

MINUTES
CORNISH PLANNING BOARD
JANUARY 17, 2008

The Cornish Planning Board met on Thursday, January 17, 2008, at 7 p.m. in the Cornish Town Office. Members present were Peter Storrs, Acting Chair, Gail McKenzie and Troy Simino; Larry Dingee, Gwyn Gallagher, and Jim Littlefield, Alternates; Merilynn Bourne, Selectwoman; and Heidi Jaarsma, Secretary.

Approval of Minutes

December 20, 2007 – Troy Simino pointed out that he had not been in attendance at the 12/20/07 meeting. The minutes were so amended. Jim Littlefield made a motion to accept the 12/20/07 minutes as amended. Larry Dingee seconded the motion, and the vote of the Board was in the affirmative.

January 10, 2008 – Gwyn Gallagher asked that ‘Gwyn Gallagher said that we have the help of the free market. A large company would not come in to Cornish,’ a statement he had made at the hearing, be added. The minutes were so amended. Merilynn Bourne made a motion to accept the 1/10/08 as amended. Gwyn Gallagher seconded the motion, and the vote of the Board was in the affirmative.

Discussion re: Amendment to the Zoning Ordinance, Contractor Yard

Heidi Jaarsma made a motion to withdraw the amendment. Gwyn Gallagher seconded the motion. Ms. Jaarsma said that she had discussed the proposed amendment with Peter Dzewaltowski of the Upper Valley Lake Sunapee Regional Planning Commission. In his opinion, many of the home-based uses for which the amendment was intended to apply, such as tradesmen, fit in many ordinances under home occupation. The Cornish Ordinance definition of home occupation would have to be changed in order for these uses to fit. Mr. Dzewaltowski had added that many towns had thresholds in their ordinances which clearly define which uses and what scale fit under home occupation. Non-residential situations should be separate. Merilynn Bourne debated whether any of the uses could be described as a home occupation. She had also spoken with Mr. Dzewaltowski about the definition of a contractors yard and relayed that discussion. Ms. Jaarsma continued that the amendment in its current state had become cumbersome, with three levels of contractors yards, because the amendment was trying to cover too many kinds of business: home based and non-residential. She was concerned that the definition as it stood would actually prevent some uses which fit well in the town. She added that testimony at a public hearing needs to be taken into consideration.

Larry Dingee referred to the hearing on auto repair two years ago. At the public hearing, a vocal majority of the attendees had been against auto repair, but at the town meeting ballot vote, a clear majority had voted for the amendment. He added that throughout the discussions which took place before the January 10th public hearing on contractor yards several townspeople had supported the amendment. He felt that there was merit in getting the Town’s opinion.

Peter Storrs said that the system was difficult because amendments cannot be discussed at Town Meeting, and a turnout of twenty at a public hearing is a high one. He felt that the process should come through the Planning Board. He supported the right to petition, and said that the Selectboard should exercise reserve when deciding to put an amendment to the ordinance on the warrant. It should only be as a last resort.

The Board discussed the impacts of different types of businesses which could fall under the definitions before the Board. The Board also discussed at length ways in which the amendment before the board and/or the definition of home occupation in the ordinance could be changed to address the concerns brought up. Troy Simino pointed out that a majority of the Board and a majority of those at the public hearing had wanted to withdraw the amendment. Merilynn Bourne made a motion to amend the original motion to add that the Board would work towards a resolution by next Town Meeting with as much public input as possible. Both Heidi Jaarsma and Gwyn Gallagher accepted the amendment. Mr. Storrs called for a vote on the motion to withdraw the amendment on the table, and the vote of the Board was in the affirmative.

Respectfully submitted,
Heidi M. Jaarsma

MINUTES
CORNISH PLANNING BOARD
JANUARY 10, 2008

The Cornish Planning Board met on Thursday, January 10, 2008, at 7 p.m. in the Cornish Town Office. Members present were Bill Lipfert, Chair, Troy Simino, and Peter Storrs; Larry Dingee and Gwyn Gallagher, Alternates; Merilynn Bourne, Selectwoman; and, Heidi Jaarsma, Secretary.

Also present were Peter Burling, Susan and Wells Chandler, Dan and Rebecca Flynn, Doug Freeland, John Hammond, Stu Hodgeman, Robert Jaarsma, Nicole Saginor, Tim Schad, Don Snowden, Caroline Storrs, Bill Wall, and Fred Weld.

Public Hearing re: Proposed Amendment to the Zoning Ordinance

Bill Lipfert opened the hearing at 7 p.m. He introduced the amendment to add a provision for contractor yards to the zoning ordinance. An appointed subcommittee of Planning Board members had drafted the language which the Board had modified to require a special exception for contractor yards with more than two but less than for non-family employees. Mr. Lipfert asked for any comments from the Board.

Larry Dingee spoke in favor of the amendment. He said that there is a hole in the zoning ordinance, and the proposed amendment addresses what has been going on all along.

Merilynn Bourne said that she was concerned about the idea of grandfathering some uses as they exist. She wanted to see the definition tightened up and had some sample language regarding contractor yards. She said that the trigger for a special exception

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should be the pieces of equipment stored, not the number of employees. Heidi Jaarsma said that the Board, after discussion, had used employees to gauge the impact on the neighborhood. Bill Lipfert said that there had been much discussion at past meetings about sole proprietors and whether or not that situation would trigger a contractor yard. Troy Simino said that the key was the impact to the neighborhood and that the number of employees coming in and out better defines that impact. Larry Dingee said that there is presently a clause for site plan review for any change in commercial use of a property. The Selectboard could require site plan review of any existing situation were this amendment to pass. Bill Lipfert opened the hearing to comment from the public.

Bill Wall said that the problem could be solved with the creation of a commercial district. In a residential area he would ask for hours of operation, e.g. not before 6 a.m. or after 9 p.m. He asked that 'may' under the section of the proposed amendment regarding screening be changed to 'shall.' He also said that language should be added to require the immediate reporting of any spill. He said he was not necessarily against the amendment, but that the residents were there first. Bill Lipfert said that the ZBA and/or site plan review can address all those issues. Mr. Wall briefly discussed the problems at the Meeting House.

Don Snowden said that storage of materials was an important issue for him. The situation could become a semi-junkyard.

Carline Storrs said that residents were not protected by the amendment. The lack of a residency requirement was a concern. She was also concerned about large equipment on dirt roads. The definition needed to be improved: she said that a garbage hauler could fit under this definition and referenced a case in Claremont involving a garbage hauling operation.

Stu Hodgeman said that the genesis of the amendment was at the MacLeay property several years ago. When Don MacLeay resided and worked from the property, there was no problem. When the business was sold to Witty and Williams, it was out of compliance. The amendment allows someone to have a business without residing on the property. He did express that there should be caution in grandfathering.

Wells Chandler said that zoning is an outline for the orderly development of a town. This amendment to the ordinance would provide for the disorderly development of the town. The amendment throws contractor yards everywhere. He stated that there would be a problem with enforcement. Havoc would ensue. Bill Lipfert asked Mr. Chandler how he would zone for contractor yards. Mr. Chandler said suggested Route 120.

Peter Burling said that he remembered when the planning board began the idea was to keep neighbors from turning on each other in rage. The current text of the amendment, Mr. Burling asserted, was unintelligible. While it is important for people to have their livelihoods near them, Mr. Burling said that the town lives on the beauty of its environment. He said that the number of employees was irrelevant. He read from the

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amendment and stated that he found the language indecipherable. He cautioned that the amendment should not be passed.

Merilynn Bourne said that she had a definition for contractor yards that exists. The definition before the Board did not fit the universal one. Bill Lipfert said that the Board had looked at definitions where that could be found in Upper Valley Zoning ordinances that were all different. There was no universal definition.

Caroline Storrs said that she agreed with Wells Chandler. She asked that a special exception be required for all contractor yards to protect residential and natural concerns. She reiterated that a residency requirement should be added.

Nicole Saginor said that an abutter could only complain after the fact. Bill Lipfert said that any new use or change in use would trigger a special exception and/or site plan review, both of which would require a public hearing and notification of abutters.

Bill Wall mentioned the clean up of hazardous waste on 12A in West Lebanon where a barrel cleaning business used to exist. He said that the town needed a business district. Bill Lipfert said that over the years committees have looked at the creation of a business district.

Larry Dingee said that there are at least twenty to thirty businesses that fit this description without town oversight. These businesses have no ability to get certification from the Selectboard. The amendment gives a tool to resolve differences. He suggested eliminating grandfathering. Bill Lipfert said that the sheer volume of applicants would be an issue.

Peter Burling asked what the difference was between an underlying business and the area where it was stored. He suggested that the Board was opening a very wide door and added that he could start an asphalt business under the amendment. He asked at what point in the process neighbors get to speak.

Gwyn Gallagher said that there was nothing to prevent a neighbor from driving home an asphalt truck now. Mr. Burling said that nothing was needed to just drive home a truck.

Nicole Saginor said that she did not understand the lack of a residency requirement and referenced a lot above her house which could become a contractor yard. Mr. Lipfert said that the Ordinance can require that businesses be home-based, but cannot require residency in the sense that only Cornish residents can own a non home-based business in the Town of Cornish.

Peter Burling suggested that the Board find a place to put these things on State maintained highways.

Bill Lipfert said that the discussion thus far had been characterized excavation oriented businesses, but that many other kinds of businesses – electrical, plumbing, carpenter,

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contractor – would fit this definition. Peter Burling said that the use should be distinguished. Wells Chandler said that he was not concerned about plumbers, electricians, or carpenters. Merilynn Bourne said that excavation was her only concern.

Mr. Lipfert said that as of right a sole proprietor can run a business out of a house. The problem arises when a business grows. The decision to gauge the use by employees arose from the need to address traffic related to the business. Merilynn Bourne said that heavy equipment was the concern. Gwyn Gallagher asked where the ordinance allowed a sole proprietor to have a contracting business. Ms. Bourne said that since it was not prohibited, it was allowed. Heidi Jaarsma said that the list was exclusive: only the uses listed were allowed, which is why cottage industry was added. Wells Chandler said that he had no problem with a sole proprietor. Fred Schad said that cottage industry covered a sole proprietorship. Bill Lipfert said that cottage industry clearly stated that it is for manufacture of goods on premises.

John Hammond said that the Gray Brothers had wanted to move their business to the garage owned by Milt Jewell on Clark Camp Road and they were not allowed to under the current ordinance, so they went to Unity. They tried to do it right, but there was no place for them to go. Gwyn Gallagher said that as a Town we do not want to lose our resources or our people. We need to create a situation where people can stay in the Town.

Don Snowden said that he was concerned that any land in Cornish would be open and available to have a contractor yard. Bill Lipfert said that the Town had two tools: the special exception and site plan review processes. Gwyn Gallagher said that we have the help of the free market. A large company would not come in to Cornish.

Merilynn Bourne said that she would like to see contractor yards restricted to State maintained roads. Heidi Jaarsma said that to restrict the use to state roads the entire amendment would have to be reworded in order to allow lower impact uses, such as an electrician or carpenter, on Class V roads. Ms. Bourne also said that heavy equipment in the yard was the point – someone could have twenty bulldozers across the street from her house. Troy Simino said that twenty bulldozers would be a beautiful thing to some people. He continued that he may have an excavator parked at his house but that he is not running it there. Mr. Simino stated that twenty years ago Cornish was nothing but contractors.

Larry Dingee suggested that opinion had been heard and the Board should discuss public comment. Caroline Storrs said that she was glad to know how open the Board was to what was said. She added that her concern was for residents; the town is primarily a residential one.

Dan Flynn asked if the amendment would exempt vehicles over 6 tons from staying off posted roads. He was told that all vehicles would be subject to weight limits.

Robert Jaarsma said that the word 'primarily' should be deleted from the amendment. Bill Lipfert said that 'primarily' would allow for light maintenance, etc. Mr. Jaarsma also mentioned subcontractor.

Doug Freeland said that he liked neighbors having input.

Bill Lipfert closed the public hearing and the Board took a five-minute break.

Mr. Lipfert suggested two changes: grandfather only businesses that have no non-family employees and require a special exception across the board. Merilynn Bourne asked about subcontractor. Bill Lipfert said he thought that would be covered by 'or equivalent' in the amendment. Current business situations in town were discussed. Heidi Jaarsma suggested that residency was at the crux of the situation and that the only reason to go forward with the amendment would be to allow for a non-residential contractor yard. Larry Dingee and Peter Storrs said they would like to go forward and see if the amendment could be reworked on the 17th. Gwyn Gallagher, Troy Simino, and Heidi Jaarsma said that the amendment should be withdrawn. Merilynn Bourne said that she was leaning towards reworking the amendment. It was suggested to have three levels, home-based, 0-2 non-family employees allowed by right; home-based, more than two up to four non-family employees allowed by special exception and only on a State maintained road or less than 1,000 feet off a State maintained road; non-residential, up to four non-family employees allowed by special exception and only on a State maintained road or less than 1,000 feet off a State maintained road. Bill Lipfert asked for a motion to go forward with the amendment as described to be discussed on the 17th after which the Board would decide whether to notice a second hearing or withdraw the amendment. Merilynn Bourne made the motion. Peter Storrs seconded the motion, and the vote of the Board was in the affirmative.

Respectfully submitted,
Heidi M. Jaarsma

MINUTES
CORNISH PLANNING BOARD
DECEMBER 20, 2007

The Cornish Planning Board met on Thursday, December 20, 2007, at 7 p.m. in the Cornish Town Office. Members present were. Bill Lipfert, Chair, Gail McKenzie, Cheston Newbold, and Peter Storrs; Larry Dingee and Jim Littlefield, Alternates; and Heidi Jaarsma, Secretary.

Approval of Minutes

Cheston Newbold made a motion to approve the 12/6/07 minutes. Larry Dingee seconded the motion, and the vote of the Board was in the affirmative.

St. Gaudens Memorial – Preliminary Discussion re: 5 acre subdivision, NH Route 12A.

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Cheston Newbold said that he was the Town Liaison to the Memorial, but he had no financial interest in the proposal and did not see why he should not be involved. Peter Storrs said that his wife was a trustee.

Caroline Storrs gave a brief history of the Memorial, which was set up by Augusta St. Gaudens to preserve and protect Augustus St. Gaudens' legacy. About ten years ago, the Memorial acquired what was at that point the MacLeay property on Route 12A. The MacLeays were given a life tenancy, but several years ago decided to leave the property for a smaller house. The Memorial has no large endowment. The trustees would like to sell five acres of the 40+/- acre parcel with the remainder of the land going to the National Historic Site. Heidi Jaarsma asked how much road frontage the proposed lot would have. Ms. Storrs said that the Federal Government will not take over land without owning outright the access to that land, which would have been the road frontage to the proposed lot; the access would be shared by both lots, but owned by the larger. Relocating the drive was not feasible. Ms. Storrs was told that the two biggest concerns would be access and the floodplain. Bill Lipfert said that if the access were through a private road, that road potentially would be serving three dwellings. The practice of the Board has been for the shared section of the drive to be built to Class V standards. Mr. Lipfert said that the plan should show a reasonable house site within setbacks and a septic location with test pit results: an overall proposed layout. Jim Littlefield asked if the North entrance would be the main one. Ms. Storrs said that it would be. Bill Lipfert suggested that any right of way include utilities.

Upper Valley Lake Sunapee Regional Planning Council – Master Plan Update

Peter Dzewaltowski discussed the Master Plan update. He will have drafts available by January 4th.

Respectfully submitted,
Heidi M. Jaarsma