

Walpole Planning Board
Town Hall
Tuesday, January 8, 2019
7 pm

Presiding Members: Jeffrey Miller (Chair), Robert Miller (Vice-Chair), James Aldrich (Secretary), Dennis Marcom, Jason Perron, Jeff White, Alternate: Joanna Andros. Absent: Steve Dalessio (Selectboard Representative), Alternate Jeff Colley.

Recording: Marilou Blaine. These minutes are unapproved and will be reviewed at the regular February 2019 meeting for corrections, additions and/or omissions.

Roll Call: All board members were present so no alternate was needed to fill in.

Minutes: Mr. Marcom made a motion to approve the minutes as written. Mr. Aldrich seconded the motion and the motion passed.

Public Hearing No1: Are you in favor of revoking and rescinding the amendment to the Walpole Zoning Ordinance, adopted and approved as Article 4 N at the annual Town Meeting held on March 12, 2016, regarding Recycling and Transfer Stations? Town legal counsel advised it is not enforceable under New Hampshire law.

Mr. J. Miller said Mr. Dalessio brought this ordinance up at the last meeting and this was simply a necessary housekeeping task that the Board has to do to cleanup the zoning ordinances. Mr. J. Miller also said that when he was writing out this article in the same format that town counsel Jeremy Hockensmith wrote in the first two articles that were approved last month and that regarding the second article about the Planning Board being able to make minor changes, he thought the Board ought to have the same language. "Town legal counsel advised it is not enforceable under New Hampshire law." That was in the Superior Court ruling about the Ruggiero matter, Mr. J. Miller said.

Mr. Perron asked if he talked to Mr. Hockensmith about adding that sentence. Mr. J. Miller said Mr. Hockensmith said we didn't need it, but Mr. J. Miller said he thought it made the article more clear for the public to understand why this article was on the warrant.

Mr. Boas said he needed some clarification on the topic of the Public Hearing article. He went back to the original article that passed and he couldn't find it in the past zoning ordinances.

Mr. J. Miller said it was passed by zoning petition in 2016. A Superior Court judge ruled the whole ordinance unenforceable. Mr. Boas asked if that meant that the town can't have a site plan review of a possible future recycling or transfer station. Mr. Miller said that it does not mean that. You can have a site plan review of a commercial operation if its cost is over \$10,000.

Mr. Boas then asked if instead of doing away with the entire paragraph, would it be better to delete just to the semicolon and keep the rest. Then it would say, "In addition to the current Town recycling center at 207 Whitcomb Road, Route 123, Walpole, New Hampshire, recycling centers and/or transfer stations shall be permitted uses in the Industrial District subject to meeting the Town's site plan review regulation and shall be submitted to the Planning Board for site plan review."

Mr. J. Miller said it already says that in another section of the zoning ordinances because it says that any building or commercial undertaking costing more than \$10,000 must have a site plan review. But if you keep the first section of the ordinance it allows for a transfer station or recycling center to go into

the Industrial District. Right now there are specific businesses allowed in the Industrial Park and anything else has to get a Special Exception. A recycling and transfer station is not an allowed use.

Mr. Perron asked if this IV N ordinance means only recycling and transfer station operations taken on by the Town, rather than a private enterprise, are allowed? "I think that was the problem the courts had," Mr. J. Miller said. "I would not want it to be a permitted use in an Industrial Zone."

Mr. Boas said, "I see a problem coming up. I'd like to clarify it for the readers of The Clarion. If the Town votes to not rescind then, although it's not a legal vote, it's still illegal according to the Court decision. Where do we go next?" Mr. J. Miller said, "It's unenforceable. We're just trying to clean up the zoning ordinance."

In all of the districts, there are allowable uses in a district. If it's not a permitted use, you have to have to apply for a Special Exception.

Mr. Perron said, if you keep the first part of Article IV N, "I'm not comfortable with that at all." Mr. Marcom said, "It opens the door for that use." The other thing is if the Town didn't vote for it, it wouldn't be illegal, it just wouldn't be enforceable.

Mainly these are housekeeping changes, Mr. J. Miller said. "We want to clean up these ordinances on the advice of town counsel."

Mr. J. Miller said that he didn't understand how the Carmody property got so botched up. He was arguing with the attorney about it when the attorney finally said, "The way I look at it is that you might be right, but not only is it good for the town, but good for the landowner. He doesn't have to worry about anything in his deed," etc.

Mr. Aldrich said he didn't know if the voter would just vote no. That could happen.

Mr. J. Miller said then maybe we should put back in the clarification that Mr. Hockensmith had in his original statement. It says, "This amendment is necessary to correct an error in Warrant Article 2, adopted and approved at the March 13, 2007 annual meeting, mistakenly changing these lots zoning classification."

Mr. Perron said he thought it was a good idea and he recalled saying that before at the December meeting.

Mr. Perron made a motion to recommend the article be put on the warrant. Mr. Marcom seconded the motion and it passed. Mr. J. Miller said that the clarification on the other articles does not mean there has to be another Public Hearing. The intent of the articles are the same.

Master Plan: Mr. J. Miller passed out a letter from Southwest Regional Planning Commission Planner Ms. Lisa Murphy about her thoughts on what parts of the Master Plan should be revisited this spring. They include Population and Housing, the Implementation Chapter and Transportation. This would cost the town \$5,400. The Selectboard previously said money would be put aside for this process, which would start in April after it has been approved by the Town. Mr. Miller will check with the Selectboard about this matter.

Workshop: Mr. J. Miller asked if the Board wanted a workshop this month about a solar ordinance. He said that residential installation questions would be answered when people came for a permit with the exception that there should be some path for an abutter to complain about a neighbor's installation if he/she were unhappy about it. Commercial installations would be permitted by requiring a Site Plan

Review because the cost would be over \$10,000.

At first some of the Board said no to scheduling a workshop but others on the Board thought that there were still a lot of questions to be answered about a solar installations.

There was also discussion about last year's article on solar installations. Some Board members felt that it was a subsidy paid for by taxpayers. Other Board members felt it was the right thing to do because these people with installations were getting away from fossil fuels.

In the end it was decided to have a workshop meeting on January 22 to discuss a solar ordinance. The Public is invited to attend.

Mr. Aldrich made a motion to adjourn the meeting. Mr. Marcom seconded the motion and it carried.

Respectfully submitted,
Marilou Blaine

cc: WPB, ZBA, Town Offices, The Walpolean, www.walpolenh.us
Posted: Inside Town Offices, Bulletin Board outside Post Office.