

BOARD OF SELECTMEN

March 11, 2024

MEMORIAL BUILDING

4:30 P.M.

*The following are to be considered draft minutes only until approved by the Board at their next meeting.*

Selectmen Present: Poul Heilmann, Chair; Amy Lewis, Vice Chair; Don Hill

Others: Jen Roberts, Josh Lizotte, Steve Dzubak

**Scheduled Appointments:**

Poul invited Josh Lizotte to attend this meeting as he saw a video posted by Josh and was concerned that maybe the Board wasn't communicating properly or there wasn't a full understanding of what they were trying to accomplish regarding short-term rentals. Josh indicated in his video that the warrant article was a secret plot to ban short-term rentals in Springfield and that concerned Poul because that is not the intent. Josh stated that he didn't indicate it was a secret plot in his video, he just highlighted what the warrant article does. Josh pointed out what is going on in the state of NH right now is that they will not jump in and give clear definitions, they have deferred it to the towns and now towns are trying to fumble through and figure it out. Josh stated as far as the warrant article, clarify what a short-term rental is, truly define it, as opposed to being under guest facilities and then changing the zoning ordinance to clarify that short-term rentals are not going to be allowed in those two zones unless a property owner can get site approval and a special exception. Josh had questions on it before casting the ballot; the primary question being what the motivating factor behind is needing to regulate short-term rentals.

Tim Bray, current chairman of the planning board, stated short-term rentals started popping up in the state with alarming frequency. Because it was happening so fast towns didn't have specific regulations for them. The town explored this; what does the town have or not have the right to do. The state was clear in the fact that you can't disallow short-term rentals, but towns do have the ability to regulate how they come into town; what rules do you want to have in your town just to maintain the character of your town? A couple of years was spent just looking at our ordinance and determining what is different with short-term rentals. The planning board ended up writing up the process for short-term rentals, which is the same process we've always had. This was done with input from our prior zoning coordinator along with our town attorney.

If you are going to start a business, any kind of business, in Springfield you need to go to the Zoning Board for a special exception. If approved, the next step would be to go to the Planning Board for a site plan review, which is a normal process for any business not just short-term rentals. To date, there have been thirteen applications for short-term rental businesses and thirteen approvals. The goal here is not to prevent the short-term rental itself, but to prevent the misuse of them and creating a negative impact on the town. Another thing the Planning Board had to consider was if a big investor came to town and bought all the houses around Kolelemook and turned them into short-term rentals; you can imagine the impact that would have on the

residents of Springfield. Every town is working through this. The Planning Board spent a lot of time, held several workshops, meetings, and meetings with the attorney and the Selectboard making sure we were staying within our zoning ordinance but making sure we had a systematic way of looking at short-term rentals. New forms were created along with informational sheets, so we did things properly and equally for everyone; that was critical, to be fair and equitable across the board.

Poul stated, as Josh is aware, that there is no direction coming down from the state level. Poul provided an example of what would happen if a corporation chose to buy out all of KOLEEMOOK. We wanted to ensure we had a process in place to at least make sure things were working properly. We also worked with the fire department to create a life safety checklist, as well as septic and water testing; all of those things that not only help the owner and the town but also the renters of these properties. Poul stated the town is trying to set guardrails within the laws of the state in a way that we can react to things. One of the underlying concerns is that we have someone that is local, within the area, that we can contact in case there are any issues with a property, and that is built into the processes.

Tim Bray pointed out that voting for the warrant article will not change any of the process. The process has been worked out and has now been used thirteen times; it will not change the decision making process. It is simply the language that would be most useful for the town attorney to defend the town if someone wanted to push back. If it doesn't get voted in the process will remain the same. Don reiterated the fact that we have had thirteen applications and thirteen approvals showing the town is working with these residents. We are just trying to preserve the character of the town; it's just finding the balance. Jen Roberts added that having these short-term rentals go through a site plan review is a protective mechanism for the business owner; this process has never been to prevent people from having their business that is not Springfield's intention. Tim stated the conditions put on their approvals are based on fire and safety, they are asked to keep a binder in their rental property which gives the renter local emergency numbers and things like that. If we don't regulate that there could be safety issues.

Josh appreciated hearing there have been as many approvals as there have been applications for short-term rentals; this speaks to the mindset and intent of the local Boards. He explained his bigger concern stems from if at some point someone doesn't get an approval. His concern is based on current litigation going on and the ones that have been ruled on at this point, those towns are losing in court and Josh has concern that it could come back on the town of Springfield. If someone does come after the town they will have strong court-case precedent that will work against the town. Particularly with the defining of short-term rental as a commercial enterprise. How is the town quantifying short-term rentals as being a commercial enterprise. Tim explained that has actually been settled in the courts, that short-term rentals are a business and can be regulated by the town but can't be disallowed by the town. When you are renting out a facility, you are running a business, you are paying rooms and meals tax and are listed as a business. Springfield is a mixture of rural residential we must be careful about how we allow

things. Tim stated if we were to deny a short-term rental it would have to be for something pretty outrageous, something that would clearly be a safety issue.

This warrant article is to strengthen the town's case if we had to go to court; we would be brought to court only over conditions not about having a short-term rental. Josh pointed out that there are some recent rulings that went in favor of the short-term rental being residential because of the manner of which they are used. The argument that was made was when you are short-term renting to a tenant, the use remains the same, they are using it as a residential dwelling. Josh understands wanting to define it as commercial, but you actually do have court precedent right now that ruled against the towns because it did meet the definition of residential use. That is where Josh got concerned with Springfield defining short-term rentals as commercial. And in turn, what that could open up from a liability standpoint for us is the inspection and that kind of stuff as far as fire safety and septic and those things. There is NH state statute that prohibits inspection on one- and two-family residences.

Poul stated the first step is for the applicant to go before Board of Selectmen. The Board follows a checklist to determine if there is consideration which then defines a business; the Board of Selectmen determines whether it is a business or not based on the scoring system. From there it goes to the Zoning Board for a special exception then to the Planning Board for a site plan review. Poul's concern with Josh's commentary is that yes, there are plenty of exceptions and court cases out there right now but each one has to be looked at individually. We can try to build a wall around every possibility, but what we are trying to do is give the town enough guardrails so that if someone wants to challenge us we have everything in order. There may be precedent, but based on our legal council's recommendations, this gives us a better footing if someone wants to come and challenge the town. Someone can challenge whether the Board thinks it's a business or not, but that is at a different level than whether we can go into someone's residential home because by the time you get to that point they are already defined as a business.

Tim stated as we were building this process and looking at all the statutes and what other towns were doing, the question on whether this was an extension of a residential use or not was settled in the superior court well over a year ago. That doesn't mean someone can't bring it up again and use it as a basis for a lawsuit. Nothing is inspected without the permission of the owner. This is not a confrontational process; we aren't trying to stop them from having their short-term rental. Poul stated these applicants have found the process to be helpful, for example with the fire safety checklist; this was helpful for them to identify where they would be liable. The town doesn't monitor this afterwards, that is up to the resident; liability is not falling back on the town we are just pointing out the things a property owner should do to be in compliance. Jen Roberts also pointed out that once your site plan is approved your business is protected.

Don stated he appreciates Josh coming in and being candid with the Board. Don asked Josh, that as a realtor, is one of the most common questions about potential restrictions on short-term rentals, Josh answered yes. Don added that is why Josh is here, and to Poul's concern what if

you got contacted by someone who represents a hedge fund and wanted to buy up as much as they can of lake property. Josh, or any realtor, would gladly provide the listings. But, as a resident of Springfield, you would wonder how that would change the character of your town. That is all we are doing, saying we want you to be successful but it is clear that isn't just a trend. This is how people are affording vacation homes, some are good at managing/controlling them and some are just listing on VRBO and watching the money. The town is just trying to make sure that everybody is somewhat responsible so we can continue to get along. Josh stated he has great confidence in what the Board is saying as far as being reasonable and working with residents and trying to keep it on an even keel for people. His only thought is if we pass this warrant article and formalize everything, down the road what happens if something changes. Poul stated the ruling last year from the Supreme Court pushed us in that direction, of clearly defining what a short-term rental is. Don reminded everyone this warrant article does not change the process at all, all it does is bring clarity to it for the benefit of our legal team. Josh agreed, the defining aspect is excellent, he is thinking more if whomever steps up to be on the Boards down the road does not have the same heart and mindset. Poul assured Josh there are enough checks and balances within the governance of the town that change isn't driven by just one Board or one member. Poul also invited Josh, and anyone else, to come to the meetings; understand what the discussions are and bring up concerns. The Boards are very open to that and that is why it is encouraged for people to attend the public meetings. Jen pointed out that things could change once the state sets their regulations, and theirs could be stricter than ours. Where the state doesn't have their things in order, towns are having to deal with it.

Josh understands where everyone is coming from; wanting to preserve the character and balancing that to property owners rights is challenging. It was referenced a couple of times of imagining a corporation wanting to purchase a bunch of properties, but if they purchase the property why would they possibly not given the opportunity to short-term rent versus an individual family. Poul stated if they go through the process they could run their short-term rental. Jen stated this is part of going through the site plan review that all business have to go through. Keeping with the character of the town, that is not specific to short-term rentals, that is for all businesses. Josh though it sounded more like part of the goal would be to prevent corporations from buying up property. Don stated that was just an example of how far it could go and how fast things could change. The Board doesn't move very fast, there are multiple Boards involved, so the change that Josh is expressing concern about is not something that will happen overnight. If, as a realtor, you get a call from a hedge fund, things change overnight for the character of the town. Tim stated if a corporation did come in and wanted to buy all the houses around the lake we couldn't stop them, the state has said they can run short-term rentals. It is up to the towns to figure out how to incorporate them into their town. To that point, yes they can own them, but they don't own the neighborhood they don't own the town. They would be part of the town. And just because you own property doesn't mean you can do whatever you want with it if it will negatively affect the neighborhood. That is the Planning Boards only

authority, is to say how you can have that business, what is reasonable for this town. We do that through a very specific organized fair and equitable process.

In the end, if the warrant article doesn't pass it will just make it more difficult for the town legally; if it does pass our town attorney will be more comfortable if and when they have to defend the town.

The Board thanked Josh for coming in and Josh thanked the Board for answering his questions.

At 5:06 p.m. Amy made a motion to enter non-public session per RSA 91-A:3(II)(c). The motion was seconded by Poul. By roll call vote Amy voted aye, Poul voted aye and Don voted aye.

Amy made a motion to exit non-public session at 5:17 p.m. The motion was seconded by Poul. By roll call vote Amy voted aye, Poul voted aye and Don voted aye. Amy made a motion to seal the minutes under RSA 91-A:3(II)(c). The motion was seconded by Poul. By roll call vote Amy voted aye, Poul voted aye and Don voted aye.

#### **Zoning/Health Officer Report:**

**REPORT: ZONING COORDINATOR** *Board of Selectmen Meeting, Monday, March 11, 2024*

#### **Application for Zoning Permit – APPROVED**

John and Maureen Chiarella would like to build an 8' extension to an existing barn. Additionally, they plan to construct two 10' x 36' and a 7' x 24' attached sheds to the existing main barn. The Zoning Coordinator and Town Road Agent visited the site and has also spoken with the Chiarellas. There are no setbacks or wetlands issues, and the additions to the barn will be less than 35' tall. No business or commercial activity observed, and the applicants have represented the same on the application.

#### **Other Matters**

Consultation / site visit requested for a proposed two car garage at 49 Sandy Beach Road, by Phillip and Lori DeConinck. Some of the potential issues could be work within the ShoreLand Protection and/or Wetlands Conservation Overlay Districts due to the property location. Site visit planned next week.

Consultation / site visit requested for conversion of a 3-season enclosed porch to bedroom at 375 Oak Hill West Rd. by Leigh Calloway. No changes to structural footprint. Will require review of septic design. Site visit planned for next week.

**REPORT: HEALTH OFFICER** *Board of Selectmen Meeting, Monday, March 11, 2024*

Application for Home Health Inspection for a Foster Family Care License at 492 Philbrick Hill Road by Jennifer and Michael Cota. Site inspection was completed by the Springfield Health Officer and the home was subsequently approved. DHHS Form 1721 was submitted to the Manchester District Office of the Division of Children, Youth and Families.

Respectfully submitted,

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Tim Bray stated the only item that was different was the inspection for the home health inspection for Foster Family Care. That went very well, a very nice family. The licensing is just receiving permission from state to be a foster family.

Jen Roberts pointed out, just as a heads up, that Billy Huntoon's old residence, across from Sarge's Garage, has been purchased and it seems there were some test pits performed, which is allowable. Jen is just putting it out there because there is no approved septic there; keep an eye out for a septic design. Tim stated, as the Health Officer, he can advise on the process, but it would have to be generated by a complaint to the Selectboard or the Selectboard itself requesting Tim go investigate. Jen encouraged that if the Board sees anything to have Tim go help them with the process. Tim stated he would be more than happy to help anyone with the process. Tim stated they can use what they currently have, it was stated they have a shared septic with the neighboring property, until it fails then we step in. Otherwise, they must volunteer to get a septic design.

Poul made a motion to accept the report of the Zoning Coordinator and Health Officer as written. The motion was seconded by Don. Poul, Don and Amy voted in favor of the motion.

**Minutes of February 26, 2024:**

Don made a motion to accept the minutes of February 26, 2024 as written. The motion was seconded by Poul. Don and Poul voted in favor of the motion, Amy abstained.

**Unfinished Business:**

- a. Personnel Manual – approval – This approval has been postponed due to further edits. It will be out for review by the Board prior to the next meeting.
- b. STR's – Vote on defining use of 30 days or less – Poul wanted to be in concert with the warrant article on STRs. We as a Board had been operating under 185 days being the definition of the amount of time. So the Board of Selectmen is consistent with the ordinances Poul made a motion to define Short Term Rentals as being 30 days or less. The motion was seconded by Don. Poul, Don and Amy voted in favor of the motion.
- c. Revaluation RFP status – No update at this time. George Hildum will be in the office on Wednesday. Tamara will provide an update to the Board after talking with him.
- d. Organizing and Digitizing Files – No update at this time.
- e. Website Update – The next meeting for the website will be held on Wednesday. Poul and Tamara have been working on populating the website and it's looking good. Jill Has been added as a user and will be able to load items and make sure we are up to date with website alongside Tamara. The new website will have a community tab, which will have a disclaimer that we don't necessarily support but we endorse these groups. Each of the groups will be listed with their key contact people and volunteer opportunities for each of

those. David, the web designer, will also be providing Poul with a quote for tech support for the office.

**New Business:**

None

**Board and Department Updates:**

- a. Agricultural Commission – They held their quarterly meeting, the planning mentioned before continues. There was a discussion about noise ordinances and its impact on agriculture. They said going forward if there are any changes considered by Planning, Zoning and the Selectboard addressed around noise they would appreciate a consult just to be sure that agriculture continues to be protected.
- b. Buildings & Grounds – The new door is going in slow motion. The committee decided they would not be inspecting every building every year and they appreciated what had been approved for the budget this year. They are hoping the doors come in under budget because they really want to see us address all ADA ramps. Making sure that we keep them power washed, replace treads as soon as possible on the rear stairs. Delaying work on the meetinghouse main floor could cost us thousands of dollars if we get wear in the floor. If we touch it up sooner rather than later, it's cost effective; this is on the radar for this year if things come in under budget. Don will keep the Board apprised.
- c. Cemetery – No updates to report.
- d. Conservation Commission – No updates to report.
- e. Energy Committee – No updates to report.
- f. Fire Department – The pancake breakfast was a big success given the weather. The new fire truck is fully equipped and will be used to drive in the Easter Bunny the day of the egg hunt. Poul requested a group photo of the Fire Department members, as well as all Boards and Departments, for the new website.
- g. Highway Department – The grader has broken down and needed to be towed back to the highway garage. It is looking like it may require an engine rebuild, estimated to be between \$30,000 and \$40,000. This may make the Grader Task Force have to make a decision sooner. There was some discussion on how the town could possibly pay for these repairs out of the 2024 budget and making a floor motion at town meeting to approve this expense. Tamara will call the DRA tomorrow to see what the options are.
- h. Library – Their lego events were a big success. Thank you to the Friends of the Library for paying for the Lego sets used for these events.
- i. Planning Board – No updates to report.
- j. Police Department – Chief Zullo informed Poul that there are currently three cruisers available for purchase. If approved at town meeting the Board will give Chief Zullo the go ahead to move forward with this on Monday morning. Chief Zullo also informed Poul that they will be given \$3500 trade-in on the Explorer. Don made a motion to accept the trade in offer of \$3500. The motion was seconded by Amy. Don, Amy and Poul voted in favor of the motion. Don made the suggestion that if the purchase of the cruiser passes

Chief Zullo not wait until Monday, but move forward on Saturday as dealerships are open.

- k. Recreation Committee – The easter egg hunt is coming up and recreation is in need of candy donations for this event; these donations can be left at the town office. Memorial Day services are coming up, preparations have begun for that. If anyone knows someone who would like to be the speaker at that event please pass their name along to the recreation committee; they would like to have someone who hasn't spoken at this event before. Leigh Callaway has volunteered to speak if needed.

Don pointed out that not everyone in town is on Facebook, including himself. He encourages information like this be provided to Pixie so she is able to get it on the marquis and in the Intertown Record for those not online. Poul stated that the new website will have a community calendar that events like this will be added to.

- l. ZBA – No updates to report.
- m. Administration Update – Tamara has been working with Consolidated Communications for some miss-allocation of payments. With the next round of billing Jill will begin paying their bills online to prevent these errors in the future. Irving missed Friday's delivery, Tamara has been in contact with them and is still trying to determine why this keeps happening.

**Correspondence :**

Notice of public hearing from the Town of Wilmot.

**Signatures:**

Northwind Security – Intent to cut

Meeting adjourned at 6:03 p.m.

Jill Hastings

Deputy Administrative Assistant