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Minutes  
Town of Waldoboro  
Special Planning Board Meeting on Ordinance Changes  
February 15, 2006

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4. Next Special Meeting on Ordinance Changes: February 22 or March 1 (date to be confirmed)

Roll Call

The meeting was called to order by chairman Bo Yerxa at 7:05 p.m in the administrative office space at the Municipal Building, because another group was using the regular meeting room. Other members present were Carlo Bianchi, Chuck Campbell, Chuck Flint, Terry Gifford (first part only) and Abden Simmons. Code Enforcement Officer John Black was present. There was no audience.

1. Minutes of February 1 and 8, 2006

Review of the February 8 minutes was deferred to the next regular Planning Board meeting, March 8. The minutes of the February 1 special Planning Board meeting on ordinance changes were approved at the February 8 regular Planning Board meeting. There was no discussion of ordinance changes at the February 8 meeting.

2. Discussion of Ordinance Changes to Recommend to Selectmen by March 1, 2006

Yerxa said the Planning Board should focus on "housekeeping" changes to the Land Use Ordinance approved June 16, 2005, and not consider major changes or philosophical issues at this time. Flint agreed, saying he is not comfortable making changes to items that were considered at length by the Land Use Committee in its meetings over several years. However, Black said that there is no other committee charged with recommending major changes to the Land Use Ordinance or dealing with philosophical issues. What is not done by the Planning Board in ordinance revision will not get done, at least in the short term, he said.

*(Note: Lettered subheads below do not correspond to lettered sections of the Land Use Ordinance.)*

A. Sign permits and fees

CEO Black previously distributed Alexander's 2/8/06 suggested revision to Article 4 N. Signs containing revised text for p. 4-13 and 4-14 that attempts to incorporate the changes recommended by the Board at its 1/25/06 meeting. On motion of Bianchi/Campbell, the Board voted 6 - 0 to accept the suggested changes to General Performance Standard N Signs on p. 4-13 and 4-14. New language is underlined.

2. ~~Permits and Fees.~~ No sign regulated by this Ordinance shall be constructed, placed or erected ~~without a permit from the Code Enforcement Officer based on~~ in a manner inconsistent with the requirements of this Ordinance. ~~and the payment of a fee made by cash or check payable to the Town of Waldoboro.~~

3. Residential Uses. For residential uses only the following signs shall be allowed:

- a. Name signs. [No change from existing text.]

- b. Rentals. Rental vacancies may be advertised with a non-illuminated sign no larger than two (2) square feet. Such signs shall be ~~erected~~ displayed only during such times as the rental property is vacant.
  
  - c. Home occupations. ~~Home occupation signs shall conform to Article 5, Section K-5. Home occupations may have one sign on the premises no larger than six (6) square feet, externally lit only, with a sign permit from the Code Enforcement Officer and payment of a fee.~~
4. Sale of Real Estate (no change from existing text except to change the maximum size limit to 32 square feet, from 30.)
  
  5. Industrial, Commercial Educational, Institutional and Religious Uses. For industrial, commercial, educational, institutional and religious uses only the following signs shall be allowed ~~by permit with a sign permit from the Code Enforcement Officer and payment of a fee.~~

(Text of 5. a - d to read the same as the existing text except to change the maximum size limit from 30 square feet to 32 square feet in c. lines 2 and 3 and d. line 8.)

No change to subsections 6 - 14.

## B. Mass Gatherings: Specific Performance Standard and Definition

Campbell's 2/7/06 memo to the Planning Board contained suggested text for a new Special Performance Standard Y on p. 5-41 listing material to be submitted by applicants seeking a permit for a mass gathering such as snowmobile grass drag races, Goose River Jam, Civil War re-enactment, Medieval Faire, etc. The definition of mass gathering excludes family gatherings such as weddings, birthday parties, family reunions, etc., or events held at a church hall, school, or clubhouse. On motion of Bianchi/Gifford the Board voted 6 - 0 to approve Campbell's text as amended to read:

### Y. Mass Gatherings

Applications for mass gatherings shall contain the following information.

1. A site plan showing the following:
  - a) The area to be used for the mass gathering
  - b) The area to be used for parking
  - c) Traffic ingress and egress
  - d) Sight distances at ingress and egress drives
  - e) Existing and proposed structures to be used for gathering
  - f) A site plan drawn to scale, if requested by the Code Enforcement Officer or Planning Board
  
2. Written information including the following:
  - a) How will traffic control/public safety be handled?
  - b) How will emergency medical services be handled?
  - c) If concessions are to be provided, how will fire control be handled?
  - d) Refuse disposal provisions
  - e) Sanitary provisions
  - f) Proposed signs: size, location, and duration
  - g) Number of days and hours of operation of event

and to add a definition of "Mass Gathering" on p. 16-17 to read:

Mass Gathering: The gathering of more than 100 people for an event other than a birthday party, wedding, or similar family gathering at a location not already approved for such a gathering, such as a church, school, or Veterans of Foreign Wars hall.

C. Changes to Schedule of Dimensional Requirements, p. 3-13 and 3-14

Campbell's 2/7/06 memo contained a suggested definition of a half story in a building. The Planning Board decided instead to omit reference to the number of stories in a building in Table G, Schedule of Dimensional Requirements, on p. 3-14 and simply require a maximum building height of 42 feet. On motion of Bianchi/Campbell, the Board voted 5 – 0 to delete “3 ½ stories or” and to delete footnote G, “whichever is lower”, in Table G under Maximum Building Height, delete footnote G from the list of footnotes on p. 3-14, and re-letter the subsequent footnotes on p. 3-14. This requires changing all references to footnotes H, I, J and K in the table on p. 3-13 to the new letters: H = G; I = H; J = I, K = J.

D. Height of a Structure

The definitions of “Building Height” on p. 16-5 and “Height of a Structure” on p. 16-12 are not identical. At the January 25, 2006 meeting the Board agreed to delete the definition of “Building Height” and add a cross reference, “See Height of a Structure”, without realizing that the two definitions differ. At tonight's meeting, on motion of Bianchi/Flint, the Board voted 6 – 0 to change the definition of Height of a Structure on p. 16-12, to read as follows: “The vertical distance between the average finished grade of the ground ~~mean original grade at the downhill side of the structure~~ and the highest point of the structure, excluding chimneys, steeples, antennae and similar appurtenances which have no floor area.”

E. Windmills

Black asked whether a windmill is a structure, and whether it has a height limit of 42 feet. The definition of “Structure” on p. 16-25 is inconsistent with the wording of “Height of a Structure” on p. 16-12. The latter wording excludes “antennae and similar appurtenances which have no floor area”, while the definition of “Structure” on p. 16-25 includes anything “erected with a fixed location on or in the ground”. Under the definition of “Height of a Structure”, a windmill mounted on a pole or open framework is not a structure because it has no enclosed floor area, therefore it is not subject to the 42-foot height limit. Using the definition of “Structure” on p. 16-25, a windmill is a structure because it has a fixed location on the ground, and would be subject to the 42-foot height limit unless the definition is changed to specifically exempt windmills.

Board members generally wished to encourage use of renewable non-polluting energy sources, but recognized that neighbors might object to the visual impact of a windmill taller than 42 feet. The Board did not resolve the discrepancy between the definitions on p. 16-12 and 16-25.

F. Resolving Conflict between Building Setback Distance and Vegetated Buffer Depth, Route 1

On motion of Campbell/Bianchi, the Board voted 5- 0 to change Article 4 B. Buffer Areas c. Route 1 buffer on p. 4-1 so that the first sentence reads, “A vegetative buffer equal in depth to the minimum building setback ~~100 feet deep or twenty percent (20%) of the depth of the lot, whichever is less~~, measured from the edge of the traveled way, shall be provided along Route 1 for all new commercial development and for the redevelopment of existing commercial properties.” This will bring the buffer depth requirement into harmony with the 25-foot minimum building setback from Route 1 in the Commercial B District. For lots on Route 1 that are so shallow that it is not practical to have a vegetated buffer depth equal to the minimum setback distance (100' in Commercial A, 25' in Commercial B), the developer can apply to the Board of Appeals for a variance.

G. Change Definition of Variance, Delete Undue Hardship

On motion of Campbell/Bianchi, the Board voted 5 – 0 to delete the last sentence in the definition of Variance on p. 16-28, “A variance is not justified unless both elements are present in the case.”, and to delete subsection d. Undue Hardship on p. 11-4.

#### H. Kennels

The Schedule of Uses matrix on p. 3-9 lists commercial kennels as an allowed use, with Planning Board review, only in the Route 1 Commercial A and Commercial B Districts and the Industrial District. CEO Black asked whether kennels should be an allowed use on large lots in the Rural or Residential Districts, where most of the existing State-licensed kennels are located. Black feels that rural areas are a more logical location for kennels than Route 1. Flint, however, said it is better to keep kennels away from residential areas so that noise will not be a problem. He suggested that is probably why kennels were not shown in the land use matrix as an allowed use in the Rural and Residential Districts.

Bianchi served on the original Comprehensive Plan Implementation Committee that worked in 1999 – 2000 on revising Waldoboro ordinances to bring them into harmony with the Comprehensive Plan passed in 1998. Bianchi said kennels were extensively discussed by the Implementation Committee. Flint was a member of the second Land Use Committee that revised the draft Land Use Ordinance in 2003 – 2005. He said the second committee also discussed kennels extensively. He suggested not changing the permitted kennel locations in the land use matrix.

Chairman Yerxa asked CEO Black to find out what the State requirements are for a kennel license and bring this information back to the Board. The Board will then consider whether the local land use ordinance regarding kennels needs to conform to State requirements or whether the two are independent.

#### I. Phosphorus Control

In her memo dated February 1, 2005, Myers, who was absent from tonight's meeting, suggested clarifying what is meant by an "enlarged" road in Section K. 1 on p. 4-11. Planning Board members present at tonight's meeting agreed that a soil disturbance of 300 square feet or more should require calculation of phosphorus export from new or enlarged roads and driveways. On motion of Campbell/Bianchi, the Planning Board voted 5 – 0 to revise the first sentence of subsection 1 on p. 4-11 to read, " For all new principal structures, expansions of existing structures which increase the floor area by 30% or more over the lifetime of the structure, new accessory structures of 300 square feet or more, and new or enlarged roads and driveways of 300 square feet or more on lots, phosphorus export from such development shall be equal to or less than that which is calculated using the methods established by the Maine Department of Environmental Protection and described in Section 4.2.1 of Phosphorus Control in Lake Watersheds: A Technical Guide to Evaluating New Development (September, 1992)."

Phosphorus calculations are required only for land located within the watershed of a great pond. The Board discussed whether a phosphorus calculation is required only for land in subdivisions or also for individual lots outside of subdivisions. The second sentence of the first paragraph under Section K Phosphorus Control on p. 4-11 implies that phosphorus calculations are required under the local Ordinance only for projects requiring site plan review or subdivision review by the Planning Board, and not for individual lots for which the Code Enforcement Officer can give a building permit.

Black and Campbell both said that according to the Dept. of Environmental Protection, individual lot owners do not need to do a phosphorus analysis in order to get a building permit. Yerxa was going to check this with Lincoln County planner Bob Faunce. Since most lots in Waldoboro are not in subdivisions, several Board members agreed that water quality in great ponds would benefit if owners of individual lots in the watershed of great ponds were required to do a phosphorus calculation in order to get a building permit. Flint suggested that the average person can follow the instructions in the DEP handbook and do the math without having to hire a professional.

*[Myers's 2/1/06 memo notes that according to subsection 2 on p. 4-12, the applicant is required to demonstrate a plan or provision to limit phosphorus export for any project requiring a building permit. But this requirement appears to be limited to projects requiring site plan review or subdivision review, per the second sentence under K. on p. 4-11 -- sec'y]*

Chairman Yerxa asked that the minutes reflect the above discussion. The Planning Board, or a later ordinance revision committee, may wish to revisit the issue of phosphorus management on individual lots within the watershed of a great pond. Yerxa felt this is a major change to the Ordinance, not part of the "housekeeping" changes to be recommended for consideration by the Selectmen this spring. Flint suggested a separate warrant article, perhaps by petition, on extending phosphorus control requirements to individual lots in the watershed of a great pond.

Yerxa has consulted the Maine Association of Planners listserv on ways to ensure that owners of subdivision lots within the watershed of a great pond are aware of phosphorus buffer requirements affecting their lots, and that the Code Enforcement Officer is aware of phosphorus buffer requirements when granting a building permit. Yerxa distributed two responses by e-mail, but they were not discussed at tonight's meeting.

### J. Modular Homes

The Myers memo of 2/1/06 requests clarification of whether a modular home, that is built to International Building Code standards, is properly considered a "manufactured home" under the Ordinance. The definition of "manufactured home" on p. 16-16 includes modular homes. At the January 11 Planning Board meeting (minutes, p. 5) Myers asked whether an applicant who wants to put modular homes on a piece of land is creating a manufactured home park, limited in location to within a two-mile radius of the intersection of Jefferson St. and Route 1 (matrix p. 3-8 and footnote p. 3-11).

Some Board members felt that a modular home is a type of stick-built home and should not be treated in the Ordinance the same as a manufactured home built to a different standard. Board members felt that a subdivision of modular homes would have larger lots than a subdivision of single-wide or double-wide manufactured ("mobile") homes. Chairman Yerxa cut off discussion at 9:30 p.m. and suggested that the Planning Board may come back to the issue of modular and manufactured homes and manufactured home parks at a subsequent meeting. However, he noted that mobile homes are an inflammatory issue in Waldoboro and suggested it might be prudent not to get involved with this issue during the current round of recommended ordinance changes.

### 3. Other Business

#### A. Tri-Town Housing Survey

Yerxa is a member of the steering committee for the tri-town housing survey involving Waldoboro, Union and Washington (see Nov. 9, 2005 Planning Board minutes Item 7, p. 4). A windshield survey will be done in May and a public meeting will be held. Yerxa will distribute meeting minutes to Planning Board members.

#### B. Muscongus Bay Forum March 25, Medomak Valley High School

The Quebec-Labrador Foundation/Atlantic Center for the Environment is sponsoring a free public workshop from 11 a.m. to 4:30 p.m. on Saturday March 25 about the people, places and uses of Muscongus Bay and its estuaries, with sessions on clam management, public access, environmental monitoring, and coastal development. For more information or to register, contact Jennifer Atkinson at 832-6162 or e-mail [jatkinson@qlf.org](mailto:jatkinson@qlf.org).

#### C. Meeting on Ordinance Requirements for "Big Box" Stores Feb. 23, Waldoboro Town Office

Lincoln County planner Bob Faunce is coordinating a series of monthly meetings of representatives of Lincoln County towns along Route 1 to develop a package of "big box" submission requirements, design standards and review criteria. The first meeting will be held February 23 at Waldoboro Town Office from 5:30 to 8:00 p.m., with supper provided. Yerxa will attend. Planning Board members who wish to attend should register in advance with Faunce. Simmons said he might attend.

4. Next Meeting on Ordinance Changes: February 22 or March 1 (date to be confirmed)

Planning Board members wanted to hold one more meeting to review the ordinance changes recommended to date. They would like to meet before the Selectmen's meeting at which the recommended changes are presented. It was decided to meet on Wednesday Feb. 22 if a revised Ordinance text can be created by then. The secretary was asked to compile a list of all ordinance changes made by the Planning Board and send the draft to all Board members before the next meeting.

Adjournment: The meeting was adjourned at 10:00 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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Charles Flint

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Terry Gifford

Submitted by:

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Susan S. R. Alexander

\_\_\_\_\_  
Abden Simmons

WALDOBORO PLANNING BOARD