

TOWN OF WAKEFIELD, NEW HAMPSHIRE
PLANNING BOARD

2 HIGH STREET
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**MINUTES OF THE PUBLIC HEARING
January 10, 2008**

Chairman Joe Fluet called the meeting to order at the Town Hall at 6:30 p.m. Attendees included:

MEMBERS		ALTERNATES		STAFF	
Joe Fluet, Chairman	X	Donna Faucette		Kathy Menici, Town Planner	X
Rod Cools, Vice Chairman	X	Ed Morrison	X	Bette Gallagher, Secretary	X
John Blackwood, Selectmen's Rep	X	Dick Atwater	X	Richard Sager, Town Counsel	X
Al Huntoon	X	Peg Stevenson	X	Arthur Capello, Bldg. Inspector	X
Nancy Spencer-Smith				John Ciardi, Code Enforcement	X

Other Attendees as signed in:

John Kenney	Amber Marcoux
Dave Mankus	Deborah Gauthier
Judy Nason	Harold R. Jarvis III
Carol Jarvis	F.X. Bruton
Charles McLaughlin	Tom Dube
Larissa Mulkern	

Chairman Fluet opened the meeting with the Pledge of Allegiance to the Flag.

Chairman Fluet stated that the record should show that Alternate Member Dick Atwater is sitting in for Member Nancy Spencer-Smith.

PUBLIC HEARING:

To receive public comment on amendments to proposed amendments to the Town of Wakefield Zoning Ordinance.

Chairman Fluet said that this is the last Public Hearing allowed by law, which means that no substantive changes can be made. The Board can only vote down an article that appears to require major changes.

Vice-Chairman Cools asked the Chairman to make note that Contractor Yards and Commercial Vehicles have been tabled for discussion until next year.

The Chairman then addressed the definition on Housing for Older Persons stating that a small change was made to paragraph C adding the phrase "except surviving spouses". He then asked the Board for comments and hearing none, asked the public for comments and there being none, the Chairman closed the public discussion and asked for a motion.

MOTION: To approve the Definition for Housing for Older Persons as amended and send it on.
Made by: Rod Cools
Seconded by: Al Huntoon
Discussion: None
Vote: Unanimous

The Chairman then addressed the Article on Assisted Living Facilities/Life Care Facilities stating that two small changes were made directing everyone's attention to the language in bold letters. He then asked the Board for comments and hearing none, asked the public for comments and there being none, the Chairman closed the public discussion and asked for a motion.

MOTION: To approve the Article on Assisted Living Facilities/Life Care Facilities as amended and send it on.
Made by: Rod Cools
Seconded by: Al Huntoon
Discussion: None
Vote: Unanimous

The next Article to be addressed was Home Enterprises and the Chairman said some language had been removed because it referred to Contractor Yards and that Article was tabled until next year. He then asked the Board for comments and hearing none, asked the public for comments.

A member of the public said he had not attended prior sessions and asked for a brief explanation of the way this article was written. Chairman Fluet said the idea behind the division into three specific areas was to provide definition between the very obvious and the more difficult home enterprise in order to facilitate the process on the simple home occupations and provide more detailed review of the more complex ones.

The Chairman said that as an example someone who runs a home office with no clients and no effect on neighbors should not require the same process as someone who wants to run a machine shop. He said that the effect of the Article would be to streamline the process for some people and provide more comprehensive review for others.

A member of the public asked where farmers would fall in this Article and the Chairman said that agriculture is exempt.

The Article for Indoor Cultural Facilities was next to be discussed. Chairman Fluet asked the Board for comments and then asked the public for comments and asked if anyone would like to speak for or against the Article.

Chairman Fluet said there had been comments that some would object to having this type of activity next door and that maybe the Board should give it more thought. The Chairman said his inclination would be to define it with the full understanding that anything that came up would require a full site plan review.

Town Counsel Sager said he is not a member of the Board but would like to comment. At that point Chairman Fluet took a moment to have the Board and staff members introduce themselves to the public.

Town Counsel said this idea came before the Board because one person wanted to move a concert series from Brookfield to Wakefield. He said the Board tried to accommodate this person but feels more time is necessary to think about not just this applicant but about the neighbors. Town Counsel said that although Wakefield is lacking woefully in cultural facilities a slower more determined approach is needed.

Alternate Member Atwater asked how structure is defined and the Chairman said it must be indoor.

Vice-Chairman Cools said this had been discussed one night and some residents have expressed concern. He felt that the Board should not jump into this.

Alternate Member Atwater said that he agreed with the Vice-Chairman.

Alternate Member Morrison said that Town Counsel raised good points. He said that initially he felt this was a great thing, but it is not without future problems and more thought is necessary. He said both the positive and negative aspects should be considered.

A member of the public said that this idea would need input from the Fire Chief and the Chairman explained that in order to do this it would require site plan review and comments from the Fire Chief are part of that process.

A member of the public asked what group the Board was referring to and the Chairman explained it was Wolfeboro Folk.

Chairman Fluet asked if there were more public comments and being none, closed the public hearing.

Member Huntoon suggested that the Board should get a sense of community feeling on this matter. Vice-Chairman Cools said it could be brought up as an Article for next year and then there would be discussions with the public.

Member Huntoon said that only abutters have responded so far.

Planner Menici said that Ben Anderson came in very late in the process. The Planner said that this is significant and more time should be taken to develop it. She also suggested that perhaps an article in the paper would bring in more public comment.

Chairman Fluet asked for a motion.

MOTION: **To postpone the Article for Indoor Cultural Facilities until next year.**
Made by: **Rod Cools**
Seconded by: **Dick Atwater**
Discussion: **None**
Vote: **Unanimous**

The next Article discussed was In-Law Apartments. Chairman Fluet pointed out the change in language that had been made to allow an apartment in an accessory structure.

Mrs. Nason asked for a clarification on whether the accessory structure could be newly built. The Chairman said it could be an addition to the house or an accessory structure also containing the In-Law Apartment. He said that if a structure is built solely to be a separate detached residence then it falls under Family Compounds.

Chairman Fluet asked for additional public comments and there being none, closed the public discussion and asked the Board for comments.

Alternate Member Stevenson said she thought an in-law apartment in a separate accessory structure made it difficult for Code Enforcement to monitor and took away from the idea of an in-law situation. Chairman Fluet asked for additional comments and being none asked for a motion.

MOTION: To approve the Article on In-Law Apartments as amended and send it on.
Made by: Rod Cools
Seconded by: Al Huntoon
Discussion: None
Vote: Unanimous

Chairman Fluet said the discussion on the changes to the proposed amendments to the Zoning Ordinances was complete.

The Chairman said the next item on the Agenda was the continuation of the discussion on the Design Review and Conditional Use Permit for Mr. McLaughlin's proposed Elderly Housing project.

PUBLIC HEARING:

1. (Cont'd from November 1, 2007) The owners/applicants, Charles & Charletta McLaughlin, McLaughlin Family Revocable Trust, through their agent Bryan D. Berlind/Nate Fogg of Land Technical Service Corp., have applied for a Design Review for a 28-unit Elderly Housing Condominium Major Subdivision and associated Site Plan Review for Wakefield Tax Map 42 Lot 5. Said property is located on Pine River Pond Road, Wakefield, NH and lies within the *Agricultural* zone.
2. (Cont'd from November 1, 2007) The owners/applicants, Charles & Charletta McLaughlin, McLaughlin Family Revocable Trust, through their agent Bryan D. Berlind/Nate Fogg of Land Technical Service Corp., have applied for a Conditional Use Permit to allow a wetlands crossing at the proposed 28-unit Elderly Housing Condominium Project for Wakefield Tax Map 42 Lot 5. Said property is located on Pine River Pond Road, Wakefield, NH and lies within the *Agricultural* zone.

Planner Menici passed out a report and revised site plan to the Board. Chairman Fluet said the submittal was late and that it should be submitted two weeks ahead of time. He said the Board would look at it, but only conceptually, and any detailed discussion would be inappropriate.

The Chairman reminded everyone that Mr. Fogg could present the conceptual points, but not details since the Board had just received the plans.

Nate Fogg said that they have added the driveway up the edge of the property that all the condominiums would share and that it had a fifty-foot right of way in accordance with town road standards, with driveways off to the individual buildings. He pointed out the fire road around the units and that they are still proposing the walking paths on the other side of the stream but that the fire road could perhaps be graveled and possibly used as a walking path as well.

Mr. Fogg said they have relocated the wetlands crossing to match up with one of the fire roads to allow for maintenance of the leach field. He also pointed out that the septic is essentially the same as previously presented. Mr. Fogg said that there are wells between the buildings.

Mr. Fogg said that there are arched culverts across the stream and that the sewer pump lines would be monitored for leaks.

He said that they are unsure at this time whether there would be garages, but two parking spaces would be provided for each unit.

Mr. Fogg said there were 28 units and there are now 25.

Chairman Fluet asked where the holding tank would be and Mr. Fogg indicated the area and said he had not put in a lot of the details.

The Chairman asked for comments from the Board.

Mr. Fogg said they were looking for input from the Board to see if the ideas would work and then all details would be provided.

Planner Menici said that at the November 1, 2007 meeting, the Board identified nine items that would be requirements for this project:

1. A detailed traffic impact study;
2. The private road serving the condominium to meet Town road standards;
3. Gravel fire lanes to be configured as a loop rather than dead-ends;
4. Compliance with Article 18 of the Town's Zoning Ordinance to determine the maximum density to be allowed on the subject parcel;
5. An indoor recreation facility for the condominium community;
6. A back-up generator to service the condominium units and indoor recreation facility;
7. Septic system to be designed for emergencies;
8. Double-lined pipes and sensors for the septic system to prevent effluent from damaging the wetlands the system is proposed to cross; and
9. ADA compliance.

Chairman Fluet asked if there would be a social center. Attorney Bruton said they were definitely considering it and there would probably be one.

The Chairman said that in looking at the nine items, it appeared that item 1 would have to be met; that the new design addresses items 2 and 3; item 4 had yet to be worked out; item 5 was being worked on; item 6 was being considered; item 7 would need a design; item 8 would be met if constructed as previously discussed; and item 9 was also being worked on.

Chairman Fluet said they appear to have come a long way and asked for any other comments from the Board. Member Huntoon agreed with the Chairman. The Chairman said this presentation was conceptual only and Mr. Fogg agreed that the plans would require detail. Alternate Member Atwater asked about parking spaces for visitors and Mr. Fogg said there would be eight or ten scattered throughout the facility.

Member Huntoon asked if the social center would be in one of the buildings instead of separate and Attorney Bruton said it would be in one of the buildings.

MOTION: To continue at applicant's request the Design Review and Conditional Use Permit Hearings until February 7, 2008.
Made by: Al Huntoon
Seconded by: Dick Atwater
Discussion: None
Vote: Unanimous

BOARD BUSINESS:

1. Recommendation of Appointment to SRPC Metropolitan Planning Organization Technical Advisory Committee.

Planner Menici said that the individual recommended did not have to be a Planning Board Member. Vice-Chairman Cools suggested Tom Dube be recommended and after a brief discussion, Mr. Dube agreed to serve in this position.

Chairman Fluet said the recommendation would be submitted to the Selectmen.

2. Letter regarding Colosi subdivision

Chairman Fluet asked about the letter that had been received regarding the Colosi subdivision. Planner Menici said the Planning Board Secretary had done research on this issue and asked her to speak about it.

Mrs. Gallagher explained her research on this matter and the Chairman said that the issue was complicated and he suggested that the Board take it under advisement and deal with the matter another time.

The Chairman asked for a motion that the Board should review the issue and continue the discussion to February 7, 2008.

MOTION: To review the research on the Colosi subdivision and continue the discussion to February 7, 2008.

Made by: Rod Cools
Seconded by: John Blackwood
Discussion: None
Vote: Unanimous

3. Site Plan Review from CMA for Bramer

Planner Menici said that one of the conditions of approval for Mr. Bramer was site plan review by the Town engineer. The Planner said the only significant issue raised by CMA was that there was no drainage proposed for the new parking area at the back of the building. Chairman Fluet and the Planner felt there was no need for a surface water management plan for the new driveway because it was in the middle of the parcel and Mr. Bramer owns the parcel the area would drain into. The Chairman said that if there were to be a future subdivision or site plan this would be addressed at that time.

Alternate Member Stevenson asked if there could be a potential liability issue involved, but the Chairman told her it is not an issue since the water would drain onto the Bramer's own property. Chairman Fluet asked for additional comments and there being none, asked for a motion to waive the drainage requirement.

MOTION: To waive the drainage requirement from CMA Engineers for the Bramer site plan review.
Made by: John Blackwood
Seconded by: Dick Atwater
Discussion: None
Vote: Unanimous

4. Lake Forest Resort

Chairman Fluet said the last item on the Agenda was Lake Forest Resort. The Chairman stated that there is a pending lawsuit by Lake Forest Resort against the Town and the Wakefield Planning Board and asked Town Counsel to speak to the Board about the details of the lawsuit.

Town Counsel Sager said that Mr. Mankus wants to build 600 square foot cabins in his campground which the Planning Board had previously approved and confirmed approval and that State law changed in 2001 to require recreational camping cabins to be 400 square feet or less. He said that he had not been aware of this, and when he became aware, he had to advise Code Enforcement not to issue any building permits that exceed the State limit of 400 square feet. Mr. Mankus wants to build cabins of 600 square feet and when told the Planning Board approvals were no longer valid, Mr. Mankus sued the Town seeking to change that ruling. Town Counsel said he is defending that lawsuit.

The Chairman said that from reading Counsel Sager's pleading in the lawsuit there is one important comment in that Counsel has exhorted the Court to rule that Mr. Mankus can obtain a CO for the four cabins that are already started. The Chairman said the Board has, in every discussion, been uniformly in favor of allowing him to finish the work he has started. In fact, the Chairman stated that as far as the Board is concerned at this point in their rulings, Mr. Mankus could go ahead with 600 square feet since that is what the Board had approved initially and later confirmed. The Chairman said that the issue that has arisen is the technical one explained by Town Counsel that because the State has a law that limits

camping cabins to 400 square feet, the Building Department is unable to issue a CO for anything bigger than 400 square feet.

The Chairman said this is the contention:

Are these RV camping cabins and if they are than the State rule is clear. Mr. Mankus contends that they are not camping cabins, but seasonal residences that fall outside the definition of camping cabins and as such are not addressed by the RSA's limitation. If that is true than the 600 square feet approved by the Planning Board is applicable.

So the issue is who makes the decision. Chairman Fluet said the Building Inspector has been given legal advice in one direction and the Planning Board has made a decision that 600 square feet is acceptable. The Chairman stated someone must make a decision: do we continue the lawsuit or do we modify it?

Selectmen's Representative Blackwood asked Mr. Mankus to explain the difference between his cabins and what the State says. Mr. Mankus said a cabin is a generic term that has been used to describe many different things. He said that camping cabin is a term that was spread across the country six or seven years ago. He said that term in the RSA describes a simple structure that replaces a tent at a campsite usually without amenities such as running water, generally about 200 square feet and portable. Mr. Mankus said he does not believe that there is any disagreement that what he is building is not on a campsite, but on two acre parcels, and are therefore not camping cabins by that definition.

Chairman Fluet said he does not believe that there is any disagreement that what Mr. Mankus is building is different from what the State described as a camping cabin. However, there is disagreement whether his buildings still fall under the State definition.

Mr. Mankus offered some material that may shed some light on this and said the problem is that the decision is being made based upon erroneous information. Mr. Mankus said that every time the Board as discussed this, because of health issues he has not been here to correct the erroneous information with facts and that it may be time to clear up some of those things.

Member Huntoon asked if the State gives any other detail other than the definition. Mr. Mankus said that other states such as Rhode Island and California they have extensive definitions as to what a camping cabin is and some of those definitions run more than two pages. Mr. Mankus said that unfortunately New Hampshire is lacking in that definition. Mr. Mankus drew the Board's attention to RSA 216-I: 1 paragraph VII-a, which was read into the record in its totality by Town Counsel Sager:

“Recreational camping cabin” means a structure on a campsite, 400 square feet or less, calculated by taking the measurements of the exterior of the cabin, including all siding, corner trim, molding and area enclosed by windows, but not the roof or porch overhang, or log overhang at corners. It shall be designed not for use as a permanent dwelling but as a temporary dwelling for recreational camping and vacation use.”

Chairman Fluet said he had a question about the phrase “on a campsite” and asked Mr. Mankus if these are campsites?

From the same RSA in paragraph II, Town Counsel reads the definition of a campsite:

““Campsite” means a parcel of land in a recreational campground or camping park rented for the placement of a tent, recreational vehicle, or a recreational camping cabin for the overnight use of its occupants.”

Mr. Mankus said if you put that together than what you have is that a camping cabin is something on a campsite and a campsite is something where a camping cabin sits. These definitions go together and a camping cabin is on a campsite where you could also put an RV, a motor home or a fifth wheel.

Mr. Mankus said that his cabin sites have never been referred to as campsites. He said that every document from the initial application has referred to them as cabin sites. Mr. Mankus said that the recorded documentation for the condominium distinguishes in many places that there are two kinds of sites – cabin sites and campsites.

Mr. Mankus said this matter was completely dealt with and he disagreed with a statement made by Town Counsel that he was not aware of the State law. He offered copies of page 3 of the Planning Board minutes from November 15, 2001 and directed the Board’s attention to the circled paragraph which reads:

“Attorney Sager explains the RSA stated by Mr. Blackwood, was amended as indicated by the sub-paragraph “VII-a”. The text version indicates the amendment was made in 2000.”

Mr. Mankus said this shows that Town Counsel Sager was present in 2001 and the RSA is noted in the minutes and was discussed when they were reviewing the condominium. Mr. Mankus said Town Counsel was present, was aware of the RSA and a determination was made at that time that these were not camping cabins and not subject to the RSA. Mr. Mankus said that Counsel Sager has stated in Court documents that a waiver was issued and he challenges him to show where in those minutes a waiver; a motion for a waiver or a vote for a waiver was made. He also challenged Counsel Sager to tell him how the Planning Board could waive an RSA.

Counsel Sager said the Board cannot waive an RSA and questioned where he said a waiver had been issued. Mr. Mankus referred to Town Counsel’s answer in the lawsuit, which stated that the 400 square feet was waived for 600 square feet in that hearing and that is how they got the 600 square feet. Town Counsel asked if Mr. Mankus had a copy of that document with him, but Mr. Mankus did not.

Chairman Fluet said he clearly remembers that this Board approved 600 square feet. Vice-Chairman Cools said he thought the higher square footage was approved because they were condominiums and said that this may be the answer to the question. He said that if these are condominium cabin sites that makes them different from campsites.

Mr. Mankus pointed out that these are not rented sites but owned. He also said that he sold one cabin and has another under contract and they have built two others. Vice-Chairman Cools asked if they sell the cabin and rent the land. Mr. Mankus said the purchaser owns the condominium.

Chairman Fluet said they are owned as condominium sites. Planner Menici said they are mailbox condominiums, which means that the mailbox identifies each site. The Chairman said they have the use of the site, but everyone owns everything in common.

Mr. Mankus reiterated that these are not campsites and the structures were not approved as camping cabins; that they were aware of the RSA and no waivers were given. The cabins were considered different from camping cabins when approved.

Mr. Mankus said he has some certificates of occupancy, which are the problem at hand. Mr. Mankus told the Board that almost one year ago he received a letter stating that he needed a waiver from the State for the square footage. He said this jumped to the conclusion:

1. That they were applying for cabins that were proposed, which is not true there are permits in effect; and
2. That they were camping cabins.

Mr. Mankus said if you start off with wrong assumptions you are going to get wrong conclusions.

He said the CO's are temporary on two of the units (and they are \$200,000.00 units) one of which is not his property but will be his lawsuit and the Board's lawsuit soon. Mr. Mankus explained that the temporary CO's would run out this summer and the owner of the cabin would have no place to live when it does run out.

Mr. Mankus read part of the statement on the bottom of the temporary CO:

"Cabin does not comply with State regulations and the applicant should seek a waiver from the State or a court order."

Mr. Mankus said he is boxed in because no one in the State has the authority to issue a waiver for an RSA leaving him the single option of obtaining a court order.

Chairman Fluet reiterated that the Town, the Planning Board and Town Counsel all agree that Mr. Mankus should get a permanent CO and have enjoined the court to give it to him.

Town Counsel Sager pointed out that he requested this relief from the Court, not Mr. Mankus's attorney.

Mr. Mankus said they do not want permanent CO's for only four cabins, that if one is legal they are all legal. The Chairman said that is a separate issue and just to clarify, no one is arguing that the Court should give him the four for sure.

Chairman Fluet asked what else Mr. Mankus wanted to discuss. Mr. Mankus said that he has a recorded plan that was signed by Nate Fogg when he was Chairman and John Blackwood was one of the members. He said that this is a recorded plan that he is holding and there is a process by which a recorded plan could be revoked and that Counsel Sager should be familiar with this process. Mr. Mankus asked when this recorded plan was revoked. Town Counsel answered that it had never been revoked. Mr. Mankus said it is therefore still in effect and calls for sixteen seasonal cabins, not camping cabins or RV's. When they had gone before the Board, they offered a plan called for 100 RV's in that area and he said he would prefer sixteen cabins. The Board agreed and sixteen cabins were approved. Mr. Mankus said he could not go back to 100 RV sites because they have a HUD and State approved condominium and the plan is frozen.

Chairman Fluet said that at the end of the meeting the Board would be going into Executive Session and the legal points would be worked out with Town Counsel. The Chairman said Mr. Mankus was making some good points and asked him to proceed.

Mr. Mankus said that at the time of approval the cabins were approved for 600 square feet years before the 400 square foot limit was enacted. Vice-Chairman Cools said he clearly remembered the Board discussing 400 square feet versus 600 square feet only a few years ago and wondered why Mr. Mankus was saying the 600 square foot approval goes back to 1994.

Chairman Fluet said the Board determined in 2001 that Mr. Mankus could build 600 square foot cabins and that part of what went into the decision was that Mr. Mankus already had the approval from 1994 and the Board took that into account and the Board was only upholding that approval.

Member Huntoon clarified that the limitation of 400 square feet was not in effect in 1994.

Mr. Mankus showed the Board some handwritten notes from 1994 supporting the size as 24 x 25 feet and an affidavit from Norm Powers saying that the size was 600 square feet. Member Huntoon pointed out that Mr. Powers was one of the signers on the plan.

Chairman Fluet said that Selectmen's Representative Blackwood remembers the discussion and the Board discussed it at length in 2001 and all agreed that they would uphold the 600 square feet. The Chairman said there was no question what the Board did in the past, the question was how the Board now deals with the later action by the State and what if anything we can do about it.

The Chairman asked Mr. Mankus for any other comments. Mr. Mankus said that one point that is being used against him is a false argument. He said that there is agreement that the cabins were approved at 600 square feet, but then someone will say that they aren't all built yet. Additionally, someone will say that no cabins were built between 1994 and 2001. Vice-Chairman Cools said there has to be development within four years.

Mr. Mankus said that is not exactly true and used Ivanhoe Estates as an example. He said that the plan was approved around 1997 with two-acre lots but zoning changed to three-acre lots. Mr. Mankus said that nothing was built including roads and that it was a paper subdivision, which was then sold. Mr. Mankus said the approval was extended several times. Chairman Fluet said that the developer not only requested an extension but also posted a bond. Mr. Mankus said there was a window of opportunity when the Board could have said that the bond didn't matter that it was the idea of the zoning change that had taken place and it was a paper subdivision. The Board could then have instituted the process of revocation but they didn't.

Planner Menici said that if you read the statute you must make substantial and active development within the four years or post a bond to guarantee the road improvements that were approved for the subdivision and the developer for Ivanhoe Estates did post the bond.

Mr. Mankus said it was a paper subdivision but the Planner said he did post a bond and that satisfied State law. Alternate Member Atwater said there are other paper subdivisions in Town.

Mr. Mankus asked if the lots evaporate because there are no houses on them. The Chairman said they did not, but it is the infrastructure that matters in considering substantial development. He said that in a subdivision substantial development means did you build the roads, sewage, water and utilities.

Mr. Mankus asked about the differences between subdivision and site plan. Chairman Fluet explained that site plan applies to a commercial venture and subdivision refers to changing the lot sizes and that they often go hand in hand.

Mr. Mankus said that in his case there were both and he did put in the infrastructure with roads, wells and water system but not cabins. He said that they are a small enterprise and have to build one cabin at a time.

The Chairman said that he remembers the discussion and that the Board considered the campground as a whole and there was substantial development although not specifically in the area of the proposed cabins.

Alternate Member Atwater said there was a site walk and the Chairman said there were wells, septic, social centers and roads. Mr. Mankus said that they had to increase the water system with a well in the cabin area and piping and said there were many reasons both personal and economic for the cabins not being built. He said that his position is that if people are talking about the cabins not being built, are they talking about an opportunity to start the process of revocation that was missed or are they talking about it being revoked without the process being followed.

Chairman Fluet asked if they assume there was no substantial development does the Board have to revoke the approval and if the Board does not do that is the plan still approved? Town Counsel Sager said that the four-year exemption applies to local regulations and not State regulations.

The Chairman said to stick with the local issue. He said that if the Board does not formally revoke does it remain approved. Town Counsel agreed with this. The Chairman asked for confirmation that as it now stands the approval is for all sixteen cabins at 600 square feet. Town Counsel confirmed this.

Mr. Mankus said that in 2001 as part of the package for condominium approval there was a determination of compliance with the Town. It was determined that there were no problems in 2001 and Mr. Mankus asked why in 2007 the cabin size became an issue.

Again, Chairman Fluet said there was no question that the Board had approved the cabins at 600 square feet; however, the Chairman said the issue that must be dealt with is the insertion of the State regulation limiting size to 400 square feet and what the Board can do about this. Chairman Fluet said this would be dealt with in executive session.

Mr. Mankus handed out an excerpt from his recorded condominium declaration where it distinguishes between cabin site and campsite. Selectmen's Representative Blackwood said that the approval in 1994 says seasonal cabins not campsites.

Mr. Mankus said that if a search is made on the web for camping cabins perhaps one or two million hits will come up and there will be photos of small 400 square foot cabins. He said that the best state for a

definition is California because they have a full description and even say you can have air-conditioning but no plumbing.

Mr. Mankus said that in his situation if someone makes a decision and writes a letter and it is done a little carelessly with regard to property rights that decision results in an investment of \$400,000 in the 37 acres and he has \$900,000 worth of sites for which he cannot get building permits. Mr. Mankus said again that he faces a potential lawsuit if he cannot get a permanent CO and cannot close on one of sites because of this issue. Mr. Mankus informed the Board that he has had to lay off workers and faces other monetary consequences because of this issue.

Chairman Fluet thanked Mr. Mankus and said that the Board would complete the meeting and then take up his issue in Executive Session.

CODE ENFORCEMENT:

The Complaint Log review was continued to the next meeting.

APPROVAL OF MINUTES:

MOTION: To approve the Minutes for January 3, 2008
Made by: Rod Cools
Seconded by: Al Huntoon
Discussion: None
Vote: 4 Aye, 1 Abstaining

ADJOURNMENT:

MOTION: To adjourn the meeting at 8:10 pm
Made by: Rod Cools
Seconded by: Al Huntoon
Discussion: None
Vote: Unanimous

Respectfully submitted,

Bette Anne Gallagher
Planning Board Secretary