

**Town of Milton
Planning Board
Tuesday, January 20, 2015
Milton Town Hall
Meeting Minutes**

In attendance: Chairman Brian Boyers, Peter Hayward, Tom Gray, Robbie Parsons, Bob Bourdeau, Larry Brown and alternate Bob Graham. Also in attendance Town Attorney James Sessler and Kimberly Ladisheff Land Use Clerk.

Public in attendance: Mike Beaulieu, David Ahon, Bob Garrett, Wayne Sylvester, Bob and Barbara Henderson, George Knapp, Andy Rawson, Janice Long, Timothy Long, David Paey, Kari Lygren, Eric Knapp, Steve Panish and Kirsten Lygren

Chairman Boyers called the meeting to order at 6:30pm and appointed alternate Bob Graham as a full voting member.

Public Comment

Kari Lygren asked about the Master Plan, when the PB would be working on it and if there will be any public input. Chairman Boyers recommended checking the PB agenda's for when they would be discussing it and there would be public input when it was time.

Approval of Minutes

Motion by B. Bourdeau to approve the minutes of January 6, 2015. Motion seconded by B. Graham. P. Hayward asked about letters submitted after the public hearing and whether or not they should be part of the minutes. Attorney Sessler stated they are part of the record and is evidence the board can consider but it doesn't have to be specifically stated in the minutes. L. Brown asked that we list what was presented as part of the record. All in favor, motion carried.

Discussion on Petition Warrant Articles

Zoning Amendment #2 (Submitted by Petition):

1) To amend Article II, Definitions of the Milton Zoning Ordinance to include the following definition:

“Solid Waste Management Facility” means a facility as defined in RSA 149-M:4, IX, namely “a location, system, or physical structure for the collection, separation, storage, transfer, processing, treatment and/or disposal of solid waste.” The term “solid waste” specifically excludes hazardous waste as defined in RSA 147-A, radioactive waste and biological waste. The term “Solid Waste Management Facility” excludes “Incineration Facilities” for solid waste.

2) To amend Article II, Definitions of the Milton Zoning Ordinance to include the following definition”

“Recycling Facility” means a location, system or physical structure for the collection, separation, storage, transfer, processing and/or distribution of recyclable materials to markets for recycling.

3) To amend the Table of Uses within the Milton Zoning Ordinance to provide proper and integrated management of solid waste by providing that the uses under Category F of the Table of Uses be amended to permit Solid Waste Management Facilities and Recycling Facilities, and permit such uses to the extent that such use is conducted subject to and in accordance with the requirements, restrictions and/or dimensional regulations set forth within RSA 149-M, et. seq., and to the extent the use is granted a special exception by the Zoning Board of Adjustment pursuant to Article VIII of the Milton Zoning Ordinance.

B. Bourdeau stated he sees several issues with part 3 of this petition warrant article. It opens it up throughout the town which he feels is a huge mistake. The second issue is it includes recycling as part of this and we've already got recycling in our zoning, so he doesn't agree with that. Just on the technical merits of item 3 he thinks there are two issues right there for not recommending. He stated he thinks the town had spoken loudly several years ago and they have spoken loudly again that Milton is not a place for a landfill. He has done extensive research and the more you look into landfills there is really nothing good out there. Another thing that is frustrating is all the misinformation and mistruths.

P. Hayward asked because Zoning Amendment #2 has three parts would that still be a single warrant. Attorney Sessler stated they would have to vote on all as one.

L. Brown mentioned the 3/9/10 zoning articles, all which passed, and talked about the qualities of land and qualities of water supply in the Town of Milton. What bothers him is the broad brush approach. When you introduce solid waste as a category which is permitted in the entire land mass of the town, you no longer have zoning and the town becomes the zone. He is also concerned that just because a facility meets the requirements of RSA 149-M:4 does not mean it is useful to the town or the regulations themselves are sufficient to control future possible

B. Bourdeau moved to not recommend Zoning Amendment #2. Motion seconded by L. Brown. T. Gray abstained. Motion carried.

Not recommended 6 – 0 – 1 abstention

Zoning Amendment #3 (Submitted by Petition):

To see if the Town will vote to amend Article II (definitions) of the Milton Zoning Ordinance to define "Landfill" as follows:

"Landfill shall be defined as a facility which collects and: disposes of; or recycles or processes, waste by landfilling methods. The term includes facilities that collect and store waste indefinitely or recycle or process waste. Landfilling means a method of disposing of solid waste by the intentional placement of the solid waste in or on land where it will remain: after landfill closure; or until use for recycling or processing."

P. Hayward stated it's clear that we should have a definition so that we know what we are talking about and probably is not in the zoning regulations now. Maybe it's important for us to define the term however this definition includes some excess that is defining more than just a landfill and since we are not allowed to change the wording, by recommending something like this, we are signing up for something beyond what we should be signing up for.

Attorney Sessler stated your zoning ordinance you are dealing with is a permissive zoning ordinance. Under the law that means if it is not mentioned in the zoning ordinance it is not allowed, it is not permitted. Why would you want to provide a definition for something you don't allow, it doesn't make any sense. If you define it how will that be interpreted?

B. Graham asked if you put that definition in would that allow it. Attorney Sessler answered if you define it someone can try to fit it into a category you already have. Whatever you do you should take careful thought and get input from your Town Planner, get input from yourselves, you should be the ones who control it and not adopt something you don't need. Why would you define something if you don't allow it?

L. Brown stated he found out the Town has absolutely no jurisdiction over the movement of any legal vehicle on any legal road at any time of the day and the rules of interstate commerce will knock us out of the park. So in thinking back to the Tenerife project and the impact of the traffic on that road, if you're thinking of coming south through Union, or if you're thinking of coming east through Applebee Rd. there is nothing the Town can do to control or divert traffic. The Town of Barrington has tried desperately to regulate TurnKey traffic and have been completely unsuccessful.

P. Hayward moved to not recommend Zoning Amendment #3. Motion seconded by B. Graham. All in favor, motion carried.

Not recommended 7 – 0

Zoning Amendment #4 (Submitted by Petition):

To see if the use category of "Materials recycling, processing" will not be permitted as an allowable principal or accessory use in the Industrial/Commercial zoning district as shown in Article III of the Town of Milton Zoning Ordinance at Section 3.5 Table of Principal and Accessory Uses in Zoning Districts.

B. Bourdeau stated he is in support of no landfill but to go after the recycling businesses in town is not right. We've had recycling in our zoning, we approved Index Packaging years ago for a palette recycling business. They employ a lot of people. We had New Frontiers, they were a plastic recycling plant. That was a nice operation but didn't make it. Global Tech then moved into their building, they were a computer recycling company, a nice clean recycling operation. The way you don't have landfills is to encourage recycling so we don't have to put it in the ground. Where we have it in the Industrial/Commercial zone already I think recycling needs to stay there. In this case he thinks it's absolutely wrong and is in support of not recommending zoning amendment #4.

L. Brown stated he happens to be on the ZBA and if Index Packaging wanted to expand their palette recycling or to expand into a different "green area" he would do everything he could to support that request and argue for it for ZBA. The problem is you can't control who is on the ZBA and what is going to happen down the road. The thing he is concerned about is something like the awful shriek of a metal shredded like down in Berwick so he is absolutely in the middle.

Attorney Sessler stated unfortunately Larry you just disqualified yourself from the ZBA by making that statement if they ever come before you. The provisions of the ordinance are your first obligation to enforce. This is the problem with warrant articles that don't come from the PB. The ZO says right now "Any lawful non-conforming use in existence at the time of passage of this ordinance, or at the time of adoption of an amendment to this ordinance may continue unchanged". That means you don't have a lot of leeway to grant an expansion of the use, and that's the danger of having petition articles like this. PB has to use their judgment, and that's what you have to look at, what's the effect on our existing businesses.

B. Bourdeau stated he would be more than happy to sit down with the PB after elections and redefine things to take care of this problem and come up with a different definition.

Motion by B. Bourdeau to not recommend zoning amendment #4. Motion seconded by P. Hayward. L. Brown abstained. Motion carried.

Not recommended 6 – 0 – 1 abstained

Zoning Amendment #1:

Are you in favor of the adoption of zoning amendment #1, as proposed by the Milton Planning Board for the Milton Zoning Ordinance as follows: To add the following language to Article III Establishment of zoning Districts, Section 3.2 b at the end of 1) “note in order to receive the benefits of the High Density Residential (HDR) zoning district, the parcel shall be served by municipal water and sewer” as included in the Milton Zoning Ordinance?

Chairman Boyers stated we were hoping this would clean up some of the issues we have downtown as far as overlapping zones. We have High Density Residential and Commercial/Residential overlapping. This was done by petition warrant article a few years back. It has made it a nightmare to decide what can and can't be done. This didn't help us much. We are now in the process of updating the zoning maps. B. Boyers stated he is up in the air whether to recommend or not. B. Bourdeau stated it does clarify that you have to have both, even if there is a crossover in the maps you can't be in High Density and not have water and sewer.

Motion by P. Hayward to recommend Zoning Amendment #1. B. Bourdeau seconded motion. T. Gray abstained. R. Parsons and L. Brown voted no. Motion carried.

Recommended 4 – 2 – 1 abstained

Other Business

Brief discussion on R. Parsons and B. Bourdeau's term expiring this year.

Motion by B. Bourdeau to adjourn. Motion seconded by B. Graham. Meeting adjourned at 7:10pm.

Respectfully submitted,

Kimberly Ladisheff
Land Use Clerk