



**TOWN OF PITTSFIELD
PLANNING BOARD
TOWN HALL, 85 MAIN STREET
PITTSFIELD, NH 03263**

MEETING MINUTES OF Thursday January 9, 2020

ITEM 1 – CALL TO ORDER

Call to order at 7:06 P.M. by Paul Nickerson, Chairman.

ITEM 2. – ROLL CALL

MEMBERS PRESENT

Paul Nickerson – Chairman
Clayton Wood – Vice Chairman
Matt St. George
Carl Anderson – Ex officio
Adam Gauthier – Alternate

MEMBERS ABSENT

Daren Nielsen
Jim Adams – Ex officio
Ray Ramsey

Adam Gauthier is sitting in for Daren Nielsen

OTHERS PRESENT

Sabrina Smith, Recording Secretary

ITEM 3. REVIEW TWO PROPOSED ZONING AMENDMENTS

Legal Notice

Notice is hereby given in accordance with NH RSA 675:3, the Pittsfield Planning Board will hold a public hearing to discuss zoning amendments proposed for the 2020 Town Meeting. The public hearing shall take place on Thursday, January 9, 2020 at 7:00 PM, at Pittsfield Town Hall.

- a. Citizen's petition: "Are you in favor of an amendment to the town zoning ordinance to exempt storage containers in the Suburban District or the Rural District from the current requirements that all storage containers in any zoning district must be on a lot only temporarily and must have a permit from the zoning ordinance administrator?" The proposed amendment would allow storage containers to be placed in the Suburban or Rural zoning districts without a permit and the 12-month restriction in a 15-month period would no longer apply in those 2 districts.

b. Zoning Amendment by the Pittsfield Board of Selectmen as follows:

“Are you in favor of the adoption of Amendment Number ____ as proposed by the Board of Selectmen for the town zoning ordinance as follows: Remove all citations to court cases located throughout the ordinance?”

The Board agreed to move to proposed Zoning Amendment Item b, as a courtesy to wait for the petitioner, Jim Pritchard.

Paul Nickerson read Zoning Amendment Item b, proposed by the Pittsfield Board of Selectman as follows;

b. Zoning Amendment by the Pittsfield Board of Selectmen as follows:

“Are you in favor of the adoption of Amendment Number ____ as proposed by the Board of Selectmen for the town zoning ordinance as follows: Remove all citations to court cases located throughout the ordinance?”

Paul Nickerson asked Carl Anderson if he would like to summarize or say anything to the room about the Zoning Amendment.

Carl Anderson said that the Select Board feels that the court citations should be removed from the Zoning ordinance to make it clearer and easier to understand for the general public and to avoid confusion when people try to read it with court citations as part of the actual article. He said that there were some other pretty good reasons they should be omitted, one being that Pittsfield is the only town that he has seen with court citations listed along with the Zoning ordinance. He explained that court cases get decided on a revolving basis and case law that has been put into a Zoning ordinance by a vote can have a subsequent court finding that would invalidate or change it. He said that unless you’ve got somebody on top of changing the court citations every year, and then depending on the voters to accept or deny all the changes, is a good way to end up with a misleading ordinance. Carl Anderson said these are the reasons for the Select Board’s proposal and why the Board feels the court citations should come out entirely.

Paul Nickerson opened to Public at 7:12 P.M.

Larry Konopka addressed the Board. He said that last year at the public hearing when it was recommended to put case law in the Zoning ordinance, it was really confusing and he was totally against it. He said that this year, he supports the article the Select Board has put forward. He said that if you go underneath Special Exception alone, there’s one paragraph explaining what the Special Exception is, but then there’s ten different case laws defining it. Larry Konopka said that you would have to be a lawyer to try to figure it out and that he agrees with the Select Board in supporting the warrant article.

Hank Fitzgerald addressed the Board. He said he wasn’t a lawyer but he wanted to try to explain how the Zoning ordinance basically works. He said that no matter what the Zoning ordinance says, the first procedure to disagree with it would have to go to Superior Court. Each and every case is ruled on its own individual merits and non-merits. Case law is only valuable if the particular case that your ruling on

matches all the conditions that the court ruled on to begin with. Mr. Fitzgerald also said that no one in the room is a judge or lawyer. He said that one person could read the case law one way and someone else could read the same exact verbiage and hear something else. Hank Fitzgerald stated that by adding case law to the Zoning ordinance, it has complicated the system and it's really not effective for any reason.

Joseph McCoy addressed the Board. He said that when he moved to Pittsfield in 2014, he had brought a storage container with him that had things in it he had bought over the years. He said that the storage container was on his property for two years and no one had said anything to him until the 2016 election, when he had a Trump logo on his trailer. He said a building inspector had been sent to his property and he was told to remove the trailer due to complaints or face a \$500 a month fine. Being on disability, he said he donated the things inside to the Boy Scouts and schools and had to get rid of the trailer.

Joseph McCoy said after his trailer was gone, he went around town looking at all the other trailers that were allowed to be on people's property. He said he saw around 53 trailers; some of which had permits and some of them didn't, some trailers were grandfathered in, but some of them weren't. Mr. McCoy expressed how upset he was that his trailer had to go when there were other people around Town who were allowed to have them. He stated that he felt like he was being targeted for political reasons by some of the Town officials.

Joseph McCoy said that he contacted a lawyer but that he didn't want to have to take further action on the Town. He said it was one of the last things he wanted to do, so he went around and collected signatures to get this Zoning amendment on the ballot because he wanted the Town to change the Zoning ordinance. He said he wanted to forget the time period allowed for trailers and forget needing permits because all they do is cause confusion and the citizens, the residents, are the ones who end up paying for it. He said that a personal trailer on private property, no matter what it is, should be allowed if other people around Town are doing the same thing with no retribution.

Paul Nickerson closed to the Public at 7:19 P.M. and asked that Joseph McCoy's statement be included with the public comments for the Citizen Petition Zoning Amendment Item a.

Mr. Nickerson asked the Board members if they had any comments to add to Zoning amendment Item b. before proceeding to a vote.

Clayton Wood addressed the room and said that he would prefer to leave the citations in place. He said that the citations were the result of many years of work by this Board and previous Boards and that he doesn't understand the confusion with them being included. He said that when he first started on the Board, he was concerned with the applicant getting what they wanted and having the ability to do what they wanted with their land. If the Select Board or the Planning Board allowed someone to do something on their own property, then no one cared about the citations being included in the Zoning ordinance. He said that it was only when somebody couldn't do what they wanted on their own property that having the citations included in the Zoning ordinance then became a problem.

He said that Mr. McCoy's statements that were made on the floor, even though out of turn, do relate to the citations because there is a level of unfairness seen around Town and it doesn't seem like everyone

is getting treated fairly. He said that the first thing that gets cited to him from almost everybody, including Town officials, is the case law. He said that not everyone can afford an attorney or knows that there are options for them and that you didn't have to be a lawyer to look at the citations and see that there's another side to looking at the problems that affect the Town.

He said he was willing to put the citations in the back of the Zoning ordinance as an appendix when the Board discussed this at the December 5th Planning Board meeting, but by taking them completely out, the only people who would get hurt by not having them there will be the people who don't get what they want. Clayton Wood stated that he will not support removing the citations from the Zoning ordinance, that the Board already knows this, but he wanted to go on record to explain why.

Matt St. George addressed the room and said that he would support taking the court cases and findings out of the Zoning ordinance because he believed the citations could be read and interpreted in different ways depending on who was reading it. He said that he's actually had court cases at different times listed to him that had nothing to do with what was being talked about. He said that he absolutely agreed with Clayton Wood in saying that the Board should try to work with the rights of applicants and abutters. He just felt that the Board would be better off removing the citations and helping applicants on a case by case basis using court cases as an example while in front of them. Matt St. George stated that he supports what the Select Board is proposing by removing the citations from the Zoning ordinance.

Paul Nickerson called a vote on whether Board members were in favor or against Zoning Amendment Item b.

4-1-0. Paul Nickerson – yes, Clayton Wood – no, Matt St. George – yes, Adam Gauthier – yes, Carl Anderson – yes. Four members of the Board are in favor of amending the Zoning ordinance, one member of the Board is against amending the Zoning ordinance.

Matt St. George made a motion to cancel a second public hearing for the Select Board recommended Zoning ordinance.

Carl: Second.

Discussion: None.

5-0-0. Paul Nickerson – yes, Clayton Wood – yes, Matt St. George – yes, Adam Gauthier – yes, Carl Anderson – yes.

Paul Nickerson read the Citizen Petition for Zoning amendment Item a as follows;

- a. Citizen's petition: "Are you in favor of an amendment to the town zoning ordinance to exempt storage containers in the Suburban District or the Rural District from the current requirements that all storage containers in any zoning district must be on a lot only temporarily and must have a permit from the zoning ordinance administrator?" The proposed amendment would allow storage containers to be placed in the Suburban or Rural zoning districts without a permit and the 12-month restriction in a 15-month period would no longer apply in those 2 districts.

Paul Nickerson asked the petitioner, Jim Pritchard, if he would like to address the Board.

Jim Pritchard addressed the Board saying that he doesn't own a storage container or anything that would meet those requirements, but he was also aware of storage trailer regulations being used unfairly around Town. He said that he wrote this petition to give people who are being wronged in the Town some tools to fight back, just as he had helped put the citations in the Zoning ordinance. He said that the purpose of a Zoning amendment is to improve the quality of life for residents and the current regulations don't do that. Jim Pritchard stated that this Citizen petition would be a step in the right direction.

Paul Nickerson opened up the hearing to Public at 7:38 P.M.

Clayton Wood moved to let Joseph McCoy's previous statement stand and to be included in the Public comments and asked if Mr. McCoy had anything else, he wanted to add to his Public statement.

Joseph McCoy said that he had one thing left to say. He said that when he moved to Pittsfield, he wanted to be here for the rest of his life. He said that he likes Pittsfield and he likes his neighbors and as a tax paying resident who spends most of his money in the Town, he expects more from the Town officials. Joseph McCoy closed his statement by saying it's the residents in this Town who raise and support it and that the Town works for the people, the people don't work for the Town. He said that he hopes this Zoning amendment passes because things need to change to make it fair for everyone in the Town.

Jim Pritchard said that he was absolutely flabbergasted at what the Town did to Mr. McCoy. He said that you would think that his trailer had 1st Amendment written all over it, but apparently nobody saw that.

Jim Allard from Tilton Hill addressed the Board saying he wanted the record to state that the enforcement of the ordinance is the purview of the Select Board. It is not the purview of any particular member and every decision that comes is a Board decision just like the decisions of this Board or any other Town Board. He said that it is based on a majority rule and not based on any individual deciding on something.

Hank Fitzgerald said that there was some confusion on how the Zoning amendment was written and he wanted to get clarification on what the amendment was changing. He wasn't sure if the amendment was only affecting two districts in Town because it also mentions other districts. He said he understood wanting to do away with needing a permit to have a trailer on a personal property, but he didn't believe the Zoning ordinance allowed storage trailers for every zone. He also wanted to know if, without a permit, property owners would still need to let the Town know if they have a trailer or not because you can't build a fence or a house without a Town permit. He said that he agreed that the trailer issue was an unnecessary process and if a gentleman comes into Town Hall and wants to put a trailer up; if it's on his own property, not visible from the street and he shows the Town, then let him do it. He said that there are too many people interpreting the law in different ways and that it's ridiculous having this kind of stuff coming before the Town.

Paul Nickerson closed Public input at 7:38 P.M. and asked the Board members if they had a comment or anything they wanted to discuss on the Citizen petition.

Carl Anderson said that he had a question regarding the proposal. He said the stated purpose of the article in the Zoning ordinance is to promote general welfare by protecting the aesthetics of the Town and the proposed amendment would make it legal to have a storage container in the Suburban or Rural district for any period of time without a permit, but he said it does not do that in the Urban or the Commercial or Commercial Light Industrial zones. He wanted to know if there was a reason aesthetic values weren't as important in the Suburban or Rural zones, then why was there a change proposed for two districts and not all five districts. He said that if someone could explain this, he would be happy to hear it.

Matt St. George asked if the Board could open up to Public so they could let the petitioner respond to the question.

Paul Nickerson opened to public so Jim Pritchard could answer.

Jim Pritchard stated that the aesthetics of the town were different in Rural and Suburban districts than they are in the Downtown area. He said that the minutes of the Planning Board, when originally adopted back in 1997, reflect the fact that it was aimed primarily at the Downtown and not the more Rural areas of town. For example, he said that a junk yard would be more fitting in a rural area compared to having a junk yard in a downtown area. So, the aesthetics of the Town can vary depending on where you are and that this is why the purpose is still preserved and why it was limited to those two districts. Mr. Pritchard ended by saying that the regulations were specifically targeted to protect back in 1997.

Matt St. George asked the Chair, Paul Nickerson, with permission from Mr. McCoy, if he could ask Mr. McCoy a few questions. Mr. McCoy and Paul Nickerson agreed.

Matt St. George addressed Mr. McCoy asking for clarification on the statement that he had made in the beginning. He said that it sounded like Mr. McCoy had wanted everyone to be able to have a storage container on their property.

Joseph McCoy agreed that he would like others in the Town to have a right to have storage containers on their property if they wanted them.

Matt St. George said that in that respect, the change to the ordinance wouldn't let that happen. He said that the way the amendment was worded, the change would only be allowed in two districts and that the other districts wouldn't be included in the amendment. He stated that the current amendment being proposed wouldn't be fair to all districts if just the two districts were being included on the amendment.

Joseph McCoy said that he wasn't a politician or a legal person so he didn't know how many districts there were in the Town, but he feels that each district should be treated equally and entitled to the same rights. He said that the Citizen petition is meant to cancel needing a permit for a trailer and to stop the time limits on how long a trailer could be used on personal property in the Rural and Suburban areas.

Matt St. George said that he agreed with Mr. McCoy in that there were areas in Town that should be allowed to have storage containers on personal property and that everyone in Town should be treated fairly when it came to this policy. He said that he would be more apt to support the amendment if it

were treating all the districts the same, but the way the amendment was currently worded it would treat two districts one way and leave the other three districts out. He added that this wasn't to say that the Board would approve or not approve of all five districts being included, because he didn't know how the Board would vote relating to that but he wanted to make sure that he understood what Mr. McCoy wanted to happen with the Citizen petition.

Joseph McCoy said that in his opinion the Board members should get together and discuss it and figure out what is good for everybody in the Town. He said there are storage trailers not even six miles from where he lives that are being allowed when he was denied having one. He said that he doesn't understand all the politics of what is being talked about, all he knows is that it shouldn't be up to the citizens to fix the wrongs that are going on, but for the Town officials to get together and do it. He said that he doesn't care if a Pittsfield resident lives behind the dump, lives in an apartment, or lives in a mansion; all residents of the Town of Pittsfield should be treated fairly.

Matt St. George stated that he wanted Mr. McCoy to know that if he voted against supporting this amendment, that it was because he didn't feel this amendment was fair to all the districts in Town. He said that with the current wording, the amendment singles out two districts leaving out the other three and he didn't feel that it covered all property owners fairly. He said that he didn't believe the Board would have enough time to change the wording to correct it in time and that it would most likely have to go on the ballot for next year. He said that the Board can't change the law on how the process of Citizen petitions work, but that the petitioner might be able to make that change.

Paul Nickerson said he understood what Matt St. George was trying to say and that State law doesn't allow trailers in the middle of Town. He said that a lot of the laws we have on the books here in Pittsfield are actually controlled by the State of New Hampshire. He also said that a lot of the Zoning wording is done by the State, so if the State says the Board has to do something, then the Board has to do it because the Board works for the State. He said that the Planning Board in this town or any other town has no authority over the State. He said that State law is above Town law and it is only when the State doesn't have a ruling on something that the Board has a right to make a ruling.

Joseph McCoy stated that he believes in the Citizen petition that is being proposed as it currently is. He said that this happened to him where he lives in a Rural district which is why he was involved in getting the signatures for the petition and if the Board needs to start, then start right here with this petition. He said that it is the Board's job to right this wrong so that it's not only fair for him, but for the rest of the residents in the Town.

Clayton Wood said that he would like to vote in favor of the Citizen petition to get it on the ballot and see how the people in Town feel. He said that he would also like to address the fairness issue. He said that there is an ordinance against trailers, but anyone could drive round Town and see that it's not being followed. He also said that he would like to see changes in regards to filing blind complaints to enforce the Zoning ordinances. He said that it is happening all throughout Town and all it is doing is breaking down the Town. He said that the Town either allows trailers or they don't, either support them or don't, but the Board can't keep looking like it's selectively enforcing Zoning ordinances. He said that there are other Zoning ordinances that seem to be selectively enforced, but he wanted to address the inconsistencies with the one on the table right now. He felt that what Mr. McCoy was trying to say was to start with this Zoning amendment and take it one step at a time.

Adam Gauthier brought up Article 14, Section 3, paragraph C of the Zoning ordinance stating that only one trailer is allowed on a lot which contradicts what the Citizen petition is trying to do.

Paul Nickerson agreed saying that his problem with the Citizen petition is that there are things in it contradicting what is already law. The Zoning law states that no more than one storage container shall be on the lot if the lot is in the Urban, Suburban, or Rural districts, but then when you come down to section (e) in the Citizen petition, it's proposing one or more storage containers on any lot in the Urban district. He said that it's controversial because the law states only one storage container is allowed, but by saying one or more in the Citizen's petition could mean four storage containers or more. Paul Nickerson went on to say that it also reads that no more than two storage containers can be on a lot if the lot is in the Commercial or Light Industrial Commercial districts. He said that he understood what Mr. McCoy was trying to do, but the petition was written in a way that contradicts what is already a law. He said that the only way to change it would be to change (c) and (d) of the ordinance right along with (e) and (f) so that they are no longer contradicting each other and the law.

Clayton Wood stated that he thinks the point Mr. McCoy was trying to make was that the trailers are already allowed in these other districts, but limited in number depending on which category it would fall under. The Citizen petition would allow one, two, or three trailers on a lot depending on the district.

Adam Gauthier stated that he thinks the intention was there but the way the petition was written goes against what is already law.

Matt St. George said that he questioned that when he first read it and wondered if it meant that in these two zones that you can have as many trailers as you wanted. He said that the Citizen petition could take the limits out of those two zones and the Town could find a bunch of storage container facilities along Catamount or Tilton Hill without needing a permit to do it.

Paul Nickerson said that he wasn't against what Mr. McCoy was trying to do, but agreed that the Citizen petition does conflict with the current laws. He said that he didn't like having an open-ended number of trailers being allowed in a Suburban district because the Town could end up with a large number of storage trailers all along the roads.

Adam Gauthier said that he also agreed. He said that the current ordinance allows one or more trailers, however with this amendment taking the restrictions away from the Rural and Urban districts, it would allow more than one in those two areas as well. He said that if the Citizen petition passed, the Board would have to think about how many people would go running out and grab box trailers to put on their property. He also wanted to point out that if the Board goes along with the Citizen petition, it could possibly take away from the aesthetics of the Town.

Clayton Wood added that the Citizen petition would be going on the ballot regardless and that if there was an area the Board needed to address, they could address it later.

Paul Nickerson said that if the Citizen petition passed, it would have to be amended because the way it is written right now, there would be no limit to how many storage containers would be allowed in the Rural and Urban districts. He said that "one or more" does mean more than one and he thanked Adam Gauthier for picking up on that. Mr. Nickerson went on to say that it was too late to change the Citizen

petition now, but it was something they should think about for next year because he couldn't endorse something that went against the law that was already on the books.

Adam moved to vote on the Board recommendation to be for or against the proposed Citizen petition.

Matt St. George: Second.

Further Discussion: None.

4-1-0. Paul Nickerson – no, Clayton Wood – yes, Matt St. George – no, Adam Gauthier – no, Carl Anderson – no.

Adam Gauthier made a motion to cancel a second hearing.

Matt St. George: Second.

Further Discussion: None.

Motion carried 5-0-0. Paul Nickerson – yes, Clayton Wood – yes, Matt St. George – yes, Adam Gauthier – yes, Carl Anderson – yes.

Paul Nickerson made a motion to have Bonnie send a letter to Gilmanton stating that we have no regional impact.

Clayton: Second.

Discussion: None.

Motion carried 5-0-0. Paul Nickerson – yes, Clayton Wood – yes, Matt St. George – yes, Carl Anderson – yes, Adam Gauthier – yes.

ITEM 4. Adjournment

Paul Nickerson motioned to adjourn at 8:16 P.M.


Clayton Wood: Second.

Discussion: None.

Motion carried 5-0-0. Paul Nickerson – yes, Clayton Wood – yes, Matt St. George – yes, Carl Anderson – yes, Adam Gauthier – yes.

Approved:


Paul Nickerson, Chairman


Date