast  
14 Road residence. For his neighbor's sake, the Applicant wants to avoid disturbing this new  
15 pavement, and he does not wish to see a larger expanse of pavement cross his neighbor's  
16 lawn. There is an existing power pole in the area that might have to be moved if the road  
17 is widened
- 18 • There can be no further subdivision of the Applicant's lots. The maximum number of  
19 residences that will be served is two and it will not receive heavy traffic
- 20 • The request is for only the first 135' of the drive. Once the Private Drive reaches his  
21 property line the road will be built to the 16' standard required in the Ordinance
- 22 • The driveway is 16' - 18' wide at the Route 1 entrance
- 23 • The sight distance looking south is "not the best", but at 400', and with the low level of  
24 use that will be generated, they believe the current location is the best available within the  
25 easement
- 26 • The area of the existing drive at Route 1 is fairly level ground that slopes gradually down  
27 the drive
- 28 • The tree line shown on the Plan does not extend out to Route 1 and does not obstruct the  
29 line of sight at the entrance  
30

31 The Chair reviewed each step in the procedure as outlined at Article 11 Waivers Section  
32 2 (See Attachment W).  
33

34 Comments from the Board:  
35

36 Mr. MacLean noted that a decision to approve the Applicant's request for a waiver of  
37 road standards would not create a legal precedent, but the importance of consistency in  
38 conducting Board reviews should be kept in mind when members make their decision. Ms.  
39 MacKinnon countered that the very purpose of waivers *is* to allow the Board to address the  
40 unique aspects of an application: There is no "one size fits all" in the standards, and waivers give  
41 the Board the flexibility to make practical decisions.  
42

43 Mr. Scholz is concerned that the most important portion of the road is the part that comes  
44 off Route 1, and that is where the road will be most narrow.  
45

1 Mr. Sargent clarified that Mr. Vangel now owns the property, and asked if he needed  
2 permission from the Route 1 property owner to widen the drive; the answer was that he did not,  
3 and a copy of the driveway easement has been provided.  
4

5 Mr. Sargent read the standards for approval of these waivers: 1) the need for the waiver is  
6 due to the unique circumstances of the property; *and* 2) the circumstances are beyond the control  
7 of the developer. Mr. Sargent could agree that the fact that there is an existing driveway makes  
8 the property unique. He understands that “circumstances beyond the control of the developer”  
9 refer to natural features that create an obstacle - like ledge outcroppings, and is not convinced  
10 that a driveway that is narrower than required is beyond Mr. Vangel’s control. In any case,  
11 before the Board can make a decision they should hear what the Police and Fire Chiefs have to  
12 say, and consider “worst case scenarios” like two large trucks meeting on a narrow road in the  
13 winter.  
14

15 Mr. MacLean informed the Applicant that as far as consistency goes, typically the Board  
16 has taken a dim view of approving roads narrower than the Ordinance requires; and generally,  
17 they have taken a conservative view when it comes to approving waivers. They must consider  
18 safety, emergency vehicle access, and in this case cars turning onto and off busy Route 1; a very  
19 persuasive argument must be made that there is no alternative to this request.  
20

21 Mr. Vangel asked what happens if he reverted back to applying for a private driveway  
22 what width would be required. Mr. Wilson replied the Board would have to look at the standards  
23 for a Private Way where the width is 10’. Mr. Vangel expressed his frustration with the  
24 subdivision process and the requirement to “put I-95” across his neighbor’s property. To turn his  
25 application for two lots into a Major Subdivision is absurd even if it is required by the  
26 Ordinance, and he has decided to stop the subdivision process at this point. The Chair  
27 recommended that he not withdraw his Application; Mr. Vangel can take time to re-consider the  
28 investment he has made in the Application, and decide whether to continue the review or not.  
29

30 Ms. MacKinnon asked Mr. Vangel if the 16’ driveway is feasible, and Mr. Vangel replied  
31 that his neighbor just spent a fortune replacing his driveway and adding fine landscaping; he  
32 doesn’t have the heart to tear it up. Because his family lost their home he needs to get started  
33 before winter, and he believes the best thing is to forget subdivision, consider this one house lot,  
34 and move forward in that direction. Mr. Hedrich recommended that Mr. Vangel finish the  
35 Preapplication Meeting, and then they can discuss his options. Mr. Vangel again expressed his  
36 frustration with, and lack of patience in dealing with, a bureaucracy that is getting in the way of  
37 practicality.  
38

39 The Chair suggested that the Board can still move forward to send notice and advertise  
40 the Public Hearing. The Board discussed fitting this review into a schedule already full with the  
41 Fox Hill proposal, and the Chair suggested that a review of an application must proceed within  
42 the timeframe prescribed by the Ordinance, and if need be, Fox Hill would have to be delayed.  
43

44 **Section 4. Site Walk:** The Board shall schedule a site walk within 14 days, to be attended by  
45 the developer and the Board. The developer shall place “flagging” at the centerline of any  
46 proposed streets...  
47

1 ✓ A Site Walk was scheduled for the next day, October 4, at 4:15 pm, and the Applicant will do  
2 his best to flag the centerline of the drive as proposed.

3  
4 **Section 5. Public Informational Meeting:** The public informational meeting shall be held  
5 following the initial presentation by the developer... and within 30 days.

6  
7 ✓ The Board decided to hold a Special Meeting on October 24 to consider the waiver after holding  
8 a Public Hearing. Mr. Hedrich asked that the Public Information Meeting and the Preliminary  
9 Plan review be scheduled for the same evening as well. He informed the Board that the  
10 Preliminary Plans have already been submitted showing the drive at the full required width. If  
11 the waiver is approved they will make the changes on the Final Plan. If not, they are ready to  
12 proceed with the Plan as submitted.

13  
14 Because PopTech! will be using the meeting room on the 24, the Board will meet in the  
15 activity room at the Fire Department.

16  
17 **Section 6. Prohibition of Site Activity During Review:** Filling, excavating, grading, or  
18 grubbing are prohibited on the site of a proposed subdivision until final plan approval has been  
19 granted.

20  
21 Discussion: Mr. Wilson informed Mr. Vangel that he cannot issue any building permit to begin  
22 work because there is no access to the lot. He also informed the Applicant that this Section of  
23 the Ordinance prohibits any work - even roughing in a drive - until final approval.

24  
25 **Section 7. Preapplication Determinations**

26  
27 At the conclusion of the Preapplication Review, the Planning Board will have determined the  
28 following, for either a minor or major subdivision:

- 29 1. Contour intervals  
30 Mr. Hedrich informed the Board that contour levels are shown along the path of the road,  
31 but not on the entire property; they hope this will be sufficient.  
32 2. Additional submissions  
33 3. Date of the site walk - done  
34 4. Whether the Board wishes to hire an outside consultant  
35 5. Date of the public hearing - done  
36 6. Waivers – submitted

37  
38  
39 **4. ZONING ORDINANCE AMENDMENT REQUEST: Definition of Dwelling Unit**

40  
41 Steve Pixley is asking the Board to consider modifying the definition of a Dwelling Unit  
42 to allow rentals for less than seven consecutive days so he can continue to rent his cottage on  
43 Hosmer Pond for long week-ends and short stays. He recommends that an exemption from the  
44 weekly rental requirement for properties within one half mile of the Rural Recreation District.

45

1 People already coming to the Ragged Mountain Recreation Area are often looking for  
2 places to stay for two or three days so they can be close to skiing and other activities at the  
3 mountain. When the \$7M rebuild of the facilities is completed many more tourists can be  
4 expected to come to the area, and they will need places to stay. These are not the same people  
5 who will want to stay in the B&Bs – he won't be competing for the same clientele; these are  
6 families who want to be outdoors not downtown shopping, and the Town should find a way to  
7 accommodate these visitors or they will go elsewhere. He believes the Comprehensive Plan's  
8 directive to prevent sprawl supports his request.  
9

10 The Chair noted that transient accommodations and rentals are distinguished from  
11 dwellings on the basis of requiring accommodations be made for safety. The Board discussed  
12 why the definition had been amended in 2008, and wondered if changes to building codes were  
13 the reason for the change. Mr. Sargent added that the growing trend to rent out houses using  
14 various web sites has created what amounts to a new business – a business that is not regulated.  
15 Mr. MacLean would like information on why the Definition reads as it does – why was a one  
16 week rental required? He also wants to know why, if there are restrictions on hotels and B&Bs  
17 for health and safety reasons, that the same restrictions should not apply to these dwelling units –  
18 why are these rentals different? Mr. Sargent suggests that it is the capacity of B&Bs and inns to  
19 house many guests that drives the requirements for safety; members agreed that these rentals are  
20 different from B&Bs in several ways including clientele.  
21

22 → Mr. Wilson believes that MUBEC might kick in if there are rentals in dwellings and that there  
23 may be additional code requirements – he will check.  
24

25 Mr. Scholz noted that on-line rentals are the way the world of rentals is evolving – people  
26 go on line to find places to stay all over the globe. He then added that he will be recusing  
27 himself from further discussion because he will be having properties for rent in this same area.  
28

29 The Board agreed to continue to explore Mr. Pixley's request and informed him that the  
30 earliest an amendment could go to Town vote is June 2014.  
31

32 → Mr. Wilson will research the history of why the definition was amended and provide  
33 information on how many properties Town wide might be affected -- the Board will continue the  
34 discussion on 10/24.  
35

36 Mr. Pixley noted that he is only addressing these rentals as they apply to the Rural  
37 Recreational Area. Other areas where there are short-term rentals, like cottages on Lake  
38 Megunticook, are not "his fight".  
39

#### 40 **5. DISCUSSION of BOARD ATTENDANCE POLICY:**

41  
42 Mr. Sargent reminded members that the Select Board had asked the Planning Board to  
43 finalize their attendance policy because they were interested in using the policy as a template in  
44 developing policies for other Town Boards and Committees. Members want to amend the policy  
45 to address situations of extended excused absences, and agreed that the consequences of missing  
46 several consecutive meetings needed to be clearly stated. Don White suggested that if a trigger  
47 for dismissal is included in a written policy, the Board *must* follow through, discuss these

1 absences and make a recommendation to the Select Board. Mr. Sargent suggested that the Select  
2 Board must be willing to accept the Board recommendation; because the Planning Board has no  
3 authority to remove a member, it will be up to the Select Board to implement this policy.  
4

5 The Board discussed the issue of extended absences, and determined that whatever the  
6 reason for the absences the impact on the Planning Board is the same. It is important that the  
7 Board remains fully seated, and members determined that counting absences over six month  
8 periods of time would provide the best opportunity to maintain a full Board. Members agreed  
9 that missing 30% of regularly scheduled meetings within a six-month period would be cause for  
10 the Board to recommend the member be replaced.  
11

12 Because of the legal issues that come before the Board, it is also necessary to address  
13 absences during review of an application. There is a requirement that members recuse  
14 themselves if they cannot certify that they have read minutes or watched videos of any meeting  
15 they have missed during review, and that will be included in this policy.  
16

17 DISCUSSION:  
18

19 1. Minor Field Adjustments: There were none  
20

21 2. Future Agenda Items: 10/17: Fox Hill  
22 10/24: Vangel Subdivision  
23 Zoning Amendment – Definition of Dwelling Unit  
24

25 3. Pending Applications: An Application for a pier is coming before the Board soon.  
26 Representatives from Gartley and Dorsky have already been to the Harbor Committee and  
27 received their approvals; the Planning Board is the next step in the process.  
28

29 4. The Select Board has requested that work on a Historic Preservation Ordinance resume, and  
30 Mr. Sargent informed the Board that the Historic Preservation Committee (HPC) has offered to  
31 prepare a draft for the Board's review. Mr. Householder will serve as the Planning Board liaison  
32 to the Committee, and will present the Board with a proposed schedule to completion within 60  
33 days. HPC Chair Meg Barclay has been directed to involve many different stakeholders as the  
34 Committee works to prepare the draft, and to work with them to determine the most appropriate  
35 level of "managing" private property.  
36

37 There being no further business before the Board they adjourned at 8 pm.  
38

39 Respectfully submitted,  
40

41  
42 Jeanne Hollingsworth, Recording Secretary  
43

1 ATTACHMENT A: **Appendix A: Preapplication Plan Submission Requirements – Minor**  
2 **or Major Subdivision**

3

**1) Application**

- √ a) Nine copies of the application and any supporting documents.
- √ b) Evidence of right, title or interest in the property.
- √ c) All existing deed restrictions, easements, right of ways or other encumbrances.

*View easements and other restrictions are in the Deed and shown on the Plan.*

**2) Site Inventory Map**

- √ Nine copies of an accurate scale map of the parcel at not more than 1-inch equals 50-feet, showing the following:

- √ a) Proposed name of the development, north arrow, scale and date.
- √ b) Boundaries of the parcel based upon town tax maps or a standard boundary survey if available and the number of acres.
- √ c) Tax maps and lot numbers of the parcel(s) to be divided.
- √ d) Major natural features of the site, including steep slopes, wetlands, vernal pools, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats, or other important natural features.

*Floodplains will be shown on the Final Plan once updated information has been obtained.*

- √ e) Vegetative cover conditions according to general cover type.
- √ f) Ridgelines and watershed boundaries.
- √ g) Geologic formations including rock outcrops, cliffs, etc., based upon published data or more detailed on-site analysis.
- √ h) Soils as shown in the “Soil Survey of Knox and Lincoln Counties Maine.
- √ i) Existing buildings, structures, or other improvements on the site including streets, driveways, stone walls, etc.
- √ j) Locations of all known historically or archaeologically significant buildings or sites within or adjacent to the subdivision.
- √ l) Location and size of existing utilities or other improvements servicing the site.
- √ m) Potential sources of fire protection water supply within one-half mile of the site including public water mains, existing or proposed fire ponds.

*Information on hydrants or fire ponds will be obtained.*

- √ n) Septic system locations for each lot or unit, if applicable.

**3. Site Analysis**

- √ Nine (9) copies of a brief narrative describing the existing conditions, the proposed development, the required open space potential and the constraints and opportunities created by the site. The narrative shall include a description of the existing road system that will provide access to the project and any issues related to traffic capacity, safety, sight distances. The narrative shall also describe any preliminary studies concerning traffic, marketing, wetlands, etc

**4. Conceptual Sketch Plan**

- √ Nine copies of a Conceptual Sketch Plan at the same scale as the Site Inventory Map, highlighting the opportunities and constraints of the site. For greater clarity, the Board may request that the Site Inventory Map and Conceptual Sketch Plan be presented in two

(2) separate plans. The plan shall show the proposed layout of lots and roads. This plan shall be prepared with the assistance of professionals who have appropriate expertise to enable the Board to determine:

- 1) Which areas are well suited for proposed uses and which are not suitable;
- 2) Which areas are suitable for on-site sewage disposal if public sewer is not available;
- 3) Which areas have potential open space value (scenic areas, aquifers, streambed corridors, wildlife habitat, natural drainage courses, farmland, significant forest stands, and land abutting existing public open spaces, etc.); and
- 4) Which areas may be subject to off-site conflicts or concerns such as noise, lighting, traffic.

#### **5. Waivers**

- a) Written requests for any waivers from Minor Subdivision or Major Subdivision submission requirements. See Appendices B, C, and D.
- b) Written requests for any waivers of design guidelines in Article 8, Approval Standards.

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DRAFT

1 ATTACHMENT W: ARTICLE 11 - WAIVERS

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**Section 1. Submission Requirements**

The Planning Board may waive submission requirements of this Ordinance that are not applicable to a proposed subdivision, provided the waiver is submitted at the preapplication stage of review and approved by a vote of no less than 3 members.

**Section 2. Waiver of Design Guidelines**

The Board may waive design guidelines of this Ordinance when it finds that the need for the waiver is due to the unique circumstances of the property and that the circumstances are beyond the control of the developer, provided:

- A. any request for waivers shall be provided in writing prior to final approval;
- B. the developer has submitted clear and convincing documentation that the waiver requested is necessary and appropriate for the proposed subdivision;
- C. written statements from the appropriate Town departments address the possible effects of the requested waiver on the public health, safety, and welfare.
- D. the Board notifies abutters and holds a public hearing on the requested waivers.
- E. at least 5 members of the Board are present and 4 members of the Board approve the waiver; and
- F. such waiver will not have the effect of nullifying the intent and purpose of the comprehensive plan, land use ordinances of Camden, or Title 30-A MRSA Section 4404;

**Section 3. De Minimus Variations**

The Board may permit de minimus variations from the strict application of the design standards of this Ordinance when the Board finds that the need for the variation is due to the unique circumstances of the property and that the circumstances are beyond the control of the developer. All such variations shall be approved by at least 4 members of the Board.

**Section 4. Conditions**

In granting waivers or modifications, the Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived or modified