

January 14, 2014 Planning Board Minutes

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North Yarmouth Planning Board

Tuesday, January 14, 2014

Meeting Minutes

7:00 PM @ Downstairs Meeting Room, Municipal Building

Peter Lindsay (Chairman), Steve Morrison, Ande Smith, Tom Hinman (Alternate)

Absent: John Carpenter, Gary DiLisio, Paul Turina

Peter Lindsay indicated that Tom Hinman will be voting member at tonight's meeting.

1. Minutes of December 10, 2013

Steve Morrison moved and Ande Smith seconded to accept the minutes as presented.

The vote was 4 Yes.

1. Review land use ordinance definitions and sections for potential amendment at the next town meeting.

Peter indicated that any ordinance changes need to go before the Planning Board, then public hearing, then the Board of Selectmen prior to Town Meeting.

Section 3-3. Building/Land Use Permits

Barbara gave a brief overview of the change. She stated that other area communities are using similar measures to hold up permits to help make those property owners comply. Recording this on the registry would help make the owners comply and give the Code Enforcement Officer another

tool to help and minimize the town needing to take issues to court for compliance.

Ande commented on some ZBA applications in the past and asked whether or not this would help address compliance issues. He asked if there is potential for misuse in some instances. Peter stated that he believes this intent is for those violations that are ongoing or have not been addressed and this is a positive mechanism to correct violations.

Ande stated that this could be problematic for future owners who were unaware. Peter indicated that changes done would require application of ordinances at that time. Tom asked Ande if his concerns are related to how a Code Enforcement Officer would interpret things. Barbara stated that her primary concern for this recommended change is related to land use. The process would require written notification and outlined the process. There was an extensive conversation on reasoning behind this recommendation. Steve and Peter support this change as it gives more authority to the Code Enforcement Officer.

Barbara suggested adding "*and that written notice has been given that a violation exists*" to offer more clarity. She also suggested including a justification for the recommendation to offer another enforcement mechanism for land use enforcement. Tom stated that Ande's comments are good ones in that it outlines what the town doesn't want. This might be included in the overview.

The group supported moving this forward to Public Hearing.

Section 3-10. Legal Action and Violations

Peter stated that this is an extension of the previous item outlining that a filing at the County Registry of Deeds would be done. Barbara stated that this has been done in the past with an owner's refusal to correct a violation as a last resort. Steve supports this as having it registered would likely create compliance and puts the burden back on the homeowner. Peter stated that this isn't the first step but rather further down the list given the other steps that the town would need to take. Tom stated that the timing to work on this is good given that this is a quiet time.

Peter believes that this is an interim step than forcing the town and the homeowner to go to court. Ande asked the group to consider the potential of an assertion of a violation and should that happen, it could be more problematic. Peter stated that the Code Enforcement Officer should be certain about the violation before taking this route. Barbara stated that this could approval from either the Town Manager or Selectmen if that would offer more comfort in the process and minimize risk. Ande believes that there potential for creating risk with this process and suggested some soft procedures be included to help minimize risk.

Pete asked if these two changes should be addressed separately at the Public Hearing. Barbara stated that they should be separately given that one is enforcement and one is administration.

1. Election of Officers

Peter outlined that the new Charter requires an annual election (Chair and Secretary) for the Planning Board.

Steve Morrison moved and Ande Smith seconded to nominate Peter Lindsay as Chair. The vote was 3 Yes /1 Abstention (Lindsay).

Peter Lindsay moved and Tom Hinman seconded to nominate Ande Smith as Secretary. The vote was 4 Yes.

1. Review and adopt bylaws

Peter outlined the bylaws for group discussion. Steve asked if a vote on this can be taken next month. Steve commented on the public comment versus public hearing and in particular the timeframe. He would like to see more clarification. Ande suggested that the group consider the "less is more" approach in some parts of the bylaws to offer flexibility for future Boards. A set of guidelines could be included with the bylaws as basic meeting norms. Steve reminded the group that the Board's objective is to enforce the town's ordinances.

Peter commented on page 2, Section 4. Voting. He stated that the second paragraph in question would apply in the event of 3 members present.

Ande stated that, based on MMA training, the phrase: majority *total number of regular members of the Board*.

The group agreed.

Barbara commented on the term Alternate versus Associate member. The bylaws use Associate and the Charter uses Alternate. The group agreed that it should be Alternate.

Barbara also that the Board doesn't have an August meeting but it is not listed in the bylaws (Section 3. Meetings). This should be added for clarity.

Ande also suggested that the term "*generally*" the second Tuesday of the month.

Tom asked about keeping the Vice-Chair position in the bylaws. Peter suggested keeping this as it

provides some structure. Barbara suggested that given the bylaws and by Charter, a Secretary is required and could take the place in the Chair's absence; she suggested not having a Vice Chair position. The group agreed.

Peter commented on the paragraph in Section 4. Voting beginning with: "*No regular member...*" and asked for clarification. Ande stated that the phrasing is based on a case and MMA's recommendation.

Peter asked Barbara to make the suggested changes and for Board members to read and review them and if they have any suggestions to send them along and to bring them to the next meeting for approval.

1. Any other items as the Chair may deem appropriate

Ande Smith moved and Steve Morrison seconded to adjourn the meeting.

The vote was 4 Yes.

The meeting ended at 8:28pm.