

TOWN OF CHARLEMONT
MINUTES OF THE PLANNING BOARD PUBLIC MEETING
12/17/2009

Members Present: Bill Stephens; Gisela Walker; Dan Miller; Jerry Pratt; Trevor Mackie.
Absent: Kathy Eichholz
Meeting called to Order at 7:05 PM

Public Present: Earl Bowen Charlemont Board of Health member (BoH)
Jim Hawkins, Franklin County Building Inspector (BI)
Bill Coli, Owner of Blue Heron Farm, Charlemont (BHF)
Norma Coli, Owner of Blue Heron Farm, Charlemont
Robert Sacco, Attorney representing Mr. & Mrs. Coli

Public meeting scheduled for 7PM delayed due to the attorney not being present. Therefore PB continued with its regular matters until Attorney Sacco arrives.

Opened mail

Received letter from Town Counsel concerning new Federal Guidelines pertaining to cell tower permitting procedures and his recommendation to be sure the Town of Charlemont By-Laws will meet the new standard that will be coming along. PB will need to look further into this.
If so the PB might have 2 By-Law changes for this year's Annual Town Meeting, other one is the Flood Plain District By-Law for along the Deerfield River.

Some discussion on the meeting held in Greenfield hosted by the FCOG concerning the proposed Commonwealths legislation on siting of wind turbines. Gisela, Dan and Trevor attended this meeting.

Attorney Sacco arrived so the meeting opened on the BoH request to see if BHF need to obtain a SP for change of use to operating a lodging house, inn or motel.

Mr. Coli gave an overview of how they came to purchase the BHF 34 years ago and how over time they have added adjacent property which have the single family "rental" units. One of the units (the Maples) was built for his father to live in but he has since had to move to another facility. The sugar house is on same deed as the Colis' farmhouse; all the others have their own deed. All units have their own water and septic systems as well as electric power. He also relayed that this is an actual working farm operation having Boer goats, Fjord horses, haying and producing maple syrup from their own trees. Mentioned the Town of Charlemont has a Right-to-Farm By-Law and that the Town has been a supporter of farming. Mr. Coli mentioned that for a farm to be viable now they must do more such as agritourism and that they are promoting their vacation rentals as 'vacation on the farm'. Attorney Sacco brought up the fact that as a farming operation the zoning by-laws do not pertain here.

Mr. Hawkins (BI) had asked his legal counsel to examine this issue prior to coming to the meeting. Attorney McNichols' opinion is not definitive but she states that this is a grey area based on how the Commonwealth defines Lodging Houses, Motels, Hotels or Inns. She states that we need to look at a number of aspects such as:

Are one nighters allowed – No

Are transients allowed to stay – No; you must have registered before arriving.

Do they have signage directing you to BHF as a place to stay – No

Is rental unit shared with others – No; guest has the whole house, no shared facilities.

Is food provided – No; each unit does have a kitchen but it is the persons responsibility to do their own food preparation etc.

Type of advertisements – Only uses internet site and word of mouth from people who have stayed there.
Type of facility being rented – All are fully functional stand alone houses.

Can units be sublet – No

BI also confirmed that as a farm they are exempt from zoning By-Laws but that all houses comply with building codes.

Mr. Bowen (BoH) presented a copy of the letter sent to Town Council (TC) asking for an opinion as to whether a SP was needed for BHF. The PB has a copy of attorney Blake's letter. Mr. Bowen also had a copy of all the supporting documentation sent to TC. The PB did have an opportunity to see the document.

After lengthy discussion Dan Miller made a motion:

MOTION: The Planning Board has determined that the residential buildings at Blue Heron Farm are not being operated as a Rooming House, Bede & Breakfast, Hotel or Motel, but are single-family vacation rental homes. Motion made by Dan and seconded by Bill.

Motion – Passed Unanimously

Mr. Bowen insisted on behalf of the BoH that the PB decision be filed within 14 (fourteen) days with the Town Clerk and a copy of the filing be forwarded to the BoH.

On another matter the PB wished to inform Mr. Bowen that his SP for a cell tower was approaching the 2 year anniversary. Mr. Bowen then left the meeting.

PB posted a notice to meet on Dec 28th at 6:30PM at the Town Hall to sign minutes. PB discussed about if our action on BHF needed to be filed with the Town Clerk. Board does not believe it does as it is not a special permit decision but just a Board vote. However, Board will provide requested copies to both parties.

Berkshire East (BE) has asked if they need to go through another SP application process should they decide to install a more efficient and 15 foot shorter wind turbine. PB will consider this an amendment to their approved SP. This does need a new SP hearing but would only deal with the changes requested.

Accepted a letter from the Charlemont Historical Commission concerning the some wording in the SP for the BE wind turbine. The Board duly noted the requested change but can take no action at this time. Letter placed in appropriate BE file.

Question if anyone knew if PB kept the Mylar ANR plans that Win Healey brought to the board earlier this year. Nobody recalls PB keeping them and none where located when filling cabinets where checked.

Motion made and seconded to adjourn at 9:20PM

Respectfully submitted,

Trevor Mackie, Clerk