

draft 12/8/05 w/BY input 1/3/06, JB input 1/4/06

Minutes  
Town of Waldoboro  
Planning Board Meeting  
December 7, 2005

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Roll Call

The meeting was called to order by chairman Bo Yerxa at 7:03 p.m. Other members present were Carlo Bianchi, Chuck Campbell, Terry Gifford, JoAnn Myers and Abden Simmons. Code Enforcement Officer John Black was present. Norman Golden, Ed Karkow, Scott Vaitones, and Ellen Winchenbach were in the audience.

1. Minutes of November 9, 2005

On motion of Bianchi/Myers, the Board voted 6 – 0 to approve the November 9 minutes with a change on p. 4 to delete “of” at the end of the third from the last line of Item 7, Community Development Block Grant, to read “...effectively update Waldoboro’s 1980 survey...”.

2. Approval of Junkyard Permit Renewal, Orff, 515 Orffs Corner Rd. (R22 Lot 34)

The Orffs were not present, although CEO Black had notified him of the meeting date. No neighbors or others were present for the public hearing. A letter from the Bureau of Motor Vehicles dated November 8, 2005 confirmed that Orff’s request for a motor vehicle recycler license for Sol’s Towing and Recovery was approved on that date. Black’s checklist of specific performance standards for automobile graveyards, junkyards and recycling businesses indicated that the business is in compliance with all applicable specific performance standards except for two items that have been waived in previous years: the junkyard is located within 100 feet of the road and is not completely screened from view from the road, in that the top of a school bus sticks up above the fence. Black said trees provide partial screening of the top of the school bus, which is used for parts storage.

On motion of Myers/Campbell, the Board voted 6 – 0 to approve renewal of Orff’s annual junkyard permit with the above two waivers.

3. Recommendation on Changes to Land Use Ordinance regarding New Middle School

The land use ordinance approved in June, 2005, does not allow schools in the Rural District. The proposed site for the new middle school adjacent to Medomak Valley High School is in the Rural District. MSAD 40 business manager Scott Vaitones was present. He said the Medomak campus was chosen as the most appropriate site for the new middle school after consideration of other locations. The State has approved the proposed site. Attorneys have advised the Planning Board that it cannot review the site plan for the school until the land use ordinance has been amended to permit a school in the proposed location. According to the current ordinance, schools are a permitted use only in the Village, Historic Village, Downtown Business, Route 1 Commercial A and Route 1 Commercial B Districts.

Ed Karkow, chairman of the Land Use Ordinance Committee, thought this omission was an oversight. Norman Golden, a member of the Land Use Ordinance Committee, disagreed, saying that the sense of the Committee was to allow new schools only in locations served by public water

and sewer. He noted that Medomak Valley High School has had trouble with its in-ground wastewater disposal system.

Vaitones said the cost of connecting the proposed middle school site to the sewer is estimated at \$1 million. An in-ground wastewater disposal system would be less expensive. The Dept. of Environmental Protection is giving exhaustive review to the application. The DEP is waiting on a final report from the engineers, expected later this month. After that, the DEP will have 120 days in which to review the application and act on it.

A motion by Campbell/Myers to recommend to the Selectmen an ordinance change to permit schools as an allowed use in the Rural District, and to hold a public hearing in January on the proposed ordinance amendment, failed by a vote of two in favor, four opposed.

Selectman Ellen Winchenbach asked if the Planning Board had considered changing the land use district of the proposed site and Manktown Road between the campus and Route One, to designate this area a Village District. She said the intersection of Manktown Road and Route One is already congested at the start and end of the school day, and adding a second school will only worsen the traffic situation. Campbell said that at its November meeting the Planning Board discussed changing the land use district to Rural Village Business District, but feared there would be more opposition to that than to allowing schools as a permitted use in the Rural District. *(Schools are not a permitted use in the Rural Village Business District under the current ordinance – sec’y.)* Gifford said many people don’t want a business use next to their homes. Planning Board members suggested that changing the land use district near the school to either Rural Village Business or Village District might increase traffic congestion at the intersection of Manktown Road and Route One.

Myers pointed out that allowing “schools” in the Rural District would include commercial schools as well as public and private/parochial not-for-profit schools, thus allowing a commercial use prohibited under the current ordinance. Bob Faunce’s memo of Nov. 30 on the school amendment says that additional notice to property owners is required for any amendment that would permit any industrial, commercial or retail use in a district where it is now prohibited. Yerxa suggested allowing only not-for-profit schools in the Rural District. On motion of Myers/Bianchi, the Board voted 6 - 0 to recommend to the Selectmen amending Land Use Ordinance Article 3 Section F, Schedule of Uses, to move “Hospitals” to the same matrix box as “Nursing and Convalescent Homes”; to add “Commercial Schools” to the same matrix box as hospitals and nursing homes; to add the words “Public and Private not-for-profit” before “Schools” in a separate matrix box, and to allow public and private schools, with Planning Board review, in the Rural District as well as in the districts where schools are allowed under the current ordinance; and to recommend scheduling a public hearing on the above ordinance changes in January, 2006.

Black pointed out that the wording of the above motion might require giving additional notice to property owners, according to Bob Faunce’s Nov. 30 memo to Lee Smith. To avoid this, Black suggested having “schools” on one line and “public or private not-for-profit schools” on another line. Karkow suggested moving “schools” to the same matrix block as hospitals and nursing homes, and having a separate line for “public or private not-for-profit schools”, allowing the latter with Planning Board review in the Rural District as well as the districts where schools are already allowed.

On motion of Myers/Campbell, the Planning Board voted 6 – 0 to strike the preceding motion; to recommend to the Selectmen amending Land Use Ordinance Article 3 Section F, Schedule of Uses, to have one matrix line for “Public and Private Schools”, allowed with Planning Board approval in the Rural, Village, Historic Village, Downtown Business, Route 1 Commercial A and Route 1 Commercial B Districts; to add “Schools” and “Hospitals” to the matrix line with “Nursing and Convalescent Homes” (allowed in the Village, Historic Village, Downtown Business, Route 1 Commercial A and Route One Commercial B Districts, as in the current ordinance), and to recommend scheduling a public hearing on the above ordinance changes in January, 2006.

4. Recommendations for Other Ordinance Changes

Black gave out copies of Bob Faunce's comments on Black's list of 15 land ordinance problems and suggestions and the secretary's 10/17/05 list of items identified by Planning Board members at the September and October 2005 meetings. (Numbers refer to Black's and Faunce's lists.)

- 1) The Planning Board's recommendation regarding change to the Land Use Ordinance to accommodate the proposed MSAD #40 middle school is addressed in Item 3 above.
- 2) Black proposes establishing a special shoreland zoning district for shallow lots on the Medomak River such as those on Elm, Mill, and Jefferson Streets and on Winslows Mills Road and Kalers Corner Street near Atlantic Highway, so that lot owners can build outbuildings closer to the river than would be allowed under current shoreland zoning. Faunce had no comment. Planning Board members voted 6 - 0 not to recommend this change at this time. (The whole Shoreland Zoning Ordinance will have to be amended in future - see # 9 below.)
- 3) Page 3-13, Schedule of Dimensional Requirements, footnote A: Black suggests reducing the minimum lot size to the figures given in footnote A for lots served by public water and/or sewer in any district where these utilities are available or become available, rather than only in the three districts shown in Article 3 Section G, Schedule of Dimensional Requirements (Rural Village Business District, Village District, and Route 1 Commercial B). Gifford objected to reducing the minimum lot size in the Rural District because she feels it would change the character of Waldoboro. Yerxa said having large lots in the Rural District contributes to sprawl. Black pointed out that if lots at his Backmeadow Subdivision could be 20,000 s.f. if connected to the public sewer, he could afford to install the sewer connection because he would have more lots to sell. Bianchi said it makes sense to reduce the lot size to 20,000 s.f. for sewer lots. Norm Golden said reducing the minimum lot size in the Rural District for lots served by public water or sewer would encourage cluster housing, create more of a village feeling, and help the utility district by providing increased revenue. There was general agreement with Faunce's counsel that changing the minimum lot size within a land use district without consulting townspeople is inappropriate and should require a town vote. Black said the Rural District is the only district that had public sewer or water in June 2005 and does not have a footnote A in the table on p. 3-13.

On motion of Bianchi/Campbell, the Board voted 5 - 1, Gifford opposed, to recommend to the Selectmen an ordinance change to reduce the minimum lot size in the Rural District to the dimensions given in footnote A on p. 3-13, only for lots served by public water or public sewer as of the date on which the ordinance was adopted (June 16, 2005).

- 4) Page 3-13, Schedule of Dimensional Requirements: Black recommends reducing the required 200-foot minimum road frontage and 75-foot minimum setback of structures from the road in the Rural District. Faunce recommends no change, because the provisions of the open space subdivision ordinance already allow developers to reduce road frontage, and he is not sure it is wise to encourage more closely-spaced driveways along public roads. The Planning Board took no action on this issue. The Board of Appeals has the power to waive ordinance frontage and setback requirements upon a finding of practical difficulty.
- 5) Footnote J, p. 3-14. Black wants to add to the end of the second sentence, "to maintain a minimum of 10,000 s.f.". This change is needed because decreasing one lot dimension by up to 25% while increasing the other dimension by a like amount does not necessarily result in a minimum lot size of 10,000 s.f. (100' x 100' = 10,000 s.f., but 125' x 75' = 9,375 s.f.). Faunce agrees with the proposed change. Planning Board members agreed to recommend this change.

The secretary reminded the Board that one of the ordinance changes suggested at the October 2005 Planning Board meeting was to include the minimum net developable area requirement in the ordinance text because of its importance, rather than referring to it only in a footnote. Board members agreed this should be in the text but did not take time to determine where in the text this should go. Yerxa recommended revisiting this next month.

6) Signs (Article 4 General Performance Standards, Section N, p. 4-14 – 4-16): Black thinks that under both the old and the current ordinance, all types of signs not specifically exempted in subsection 1 on p. 4-13 apparently require a sign permit and payment of a fee. This includes signs on residential property giving the homeowner's name, "For Sale" signs on real estate, and contractors' signs on houses they are building or remodeling. Black asked for Board input. He said real estate agents do not ask his permission to put up For Sale signs and he has no way of enforcing payment. Campbell agreed that requiring a fee for real estate signs would be almost unenforceable. Gifford said a notice could be sent to all real estate firms announcing the new policy. Selectman Winchenbach asked if permits and fees should be required only for permanent signs. Some For Sale signs stay up for years. Golden objected to people who put up temporary signs without permission on his property at the corner of Route One. He thinks these people should have to pay a fee.

Campbell suggested tabling discussion of sign permits at tonight's meeting. Yerxa asked Board members to read the ordinance section on signs and think about which – if any - should require sign permits and payment of a fee, for discussion at the next meeting. Signs that should be exempt from permits and fees should be included in subsection 1, Exceptions, as Faunce suggests.

7) Construction Standards: Rebecca Warren Seele's letter of October 24, 2005, states that Waldoboro's land use ordinance must refer to a specific edition of the National Electrical Code, NFPA 101 Life Safety Code, and International Building Code, identified by date, rather than "the most current edition", and that a copy of the cited code must be on file with the town clerk at least 30 days in advance of the adoption of the ordinance. The Planning Board recommends to the Selectmen that the Waldoboro ordinance be amended to cite specific editions of the codes. Campbell was asked to suggest which edition of each code should be cited. Black will order a copy of that edition for the office, to be received at least 30 days before the date of the town vote.

8) Seals: The Planning Board recommends that the Ordinance be amended on pages 6-3 (C. 3), 6-5 (4. m) and 6-6 (5. n) of the Land Use Ordinance, to require the seal of the person preparing the plan only on the final version. This conforms with the standard practice of architects, surveyors and other professionals. Faunce agrees with this change so long as it is clear that a licensed professional has prepared the plans.

9) Shoreland Zoning: Black told the Board that a major revision to the State shoreland zoning guidelines is being prepared and will be adopted within the next few months. Towns will be required to amend their current ordinances to reflect the changes.

10) Timber harvesting: As noted in Black's November 1 memo, the Maine Dept. of Environmental Protection is amending its guidelines to be consistent with the statewide timber harvesting standards of the Dept. of Conservation. If the Town amends the Land Use Ordinance to adopt the same standards, State foresters will be responsible for enforcement upon request, once half the municipalities in the State have adopted the new standards.

11) Article 10 Non-conforming Uses: Black believes that the language in Article 10 applies mainly to land within the shoreland zone or floodplains. Faunce's memo says that he sent Black a revised text last week, but Black has not received it. He will follow up with Faunce. Ed Karkow was asked to review Article 10 as to whether the language is applicable to nonconforming uses and structures anywhere in town and give recommendations.

The Board deferred discussion of Black's items 12 – 15 and Faunce's recommendations regarding the issues raised by the Planning Board in September and October (secretary's memo dated 10/17/05). These will be reviewed at the next meeting.

Hazardous Materials: Golden asked for discussion of Article 5 Section N subsection m on p. 5-13. This prohibits "deliveries... of hazardous materials in quantities large enough to cause a public health hazard in case of accidental release". He stated that if this language prohibits fuel oil deliveries, fuel dealerships will be out of business. "Hazardous material" is defined on p. 16-12 of the Ordinance. Karkow recalled that Golden and George Seaver on the Land Use Ordinance

Committee were asked to provide language they felt was a suitable compromise between public safety and the needs of business and industry. Black asked Golden to bring in suggested alternative wording for consideration at the next meeting. Yerxa suggested that it might be wise to add language specifically exempting routine deliveries of fuel oil, propane, etc., to homes and businesses. He asked for clarification on what substances are regulated by the EPA or Maine DEP. Is fuel oil, for example, so regulated?

5. Other Business

A. Kauffman Paintball Field

Gifford asked about the status of the Kauffman paintball field application. The Board heard preapplication discussion of this proposed new use on November 10, 2004. A complete application has not been submitted. Kauffman has built a road in to the field, but he can do that on his own land without Planning Board review.

B. Change of Location, Rawley Hot Dog Stand, Bell Property, 1540 Atlantic Hwy. (U9 Lot 15)

Black reported that the landowner, Gerald Bell, has changed the location of the Rawleys' hot dog stand on the lot from that reviewed and approved by the Planning Board on October 12, 2005. Board members decided they did not need to review the new location, because the previous approval was for a new use on an existing lot, and the use has not changed.

C. Backmeadow Subdivision, Black, 506 Union Road (Map 156 Lot 6)

Black reported that he may have to submit a revised subdivision plan for Planning Board review. Due to the cost of connecting to the sewer line on Union Road, he may have to change to individual septic systems for each lot in the 10-lot subdivision. The cost to the landowner for a septic system is roughly \$7,500, while connecting to the public sewer adds about \$9,000 to the price of each lot.

Adjournment: The meeting was adjourned at 9:40 p.m.

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William Yerxa, II, Chairman

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Carlo P. Bianchi

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Charles Campbell

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Terry Gifford

Submitted by:

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JoAnn Myers

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Susan S. R. Alexander

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Abden Simmons