

Minutes
Town of Waldoboro
Land Use Committee Meeting
April 26, 2004

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Present:

Land Use Committee: Elaine Abel, William Blodgett, Charles Campbell, Steve Cartwright,
Dana Dow, Charles Flint, Terry Gifford, Ralph Johnston, Edward Karkow, John Morris,
JoAnn Myers, George Seaver
Town officials: Lee Smith, John Black
Robert Faunce, consultant
Audience: Lloyd Brace

Absent: Carlo Bianchi, Ronnie Frazier, Norman Golden, James Mahan, William Travers, Gordon
Webster, William Yerxa

The meeting was called to order at 7:03 p.m. by chairman Ed Karkow. He said he will try to have committee meetings adjourn at 9 p.m.

1. Minutes of March 29, 2004

On motion of Blodgett/Seaver, the Committee voted unanimously to approve the minutes of March 29 as distributed.

2. Summary of Differences between 1987 and 2002 Ordinances - Discussion

CEO John Black's summary of the more significant differences between the current land use ordinance and the 2002 revision was distributed in advance of the meeting, along with Faunce's more detailed comparison of the two ordinances. Faunce's cover memo recommends discussion of subdivision review standards, dimensional requirements, and the allocation of uses in the land use districts. He doubts that the 2002 draft adequately addresses the goals of reducing sprawl, minimizing incompatibilities among uses, and maintaining land values in the designated commercial areas.

George Seaver took issue with the statement in Faunce's cover memo that "the Committee wants to go with the proposed ordinance as it now stands". Seaver said the Committee does not intend to ask townspeople to re-vote the ordinance defeated in 2002. Morris agreed that there will be some modifications to the 2002 draft, but said the Committee hopes to avoid a major redraft. Karkow has a copy of Seaver's previous suggestions for changes to the 2002 ordinance. He asked Seaver to suggest new ordinance language that would address his concerns. Seaver agreed to do this.

It was suggested to look at Black's two-page summary as a "talking document" to use in presenting the revised draft ordinance to townspeople. The Committee went through the summary line by line, asking questions and suggesting changes to make the document clearer for use as a handout. Seaver suggested labeling each change as more restrictive or less restrictive than the 1987 ordinance, or giving the old number for comparison with the new number. He said this would make it easier for townspeople to understand the changes.

Shoreland zoning: Clarify that the 1,000 s.f. floor area limit on structures within 75 feet of salt water applies only to existing nonconforming structures. In the 1987 ordinance only a 30%

expansion was allowed. A survey showed that there are a number of very small camps on salt water. An expansion limit of 30% of a very small structure is still very small. The new 1,000 s.f. maximum is more generous than the old ordinance. (Note that the 30% limit on expansion still applies to existing nonconforming structures on fresh water.)

Site Plan and Subdivision Review

Elaine Abel asked whether it is necessary to go through full site plan review for a change of use. Planning Board chairman Morris said the Planning Board goes through the checklist and marks as inapplicable any unnecessary items. The ordinance revision committee found no simple way to short-cut the application process for a change of use, as each situation is different and decisions need to be made on a case-by-case basis.

General Performance Standards

Architectural standards in Historic Village District: It was suggested to change “standards” to “character”, and to explain that the intent of the Historic Village District is to strive to maintain the 19th century character of the downtown area. This does not mean that modern-style buildings cannot be built, but that new construction should be in harmony with the existing architecture in mass, scale, roof pitch, etc. The Historic Village District is new and was not contained in the Comprehensive Plan. It was added by the Ordinance Revision Committee in recognition of the fact that people value the look of the downtown area and want to see it preserved.

Net residential area calculation: Black explained that eliminating the 15% deduction for roads and parking in effect means that lots can be a little smaller and still meet the minimum net residential area. With the former 15% deduction, a lot would have to be 92,000 s.f. in order to meet the net 80,000 s.f. minimum area standard, he said.

Signs: Clarify that the 30-day limit for temporary promotional signs refers to outdoor signs and does not apply to signs in store windows, or real estate “for sale” signs. Faunce said the intent is to prevent temporary signs from being kept up indefinitely. He said the 30-day limit per sign is more liberal than the 1987 ordinance limit of 90 days per year. Ralph Johnston objected to the 10% limit on square footage of promotional signs in store windows (General Performance Standards M. 5. c. 4), p. 4-14). Morris said the intent is to avoid a cluttered appearance. On motion of Seaver/Flint, the Committee voted (Myers opposed) to delete subsection c. 4) on p. 4-14, “Window Signs. Signs posted within a window shall not cover more than ten percent (10%) of the window area.”

Elaine Abel asked whether if the code enforcement officer has a list of existing nonconforming signs. Morris said no. She asked how the owners of nonconforming signs will know that their signs are nonconforming and must be removed ten years from the date of adoption of the ordinance. Seaver asked if the Committee wants to grandfather all existing signs. Black advised that it would be better to review the records and see which signs were approved by the Planning Board. M Signs 7. (p. 4-14 – 4-15) addresses existing nonconforming signs (interior-lit with non-opaque backgrounds in the Route 1 Urban and Route 1 Rural Districts, and all interior-lit signs in other land use districts). Morris said gas stations can readily provide signs with an opaque background by reverse typography.

Abel asked specifically about the roof sign at Moody’s Diner. Roof signs are prohibited under the draft ordinance, p. 4-14. Blodgett said the sign on the roof of Moody’s Diner was grandfathered in the old ordinance, p. 27, P Signs 6: “All lots with permanent, complete and functioning nonconforming signs as of November 5, 1987, may continue to use and maintain one freestanding or roof mounted and one attached nonconforming sign, and corner lots may continue to use and maintain two attached nonconforming signs. All other nonconforming signs shall be removed by November 5, 1990.” Morris recommended that this language be added to the new sign ordinance, so that Moody’s sign(s) can continue as a grandfathered use. On motion of Cartwright/Morris, the Committee voted to add the following language to the new ordinance: “All lots with permanent, complete and functioning nonconforming signs as of November 5, 1987, may continue to use and

maintain one freestanding or roof mounted and one attached nonconforming sign, and corner lots may continue to use and maintain two attached nonconforming signs.”

On motion of Cartwright/Myers, the Committee voted unanimously to authorize Black and Faunce to provide new sign ordinance language that implements the sense of the Committee and bring it back to the next meeting for approval.

Storage of materials was discussed. Morris said this refers to exterior uncovered storage. Faunce read the text of P. Storage of Materials on p. 4-17 and said it refers to all materials stored outdoors. Lloyd Brace asked if this section would apply to someone who has a firewood business. It was suggested to clarify the explanation of storage of materials on the summary given out to the public.

Street access and driveways: Gifford suggested adding the word “commercial”, otherwise people will think it refers to residential driveways. Faunce said it is good to encourage common driveway entrances onto public roads, even for residential uses.

Phosphorus control: This new section applies only to projects requiring site plan or subdivision review that are located within watersheds of Great Ponds. It does not apply to individual house lots not in a subdivision. Smith asked that this be explained in the summary given out to the public.

Specific Use-Related Performance Standards

Adult business establishments: This is a new section. The draft ordinance allows adult business establishments only in the Route 1 Urban and Route 1 Rural districts. Gifford recommended prohibiting adult business establishments anywhere in town. Smith advised against allowing them along Route 1. Morris asked whether the town has to allow such businesses. Blodgett said if the ordinance is too restrictive the court will strike it down. Freedom to exhibit or sell sexually explicit items is viewed as a first amendment issue. Smith suggested allowing adult business establishments in the Industrial District. Seaver said this is not a practical solution, as the rent would be too high. On motion of Campbell/Seaver, the Committee voted unanimously to have CEO Black consult Maine Municipal Association to see what is standard practice in other communities, and what other towns have in their land use ordinances regarding adult business establishments.

Cluster housing developments: Under the draft ordinance, clustering is required for all subdivisions of seven or more lots. Lloyd Brace said he has heard more objections to this requirement than to any other part of the draft ordinance. Cartwright and Morris said clustering is a way to prevent sprawl and preserve open space. Campbell said that requiring clustering for seven or more lots is likely to result in a series of six-lot subdivisions. Faunce and Morris said developers will want to cluster if they can make more money on a clustered subdivision. Smith suggested there are ways to preserve open space without requiring clustering. For example, when a big field on Goshen Road was developed, the houses could have been located along the edge of the woods, leaving most of the field as undeveloped open space.

Faunce said another town’s ordinance allows much-reduced street frontage for lots in a clustered subdivision. This gives an incentive for the developer to preserve open space. He can provide copies of the Raymond ordinance. The Town of Raymond asked its conservation commission to give it guidance on what kinds of open space are most beneficial. He will explain further at the next meeting.

Bed & breakfasts: Abel said the parking requirement for B&B’s on p. 5-4 of the draft ordinance is in conflict with the parking requirement at the bottom of page 4 – 9 (tourist home, boarding or lodging house, motel, hotel, inn, B&B). The Committee agreed that the requirement to provide one parking space for each employee on the largest shift is not applicable to a B&B, which does not have shift employees. The Committee agreed to delete “bed & breakfast” from the list at the bottom of p. 4-9 because it is inapplicable, and to delete “tourist home” from the same list because the term is obsolete.

Light industry/manufacturing (p. 5-14 – 5-15): Seaver asked about environmental standard N 1. e. shifts and employees: is it reasonable to ask applicants to specify the proposed number of shifts to be worked and the maximum number of employees per shift? Most people think their businesses will grow. Karkow said the Planning Board wants to find out what size operation the applicant has in mind. Seaver said parking would have to comply with the number of anticipated employees.

Seaver asked about the definition of “hazardous materials” in environmental standard N. 1. g. Chemicals (p. 5-14), general requirement 2. n. Deliveries (p. 5-15) and page 12-11 in the Definitions section. He pointed out that wood is flammable, water is corrosive, and beer is toxic. Faunce said the definition of hazardous materials comes from the Environmental Protection Agency. On motion of Morris/Gifford, the Committee voted to amend the text to reflect EPA standards and definition.

On motion of Seaver/Dow, the Committee voted to delete specific performance standard 2 m. for light industry on p. 5-15, that the number of trucks per day requiring a class one or two license shall not typically exceed ten per day.

Exterior storage of material, light industry: Seaver made a motion, seconded by Cartwright, to delete general requirement N 2. j. regarding exterior storage for light industry. After discussion, Seaver amended his motion, and Carter seconded the amended motion, to change the size limit for exterior storage of materials for light industry to 5,000 square feet. The Committee voted unanimously to change requirement N. 2. j for light industry to read, “Exterior storage of materials shall occupy no more than 5,000 square feet of contiguous land area.”

Heavy Industry: Smith pointed out that the draft ordinance contains no performance standards for heavy industry, although it is an allowed use in the Industrial District. The Committee agreed that specific performance standards for heavy industry need to be added to the ordinance. Seaver volunteered to draft suggested language for performance standards for heavy industry. He said more performance standards are needed for light industry than for heavy industry because light industry is permitted in many more places (Route 1 Rural and Route 1 Urban districts) where use conflicts with neighbors are potentially more of a problem than in the Industrial District. Morris said the amount of outdoor storage of material for a heavy industrial use would depend on the intended use. He asked that the draft ordinance language not unreasonably restrict the Planning Board’s flexibility to deal with applications on a case-by-case basis.

Restaurants: Faunce pointed out that the draft ordinance omits the current requirement that all parking and loading facilities be located at the side or rear of the building and be screened from abutting residences within 200 feet. Gifford suggested adding back to the draft ordinance the omitted language on p. 50 of the existing ordinance, except to allow parking in front of the building. The present ordinance language (Specific Performance Standard N. Restaurants 3) reads, “All parking and loading facilities shall be located to the side or rear of the building, and shall be screened from abutting residences within 200 feet. Screening shall be comprised of a continuous landscaped area not less than eight feet in width, containing evergreen shrubs, trees, fences, walls, berms, or any combination, forming a visual barrier not less than six feet in height.”. Abel said landscaping and buffering of parking areas is addressed under General Performance Standard J Off-Street Parking and Loading 2. d. on p. 4-8 of the draft ordinance, so the omitted section under Restaurants may not be necessary, but Gifford thought it would be helpful to include it.

Land Use Districts

Purpose of Districts; Allowed Land Uses

Faunce’s cover memo of April 18 expresses concern about the allocation of uses in the land use districts. He questions whether the draft ordinance does enough to guide future development into the most appropriate areas and to avoid sprawl from transforming existing rural areas. He said

people starting new businesses will tend to locate them in the Rural District where land is less expensive, even if the use would be more appropriate closer to Route 1 or on municipal water and sewer. Gifford and Myers agreed that the ordinance should do more to protect the Rural District from inappropriate development. Most uses listed in the Schedule of Uses matrix are allowed in the Rural District.

Ralph Johnston called for reconsidering the land use districting of Gross Neck. Many residents have objected to including the northern half of Gross Neck in the Rural District while the south half and all of Dutch Neck are in the Residential District. Morris said the Ordinance Revision Committee made no change to the land use districting of Gross Neck. Inclusion of the north half of Gross Neck in the Rural District was part of the Comprehensive Plan approved by voters in 1998.

Karkow asked Faunce how the Committee should proceed in considering allowed uses in the Rural District. Faunce said Committee members should think about how they want the Rural District to look in future, and what uses they want to allow. The State will not approve the ordinance revision, he said, unless there are clear growth areas and clear rural areas and a mechanism for guiding future development toward growth areas and away from rural areas. Faunce will provide examples of ordinance language from State-approved sources that may help Waldoboro encourage new development in designated growth areas and discourage development in rural areas.

Chairman Karkow terminated discussion at this point because it was nearly 9 p.m. Faunce will prepare a revised summary sheet before the next meeting.

3. Report on Community Meeting Investigations

Elaine Abel has spoken to the appropriate parties about holding community meetings about the ordinance revision at the Dutch Neck and West Waldoboro community buildings. The West Waldoboro group would like a presentation at a potluck supper meeting on Thursday June 24.

4. Next Meeting – May 24, 7:00 p.m.

Committee meetings are generally the last Monday in each month, but the last Monday in May is a holiday.

Adjournment: The meeting was adjourned at 9:00 p.m.

Respectfully submitted,

Susan S. R. Alexander
Secretary