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**CAMDEN PLANNING BOARD**  
**MINUTES OF MEETING**  
**JANUARY 5, 2012**

**PRESENT:** Chair Chris MacLean; Members Richard Householder, Jan MacKinnon, Kerry Sabanty and Lowrie Sargent; Alternate Members Sid Lindsley and Nancy McConnell; Don White, Select Board Liaison to the Planning Board; and CEO Steve Wilson

**ABSENT:** Member Kerry Sabanty

The Meeting was called to order at 5:00 pm.

**1. PUBLIC COMMENT on NON-AGENDA ITEMS:**

**Select Board Liaison Report:**

Verizon Cell Tower funds: Responding to Mr. Householder's request for information on the status of the Verizon Cell Tower Account, Mr. White informed the Board that he was waiting for the Town Manager to get back to him; it seems that there is money in the account and he is waiting for detailed information on how much, if any, of those funds may be available to spend on Town directional signs.

Comprehensive Planning Committee: Mr. White has been working with the Town Manager to select a couple of dates that might work for interested Planning Board and Select Board members to hold a workshop with the Town Manager. They want to discuss options for proceeding with the formation of a Comprehensive Planning Committee so work on the revised Comprehensive Plan can begin. Mr. White and Martin Cates, Select Board Chair, will attend for the Select Board, and possible dates for a meeting are January 9, 11 or 12.

→ The Board agreed to meet Thursday the 12 from 4:30 to 6:30.

Mr. Sargent and Mr. Householder will attend for certain, but any member is welcome.

**2. MINUTES**

December 8, 2011:

Page 3: Line 5: "...built like a at a grade..."

Page 4: Line 36: The word "incorporate" was changed to the word "incorporating"

Page 7: Line 38: The word "and the assurance ~~that~~ from a Town representative that..."

Page 9:

Line 1: The Motion was made by Ms. MacKinnon and seconded by Mr. Householder.

Line 43: The Motion was changed to read: "MOTION by Ms. MacKinnon seconded by Mr. Householder that the Board approves the Tannery Walkway Site Plan contingent upon the Applicant making the four aforementioned revisions to the Site Plan, and subject to receiving all applicable permits."

Page 10:

Line 1: "...to use in their grant application."

Line 2: The action item, "There are several members who need updated Ordinances; the CEO will obtain them," will be moved to the end of the Discussion Section.

**MOTION by Mr. Lindsley seconded by Ms. MacKinnon** to approve the Minutes of December 8, 2011 as amended.

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

1 **3. Pre-Application Meeting: Residential Subdivision**  
2 **Map 113 Lot 6: Washington Street entrance (between 160 & 164)**

3  
4 The Applicant asked to be removed from the Agenda after finding there was strong opposition to  
5 the proposed project from abutters and others in the neighborhood.

6  
7 **4. MUBEC**

8  
9 Mr. Sargent commented that he wonders if the mandatory enforcement provision, which is  
10 based on population alone, is discriminatory. Given the trend in Camden’s population he  
11 wonders if the Town would still have to enforce the codes if the population drops below the  
12 threshold for compliance. Mr. Wilson believes the reason the smaller towns were exempted is  
13 because many of those citizens would have had to hire a private inspector to obtain permits  
14 because many of those towns would not have the staff to do the inspections.

15  
16 Mr. Sargent noted that he understands that the main reason that MUBEC survived the  
17 attempts to repeal the legislation is because the State, without an energy code, would have had to  
18 return thousands of federal dollars received for energy upgrades based on the fact that code was  
19 in existence. Mr. Sargent wonders if the fact that many towns are not required to have this code  
20 will impact the State’s eligibility for maximum funding. Mr. Wilson understands that most of  
21 that initial funding went to the PACE program for revolving loans for energy improvements  
22 (Camden participates in the PACE program) and some to the off-shore wind energy program at  
23 UMO. The revision to the original legislation permitted towns less than 4000 in population to  
24 elect to adopt and enforce any of the codes, or none. The codes all still apply but there is no  
25 enforcement provision. However, citizens of these small towns should know that if enforcement  
26 of any of the codes is ever required, then all work done prior to that time must meet the codes, or  
27 it must be corrected.

28  
29 Members had questions of Mr. Wilson about what work would require a permit and what  
30 would not; Mr. Wilson replied he has been working on a comprehensive listing to address permit  
31 requirements, but it has been completed. It appears that now work that was once considered  
32 routine maintenance – like repairing a roof – would require a permit; Mr. Wilson confirmed that  
33 was so, and so would the replacement of a failed hot water heater. Those two jobs, even if  
34 performed by a homeowner, must now be permitted and meet code. Work requiring permits can  
35 be done on an emergency basis before a permit is in hand, but that permit must be obtained after-  
36 the-fact and the work must be to code or it must be corrected.

37  
38 There were many on the Board who were not pleased to learn the extent to which the new  
39 code could intrude into homeowner’s daily lives, and they wonder how the public will respond  
40 once they learn the details of the scope of the codes. They are interested in learning how the  
41 local legislators voted on this legislation; if they supported it what were the reasons; and would  
42 they attend the public hearing to share those reasons and answer questions.

43  
44 Mr. Wilson informed the Board that Senator Rector had attended a meeting of local Code  
45 Enforcement Officers and explained that he had hope that revisions to MUBEC would help  
46 alleviate some of the problems with the original bill.

47 → The Chair will send letters of invitation to the Public Hearing to be held the first meeting in  
48 March to the local Senator and Representative.

1 Mr. Wilson has three concerns: Educating homeowners will be very difficult because they  
2 simply won't be aware of the changes; educating small part-time contractors will be difficult as  
3 well because they may not be aware that the codes will apply in some places and not in others,  
4 but that the work is to be to code in any case; and he is concerned about the amount of time he  
5 will need to be on site for commercial projects. He is thinking of recommending that large  
6 projects, where inspections could perhaps be needed on a daily basis, be required to hire a third  
7 party inspector instead of relying on the Code Officer.  
8

9 **5. PRIVATE WAYS – DEFINITION CHANGE:**

10  
11 Mr. Wilson and Ms. Hollingsworth circulated proposals to make changes to the Ordinance  
12 regarding driveways and private ways (see attached).  
13

14 During their many discussions on revising this Ordinance members had expressed their  
15 desire to have the ordinance apply to lots with a principal use instead of requiring that standards  
16 apply to any lot when the road is 500' or longer; that was the option provided in Ms.  
17 Hollingsworth's draft. However, Mr. Wilson explained the problem with this language was that  
18 it would leave the Town open to law suits if a landowner built a road into his lot before there was  
19 a principal structure in place, but later wanted to build a home, for example. As the Ordinance  
20 reads, the road would have to be brought up to standards at that time since it would lead to a  
21 principal structure. In that case, it could be that it was too expensive or impractical to make  
22 those improvements. The landowner could say he had relied upon the fact that the Town  
23 allowed him to go forward previously, leaving the Town open to a suit based on the principal of  
24 *estoppels*; as serious situation, and one to be avoided.  
25

26 The Board reverted back to including all roads 500' or longer under the definition. Mr.  
27 Sargent asked why the Board could not simply change the definition of "Driveway", and do  
28 away with Private Ways all together. The name of the Private Way Ordinance would be changed  
29 to Driveways Over 500 Feet in Length; all references to Private Ways would be changed to  
30 Driveways; and the Driveway definition would include a statement saying that driveways longer  
31 than 500' in length would have to meet the standards of Article XIV. They asked Mr. Wilson  
32 and Ms. Hollingsworth to work out a new proposal to make these changes.  
33

34 **6. DISCUSSION:**

35  
36 1. *Minor Field Adjustments:*  
37

38 The Chair had seen the proposal by Hannaford Shopping Plaza to relocate propane tanks to an  
39 area that would accommodate a single large tank instead of several smaller ones. He agreed  
40 with the CEO that this qualified as a Minor Field Adjustment to the Site Plan. The change  
41 will be made and the Town provided a revised Site Plan showing the new location.  
42

43 2. *January 19 Meeting:*  
44

45 Private Ways

46 Mobile Food Vendors: Mr. Wilson prepared a packet of information for the vendors discussion  
47 including examples of what other towns have done about this issue.  
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3. *Report on Pending Applications:*

The Start Road project has begun putting in the road (no special permit required), but will be coming in to be reviewed under the Private Way Ordinance in early February. They want to meet those standards even though they are not required of this project at this time.

Wayfarer is evidently still planning on coming back to renew their Site Plan, but there is no word on when that will be.

4. *Other:*

The first public meeting on the Downtown Master Plan will be held January 26 in the Opera House. Mr. Wilson suggested that signage will probably be an item of discussion and members of the Sign Committee might get some sense of what the public wants and does not want in this regard; it also might be a good place to run the concept of regulating food vendors by the public.

5. *Signs:* The Down Town Business Group Sign Group has signaled that they are ready to begin meeting. The Sign Committee will try to meet before the next Board meeting so they can stick to their original plan to begin work in early January so changes can go before the Town in June. Ms. MacKinnon is interested in making sure that the group addresses ladder signs for businesses that might be on the same pathway/street, but that aren't on the same property. She wants to make sure these ladder signs will be treated the same way those on a single lot are treated and not be counted as off-premise signage as they would be now.

There being no further business before the Board they adjourned at 6:30 pm.

Respectfully submitted,

Jeanne Hollingsworth,  
Recording Secretary

2  
3 **The Question is** : if a landowner in Camden needs a driveway 500'+ long to reach his own  
4 proposed dwelling location, all the proposed driveway is on the landowners own property so it  
5 will not require a right of way for access, then is the driveway a "Private Way" requiring  
6 Planning Board review?

7 **From the Land Use Ordinance Art III**

8 **DRIVEWAY:** A vehicular access from a public or private way to a structure or use on a lot.  
9 Driveways shall be a maximum of twenty (20) feet wide. A driveway may cross front, side and  
10 rear setbacks and may be utilized for parking. A driveway is less than five hundred (500) feet in  
11 length serving two single-family dwellings or one two-family dwelling, or less. (*Amended*  
12 *11/10/09*)

13 **From Article XIV**

14 The purpose of the regulation of private ways is to control the development, construction or use  
15 of private ways providing vehicular access to a lot or a principal use in such a manner as to avoid  
16 safety hazards and undue burdens on municipal services, including emergency vehicle  
17 accessibility. In order to accomplish that purpose, this article shall apply to the following  
18 activities:

19 (1) The development, construction, or use of a private way constructed after June 9, 1998, which  
20 has a length of more than 500', for the purpose of vehicular access to a lot of land or a principal  
21 use on a lot or to meet the frontage requirements in the ordinance; and

22 (2) The extension of or addition to a private way constructed on or before June 9, 1998) which  
23 provides vehicular access to serve additional lots or additional principal uses which were not  
24 served by the existing private way, in combination with an existing private way, which is more  
25 than 500', in length (such length shall be measured from the terminus of the portion of an  
26 existing private way which meets the approval criteria set forth in this ordinance in Article  
27 XIV(Section 4), or, in the event that no portion of the existing private way meets those approval  
28 criteria, then such length shall be measured from a Town road or approved subdivision right-of-  
29 way which does meet the approval criteria set forth in that section of the ordinance).

30 **Section 8. Definition of Private Way**

31 For purposes of Article XIV only, a private way shall mean a right-of-way used for vehicular  
32 access from a public way or a Town road to a lot or a principal use on a lot in the event that the  
33 right-of -way used for that vehicular access is more than 500' in length, or for an extension of  
34 existing private way with a length of more than 500', with the length measured as set forth in  
35 Article XIV Section 1.(2). Private ways constructed and used after June 9, 1998 shall meet the  
36 requirements of Article XIV (as amended) of the Zoning Ordinance.

37 **The Issue**

38 *It seems we have a issue by definition, Article 14 defined a "Private Way" as a Right of Way*  
39 *over 500' in length so a driveway of 500+' within the applicants own property would not*  
40 *require Planning Board review under article 14 , but a driveway cannot be over 500' in length.*  
41 *I am left thinking that a private way over 500' in length but that is entirely on the applicants*  
42 *property and does not involve a right-of-way falls under the code officers review.*

1 **The Fix?**

2 **DRIVEWAY:** A vehicular access from a public or private way to a structure or use on a lot.  
3 Driveways that shall be a maximum of twenty (20) feet wide and shall be less than five hundred  
4 (500) feet in length serving a maximum of two (2) single-family dwellings or one (1) two-family  
5 dwelling. A driveway may cross front, side and rear setbacks and may be utilized for parking. A  
6 driveway is less than five hundred (500) feet in length serving two single-family dwellings or  
7 one two-family dwelling, or less. (*Amended 11/10/09*)

8 **Section 8. Definition of Private Way**

9 For purposes of Article XIV only, a private way shall mean a vehicular access from a public or  
10 private way right-of-way used for vehicular access from a public way or a Town road to a lot or  
11 a principal use on a lot, including but not limited to one or more dwelling units, in the event that  
12 the right-of -way used for that vehicular access is more than which is 500' or more in length, or  
13 serving three single-family dwellings units or more, and for or an extension of existing vehicular  
14 access way, road or driveway private way with an existing length of more than 500' or more,  
15 with the length measured as set forth in Article XIV Section 1.(2). Private ways constructed and  
16 used after June 9, 1998 shall meet the requirements of Article XIV (as amended) of the Zoning  
17 Ordinance. This definition does not apply to a road constructed, maintained, and used exclusively  
18 for agriculture or forest management activities.

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1 TO: Camden Planning Board  
2 FROM: Jeanne Hollingsworth  
3 Date: January 3, 2012  
4

## 5 PRIVATE WAYS – TWO REMEDIES

6  
7 This is before you because there is a piece missing between the definitions for a driveway  
8 and a private way. A driveway cannot be 500' long or longer. A private way is defined as a  
9 right-of-way with a specific legal meaning. This means that a road to someone's house that  
10 is longer than 500' that is not an actual "right-of-way" is not defined. You decided you want  
11 to bring those access roads under your purview *if* they go to a principal use – a dwelling or  
12 a building with utilities. To do this, you have to change the definition of private way and  
13 make it apply to "ways" as well as to "rights-of-way" that are 500' or longer.  
14

### 15 **Current Ordinance: Section 8. Definition of Private Way**

16  
17 For purposes of Article XIV only, a private way shall mean a right-of-way used for vehicular  
18 access from a public way or a Town road to a lot or a principal use on a lot in the event that the  
19 right-of-way used for that vehicular access is more than 500' in length, or for an extension of  
20 existing private way with a length of more than 500', with the length measured as set forth in  
21 Article XIV Section 1. (2). Private ways constructed and used after June 9, 1998 shall meet the  
22 requirements of Article XIV (as amended) of the Zoning Ordinance.

### 23 **Steve's Proposal: Section 8. Definition of Private Way**

24  
25 For purposes of Article XIV only, a private way shall mean a vehicular access from a public or  
26 private way to a lot or a principal use on a lot, including but not limited to one or more dwelling  
27 units which is 500' or more in length, or an extension of existing vehicular access way, road or  
28 driveway with a length of 500' or more, with the length measured as set forth in Article XIV  
29 Section 1. (2). Private ways constructed and used after June 9, 1998 shall meet the requirements  
30 of Article XIV (as amended) of the Zoning Ordinance. This definition does not apply to a road  
31 constructed, maintained, and used exclusively for agriculture or forest management activities.

### 32 **Steve's version showing mark-up:**

33  
34 For purposes of Article XIV only, a private way shall mean a vehicular access from a public or  
35 private way ~~right-of-way used for vehicular access from a public way or a Town road~~ to a lot or  
36 a principal use on a lot, including but not limited to one or more dwelling units, ~~in the event that~~  
37 ~~the right-of-way used for that vehicular access is more than~~ which is 500' or more in length, ~~or~~  
38 ~~servicing three single family dwellings units or more, and for~~ or an extension of existing vehicular  
39 access way, road or driveway ~~private way with an existing length of more than~~ 500' or more,  
40 with the length measured as set forth in Article XIV Section 1.(2). Private ways constructed and  
41 used after June 9, 1998 shall meet the requirements of Article XIV (as amended) of the Zoning  
42 Ordinance. This definition does not apply to a road constructed, maintained, and used  
43 exclusively for agriculture or forest management activities.

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**Jeanne’s proposal: Section 8. Definition of Private Way**

For purposes of Article XIV only, private way shall mean a way, or a right-of-way, that measures 500' or more in length and is used for vehicular access from a public way to a principal use on a lot of land. Private way shall also mean the extension of a way, or right-of-way that was constructed prior to June 9, 1998, for the purpose of providing vehicular access to serve a new lot or principal use which is more than 500' in length measured according to Article XIV Section 1 (2) of this Article. Private ways constructed and used after June 9, 1998 shall meet the requirements of Article XIV (as amended) of the Zoning Ordinance. This definition does not apply to a road constructed, maintained, and used exclusively for agriculture or forest management activities.

**Jeanne’s version showing mark-up:**

For purposes of Article XIV only, private way shall mean, a way, or a right-of-way, that measures 500' or more in length and is used for vehicular access from a public way ~~or a Town road to a lot or~~ a principal use on a lot of land. ~~in the event that the right-of-way used for that vehicular access is more than 500' in length, or for an extension of existing private way~~ shall also mean the extension of an existing way, or a right-of-way that was constructed prior, with a length of more than 500', with the length measured as set forth in Article XIV Section 1.(2). Private ways constructed and used after June 9, 1998 shall meet the requirements of Article XIV (as amended) of the Zoning Ordinance. This definition does not apply to a road constructed, maintained, and used exclusively for agriculture or forest management activities.

If you change these definitions, don't you have to also look at Sections 1 of Article XIV as well?

**Article XIV Regulation of Private Ways**

**Section 1. Purpose and Applicability**

The purpose of the regulation of private ways is to control the development, construction or use of private ways providing vehicular access to a lot or a principal use in such a manner as to avoid safety hazards and undue burdens on municipal services, including emergency vehicle accessibility. In order to accomplish that purpose, this article shall apply to the following activities:

- (1) The development, construction, or use of a private way constructed after June 9, 1998, which has a length of ~~more than~~ 500' or more, for the purpose of vehicular access to a ~~lot of land or~~ a principal use on a lot or to meet the frontage requirements in the ordinance; and

1 (~~2) The extension of or addition to~~ A private way constructed on or before June 9, 1998, ~~is~~ is  
2 extended to provides vehicular access to serve additional lots or additional principal uses which  
3 were not served by the existing private way, ~~in combination with an existing private way,~~ so that  
4 the resulting private way is more than 500'; in length overall (such length shall be measured  
5 from the terminus of the portion of an existing private way which meets the approval criteria set  
6 forth in this ordinance in Article XIV(Section 4), or, in the event that no portion of the existing  
7 private way meets those approval criteria, then such length shall be measured from a Town road  
8 or approved subdivision right-of-way which does meet the approval criteria set forth in that  
9 section of the ordinance).

10

11 Other Questions:

12 1. What happens when there is a request for a driveway (less than 500' long) to serve three  
13 dwelling units or more? Does that scenario require a drive that meets private way standards?

14 2. If an accessory use (or structure) is not permitted until a principal use is in place (see  
15 definitions below), will there ever be a situation where a private way *would not* be required if the  
16 distance in is over 500'?

17 • Are there instances when an accessory structure can be built on a lot without a principal  
18 use? A woodshed or barn (accessory structure) would not be permitted (in residential  
19 districts anyway) until the house is in place; and, a house that is over 500' in would  
20 require a private way (principal use).

21

22 • An accessory building (a barn) is built over 500' in from the road on a lot with a house  
23 that is served by a legal driveway. Will the changes you've made mean that the driveway  
24 can be extended to the barn – to an accessory use? It won't fit the definition of a  
25 driveway, so will this scenario require a private way?

26 **ACCESSORY STRUCTURE:** A subordinate structure that is detached from the principal  
27 structure, the use of which is incidental to that of the principal structure.

28

29 **ACCESSORY USE:** A use that is clearly incidental to the principal use, that is subordinate in  
30 area, extent, or purpose to the principal use being served, and that contributes to the comfort,  
31 convenience, or necessity of the principal use, and that is located on the same lot with such  
32 principal building or use. In a residential district, the accessory use shall not be nonresidential in  
33 character. Piers, wharves and bulkheads are included in this definition. (*New last sentence -*  
34 *11/15/05*)

35 **DRIVEWAY:** A vehicular access from a public or private way to a structure or use on a lot.  
36 Driveways shall be a maximum of twenty (20) feet wide. A driveway may cross front, side and  
37 rear setbacks and may be utilized for parking. A driveway is less than five hundred (500) feet in  
38 length serving two single-family dwellings or one two-family dwelling, or less. (*Amended*  
39 *11/10/09*)