

Washington Planning Board
Public Hearing Minutes - Draft

December 16, 2019

0.0 Assembly: 7:00PM

0.1 Members present: Hatch, Dulac, and Schwartz

0.2 Alternates present: Kluk

0.3 Attendees: Deborah Harrington, Joanne Mallady, Jed Schwartz, Tom Marshall, Don Revane, Bob Hofstetter, Pete Martin, Deb DeFosse, John Butcher, Heidi Butcher, Mike Kluk, Linda Marshall, Susan Fairchild, Jeff Buxbaum, Edward Thayer, Jane Thayer, Marian Garvin, Jim Garvin, Kitty West, Dennis Fallon, Patricia Fallon, Bill Kraus, Larry Leisure

1.0 Public Hearing:

Chair Andrew Hatch opened the hearing at 7:00PM and he thanked everyone for attending. He said we are here tonight to consider a petitioned change to the Land Use Ordinance. He said that everyone would be given a chance to speak. He read the petitioned change to the LUO to those in attendance. He asked Mr. Garvin to speak on his petition.

Garvin thanked the PB and BoS for scheduling the hearing. He stated he and his wife are homeowners and long time residents of Washington, he said this is their home and one of their kids has property here. In July, at the PB meeting, he presented his proposed article to change the LUO's RV section to the board; he was looking for a longer period to live in his RV. He said personally that he planned to pour a pad, put in a septic system, drill a well and put his RV on the pad and stay for 183 days. He said in August at the PB meeting a "white paper" fact sheet was shared and members didn't consider his proposal prudent. He was sent the fact sheet and had concerns with it so he sent a letter of rebuttal to the chair. In the September minutes the letter was acknowledged but he received no return letter. He doesn't feel the PB was fair to him so he petitioned the article.

Hatch stated that the Planning Board does not support the change.

Martin asked what the rebuttal was to the "white paper".

E. Thayer asked to clarify that this is a petition that will go before voters as a ballot question.

L. Marshall said that ballot questions are not always understandable, the chair can speak about it at the beginning of the meeting but those voting later will not hear that statement.

N. Schwartz said as a ballot question there is no amending it or discussion, once the ballot box is put out and voting has begun there is no discussion.

Garvin read through his rebuttal of the "white paper" fact sheet. He said the document is not wholly factual. He stated that an RV is not a mobile home and travel trailers have been made since the 20's. The 2015 Master Plan is 90 pages long and RVs are not mentioned in the plan. An RV is not designed as a permanent or primary residence. HUD doesn't consider RVs a home. He doesn't want to live year-round in his RV. He questions one lot one dwelling. He said septic systems are regulated by the state (DES). He stated the responsibilities of the Planning Board. He questioned property taxation and stated that even renters receive town services. He feels it is a hollow statement (referring to the fact sheet). He thinks we should let Washington be Washington and forget what other towns do. He referred to the graphic showing what abutting towns allow. He questioned that Lempster even has zoning, Marlow's rule is for RVs in flood zones, Bradford has no definition, Stoddard allows 180 days, Goshen doesn't allow primary residence in an RV.

Martin asked for a copy of his comments, Garvin said that the PB has it.

J. Kluk said that Lempster does have a zoning ordinance, prepared for them by the UVLSRPC.

Hatch said the other towns were looked at for clarity and are accurate.

Hatch said that we received an emailed comment from a resident and read it aloud.

Martin asked if this would open the door to others doing this and becoming residents.

Hatch asked the BoS to speak. Chair Tom Marshall spoke for the board and stated that Garvin was out of line to call out Kluk; she does a great job researching things for the town. He said the BoS approved the petition for a ballot but they have reservations. They spoke with Town Counsel Matt Serge and he strongly advised the town to not go down this path. The BoS is not in favor, the definition of an RV says it is not taxable property (not considered a dwelling, it is a vehicle).

West asked about residency if it is not a dwelling.

Marshall stated it is not a dwelling and it opens Pandora's box.

Kluk wanted to make a comment about taxes; an RV is a vehicle and is not taxed as a dwelling.

This makes inequity in homeowner taxation. We are able to collect a permit fee, which at present is \$270. Martin asked if we could change that fee and the answer was yes

Kluk said that we use the state definition of RV which also includes pop-ups, should this pass they could be lived in, too.

E Thayer doesn't see a problem, pop-up or not, he feels this is a property rights issue, he feels the argument doesn't make sense and thinks some people don't want to see RVs used in this way, he doesn't care what they think.

Garvin said it won't be cheap for him to do this, his driveway will be 800 feet long and running power out there is expensive even if he digs the trench himself. He will spend about \$75K at least.

Hofstetter said he is a property rights guy but his wife cares about how things look.

Garvin said he is looking to do things properly, things aren't always pretty but it is beautiful to him and that's OK. He should be able to do things with his property. He put in the removal of the RV so people don't have to look at it year-round. He asked how many RV permits were issued last year. J. Schwartz answered 2.

M. Kluk asked if the septic system would be subsurface or not?

Hatch said that the petition doesn't say.

Dulac said he is a "live free or die" guy, he thinks the LUO is ambiguous. He said he was skeptical of the PB stance so he thought not of what Garvin would do but thought of others. He is a hunter and he sees RVs everywhere in the woods. He said they proliferate in hunting season and they have no septic systems, they dump their waste wherever and we have no control. He said the LUO is our rule and 183 days is a magical figure. The school year is 180 days. He said RV people are not residents; this leaves him with so many questions. He said Kluk did a great job collecting information. He said he is moving away from support for this, his bottom line is he is wavering, worried about not just Garvin but others.

E. Thayer said we don't want campers in the woods; he asked if we could add "subsurface" and make sure the RV is gone after 183 days. He said one dwelling one lot is still in the LUO. He said he is a 5th generation resident here and he appreciates the PB but they have an agenda, they weren't willing to put this before the town so they had to petition it, he feels their reaction is unfounded.

West asked where the RV goes after 183 days and Garvin said he removes it. He said he could move it to his other 2-acre property.

Hatch had other questions about the petition. He said the introduction says it will delete any provisions in the LUO, which are not in agreement. He said there are two sections in 306.0; the first section allows 4 months total and the second section concerns construction allowing 4 terms of 6 months while construction is going on. He wanted to know if these would be removed.

Garvin said it is up to the PB what would be superseded. Hatch asked if it would replace the first section.

Revane said that the first section has no additional requirements; maybe this could be a 3rd section. He feels it is not fair to other RVers that can't put in a septic system or stay for that period. He asked about the 183 days, is there residency with that?

E. Thayer said you can be here for 2 weeks and vote.

Martin said he researched that and we require 183 days in New Hampshire.

J. Schwartz asked why 183 days?

Garvin said it is more than half the year. He wants to register his cars and get insurance here.

Hatch asked if he envisions this as a 3rd option and Garvin said no.

Hatch said this doesn't refer to other structures on the property. Garvin said no other structures.

Hatch asked if he could live with this as a 3rd option and Garvin said yes.

E. Thayer asked if we need a vote here tonight? Hatch answered no. E. Thayer asked if we could amend to say no other dwellings?

T. Marshall said that 45 people presented this petition to the BoS, they came up with the petition article, if the wording needs to be changed you need to do it and bring it back.

E. Thayer asked the PB and BoS to work with them.

J. Schwartz said that they reached out to the Town Attorney and he didn't think it was wise; we have to run everything by him.

Garvin said we should, if it passes, let the PB figure out where it should go.

Dulac said that you have to declare residency somewhere and an RV is not a dwelling. It can't be taxed as a dwelling and residence is the key.

J. Schwartz said that this creates ambiguity and there are unintended consequences. The town has a problem with enforcement issues, there are hundreds of empty properties, people come to settle here and this may end up in court.

J. Thayer asked how can we enforce the LUO, there was a camper on East Washington Road for 5 years and there are campers in the woods. There is a saying if you build it they will come but that doesn't happen. She said lakefront people get to declare residency whether they really live here or not. Garvin would be completely above board and would meet the guidelines.

N. Schwartz said that a well, pad and electricity are not in the proposed language.

J. Kluk said in July the PB discussed the proposal and suggested things but the wording was not added.

Martin asked what the town can do if Garvin just does this anyway.

E. Thayer said there are legal avenues to follow. He said in closing he wants to work with the PB and BoS to make this legal and protect the town.

J. Kluk said that if the language is being changed is it substantial enough to have to hold another hearing.

E. Thayer said this is a good discussion and that Tiny Homes will be coming up in the legislature soon so it is an important topic.

J. Mallady asked if the petition signers need to approve of changes.

Hatch said that if the changes are not substantial it is OK.

Garvin asked if the building permit mentions subsurface septic, Revane replied yes. Garvin asked if the PB would be in favor if they do this.

Hatch said he couldn't say one way or the other. He said the process from here is the PB will meet and move this to Town Meeting. He said legal counsel would make sure it is legal. Hatch said that 183 days is beneficial to Garvin but only 4 states allow residency with an RV: Texas, South Dakota, Florida and Wyoming. He asked if this would make New Hampshire number 5.

Garvin said we should Google NH residency.

Hatch said no, this is a way to get residency.

Garvin said he is trying to explain that we don't want to let him get residency, gaining it is his battle to fight.

Hatch asked if the signers asked about the 183 days.

Garvin said yes.

Dulac asked what is good about 183 days, what does it mean. What is good for the town? It is good for Garvin. He said serious questions need to be answered, how is this good for the town. H. Butcher asked if this change is good for the town, it benefits someone but not the town. She sees potential effects on revenue, if people are here in an RV for 183 days substantially less taxes will be paid.

Leisure asked what are the concerns?

Hatch said that 183 days is a trigger, he asked in what way is an RV a dwelling. There are ramifications and an inherent problem and inconsistency with the LUO. This could be contested on the state level.

J. Mallady asked if we have to take it to the state.

Hatch said that we have an opinion from NHMA and others.

E. Thayer said you can live in anything and declare residency, this is not part of the conversation. Kluk said according to NHMA there is a NH Supreme Court case that says RVs are separate and not a dwelling.

E. Thayer contended that this decision is not final and asked how this would end up in courts.

Hatch said there is too much uncertainty.

E. Thayer said you are suggesting this is illegal but it may not be illegal.

Dulac said that the LUO is the town's law and the issue is that the town needs to ask questions if this will cause other consequences, we are responsible.

P. Fallon said she doesn't know much about current use but Garvin said his developed land would have to come out of current use, how much more would he have to pay.

Kluk spoke with the assessors and it depends on how much land would be taken out, 1/10th of an acre would be assessed at \$20,000, paying \$400 in taxes; 1 acre would be assessed at \$40K.

P. Fallon said that is more taxes than he is paying now (around \$20).

D. Fallon stated that the permitting fee would need to go up.

At this point, hearing no other requests for comment, Hatch closed the public hearing at 8:39 pm.

Respectfully Submitted,
Nan Schwartz