

Minutes
Town of Waldoboro
Planning Board Meeting
June 14, 2006

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Roll Call

The meeting was called to order by chairman Bo Yerxa at 7:00 p.m in the meeting room at the Municipal Building. Other members present were Carlo Bianchi, Chuck Campbell, Chuck Flint, Terry Gifford (at 7:10 p.m.), and JoAnn Myers. Code Enforcement Officer John Black was present. The audience included Peter Amato, Dana Ben, Wayne Brown, Bob Furman, Michael Gilbert, Drew Greiner, Tom Hammermeister, Tony Lash, Karl Pitcher, Deb Prescott, and David Williams.

1. Minutes of May 10, 2006

On p. 2, Campbell noted that the vote on the library application should be 6 – 0, because he recused himself from voting on this agenda item because of conflict of interest.

In the next to last paragraph of p. 2, Myers asked for clarification of the reference to “items B, R, 14, 23 and 24”. *[These refer to lettered and numbered items on the site plan review worksheet: Article 4 general performance standards B Buffer areas and R stormwater management, and Article 6 Planning Board approval criteria 14 stormwater, 23 landscaping, and 24 buffering of residential uses. The notation “as described” means that the applicant has given oral information about the item, but needs to provide written information to complete the application – Sec’y.]*

On page 5, CEO Black questioned whether Item 8, Procedure regarding appeals vs. Planning Board applications, should be in the minutes, as the discussion occurred after the meeting was adjourned. Chairman Yerxa agreed that while the initial question was raised in the meeting, much of the ensuing discussion followed formal adjournment. He indicated his intent was to reflect a need for clarification as expressed by four board members as a reminder of something to be addressed. A subsequent letter dated June 13, 2006, from William Livengood, Director of Legal Services at Maine Municipal Association, states that the Waldoboro Land Use Ordinance does not require that an applicant receive a determination from the Code Enforcement Officer or Planning Board prior to making a variance appeal.

On motion of Bianchi/Myers, the Board voted 5 – 0 to accept the minutes of May 10 as revised.

2. Maine Modular and Manufactured Homes, Inc., Six-Lot Subdivision, 200 Noyes Rd. (Map 24 Lot 6A)

Surveyor Drew Greiner and owner Karl Pitcher were in for continued review of the proposed six-lot subdivision on Noyes Road. Flint stood down from the Board for this agenda item because of conflict of interest.

Chairman Yerxa reviewed the submission checklist dated 4/12/06. The Board is accepting the nitrate study to satisfy the requirement for a hydrologic ground water assessment (item 6 h). With receipt of the nitrate plume calculation, on motion of Campbell/Bianchi the Board voted 5 – 0 – 1, Flint abstaining, that the subdivision application is complete. Campbell and Myers noted that the May 10 minutes (Item 3, 6 h, p. 3) say that the phosphorus control plan will need to be updated once the nitrate information is available. Greiner said it is not necessary to change the phosphorus control plan because none of the lot boundaries were changed as a result of the nitrate calculation. He was asked to put a note on the subdivision plan that drinking water wells should be located outside the shaded area on each lot representing the nitrate plume.

Lot 1 is under contract for sale, closing within 45 days contingent upon financing. A well has been drilled. A modular home has been moved onto the lot and is in the process of being hooked up to well water and septic system. CEO Black issued a building permit for the house under the impression that Maine Modular could sell one lot without creating a subdivision. Planning Board members Campbell and Gifford believe that no lot in a subdivision can legally be offered for sale before the subdivision has been approved. Yerxa asked that this be clarified. Black will contact Maine Municipal Association's legal department and County Planner Faunce. The location of the modular home is not shown on the subdivision plan. Gifford said this means the subdivision plan is incomplete. Yerxa said there are issues regarding Lot 1 that need to be clarified.

Chairman Yerxa then conducted a public hearing. Abutter Dana Ben asked for landscaping to shield her property from Lot 1 of the subdivision. The manufactured home on Lot 1 is 40 feet from her lot line. Mrs. Ben said she has not received any notices to abutters regarding the Noyes Road subdivision. (Note: CEO Black has evidence that he mailed a notice on February 28 to the Bens' address in Portland.) No other members of the public were present for this agenda item, so chairman Yerxa adjourned the public hearing.

The Planning Board decided not to table the application pending resolution of the issues regarding Lot 1. They went through the subdivision worksheet checklist to determine what items have been met and what is yet to be resolved.

The following items under Article 4 General Performance Standards were found applicable and conforming: F hydrogeologic assessment of groundwater impacts; H net developable acreage calculation; I noise; M sanitary provisions; O soils; S street access and driveways.

The following were found not applicable: A air emissions, C construction standards; D electrical disturbances; E Historic Village District architectural standards; G lighting and glare; J parking and loading; L refuse disposal; Q storage of materials, T street/road standards; U traffic impact analysis.

The following items were found applicable with unresolved issues: B buffer areas; K phosphorus control (**needs to be put on plan**); P soil erosion and sedimentation control; R stormwater management; V water quality impacts.

All specific performance standards under Article 5 were found not applicable.

Under Article 6 Planning Board approval criteria, the following were found applicable and conforming: 5 solid waste and sewerage waste disposal; 8 financial and technical capability; 11 flood areas; 15 spaghetti lots prohibited.

The following were found not applicable: 2 sufficient water; 4 highway or public road congestion; 6 aesthetic, cultural and natural values; 17 impact on adjoining municipality; 18 access to direct sunlight; 19 exterior lighting; 20 buffering of adjacent uses; 21 noise; 22 storage of materials; 24 buffering of residential uses; 25 location of off-street parking; 26 hazardous waste.

The following were found applicable with unresolved issues: 1 pollution; 3 soil erosion and sediment control; 7 conformity with town ordinances and plans; 9 shoreland zoning; 10 groundwater; 12 freshwater wetlands; 13 river, stream or brook; 14 stormwater; 16 lake phosphorus concentration (updated plan needed); 23 landscaping (**vegetative buffer of Lot 1 with Ben lot to be added to the subdivision plan**).

It was agreed that a note regarding the maximum 15,000 s.f. of permitted clearing should be added to the subdivision plan and that this also ought to be in the property deed as a restrictive covenant, because subsequent owners will not necessarily look at the subdivision plan, and should be aware of the restriction on clearing.

Regarding soil erosion and sedimentation control, Dana Ben said there has been a lot of erosion in the last seven years, with soil washing downslope in the field near the edge of the woods. Campbell noted that the stormwater management plan calls for following the erosion control plan closely to offset any increase in runoff. "If grass lined ditches and level spreaders are used to divert water away from the developed areas will effectively treat the water." Campbell said the Planning Board would have to know where the houses will be sited in order to know how the erosion control will be handled. CEO Black agreed that the location of the level lip spreader should be shown before granting a building permit for any lot. The question is how to trigger this.

Yerxa summarized the issues that emerged from the analysis of the performance standards:

- a) does the development of Lot 1 before the subdivision application was complete create a process problem;
- b) can the developers and abutters agree on a reasonable plan for visual buffering of Lot 1 from the abutting Ben lot (Pitcher expressed willingness);
- c) how best to clarify the family of concerns related to phosphorus, soil erosion, drainage, and wetlands, particularly as the subdivision slopes to Lot 6.

a) Pitcher asked if he can delete Lot 1 from the subdivision and apply for review of a five-lot subdivision. Board members wanted clarification whether this can be allowed. On motion of Bianchi/Gifford, the Board voted 5 - 0 - 1, Flint abstaining, to have Black consult the Town Attorney and Lincoln County Planner as to whether a subdivision lot can be developed, offered for sale, or sold after subdivision review has begun but before the subdivision has been approved.

b) It was suggested that the developers get together with the Bens and devise a mutually acceptable solution to the visual buffer between the house on Lot 1 and the Ben house. Screening by evergreens was suggested.

c) There should be **notes on the subdivision plan about phosphorus control, soil erosion and sedimentation control, and specifying that one-fourth of Lot 6 is within the shoreland zone**.

At 8:40 p.m., on motion of Campbell/Myers, the Board voted 5 - 0 - 1, Flint abstaining, to table further discussion of the Noyes Road subdivision until the July Planning Board meeting.

3. Update on New Library Building, 958 Main St., Waldoboro Public Library Association (Map U4 Lot 70)

Black presented an update on conditions on the Library's building permit (see his memo to the Planning Board dated June 7). Storm water drainage has been redesigned to go directly onto Main Street, eliminating the need to cross the Ilves property. The revised landscaping is shown on the plan and it is signed and sealed. Acceptable written reports have been received from the police chief, fire chief and EMS director. On motion of Bianchi/Myers, the Board voted 5 - 0 - 1, Campbell abstaining, to find that the stormwater management plan and stormwater drainage are in substantial compliance with what was previously approved, because the water will be going to the same Main St. pipe by a different, more direct route.

4. Denial of Application for Self-Storage Units in Rural District, Wayne Brown, 120 and 166 Controversy Lane (Map R16 Lot 62-I)

Wayne Brown and Drew Greiner were in for review of Brown's application for self-storage units on Controversy Lane for use by people living in modular homes without basements. The Board heard preapplication discussion of the proposed storage units at its May 10 meeting. Since then, letters have been received from Lincoln County planner Bob Faunce and from William Livengood, Director of Legal Services at Maine Municipal Association, indicating that self-storage units are not allowed in the Rural District. This opinion is based on considering self-storage units as a type of commercial warehouse, an allowed use in the Route One Commercial A and B Districts and in the Industrial District, but not in the Rural District. Faunce's memo dated June 7 suggests that a lot owners' association could apply for self-storage units as an accessory use. This suggestion was conveyed to Brown and Greiner at tonight's meeting.

5. Pre-Application Discussion, Shopping Complex, 3460 Atlantic Highway, Amato (Lupien Property), (Map 13 Lot 8)

Developer Peter Amato was in to ask whether the Planning Board may have different requirements from the Dept. of Environmental Protection regarding stream alteration, and if so, will he be required to go back to the State for revisions. He may need to reroute two streams. He was reassured that while no promises can be made during pre-application discussions, if the DEP approves his drainage alteration scheme, the likelihood is that the Planning Board will accept the DEP review. Campbell noted that often the Planning Board will approve an application conditional upon DEP review and approval.

Amato asked about the requirements for water source for sprinkler units in buildings. Can drinking water be used or must he provide an alternative water source? He was told that construction standards will include information about sprinkler systems. An architect or engineer can answer his question.

6. Pre-Application Discussion, Tire Chip Storage, Tony Lash, 979 Washington Rd. (Map R15 Lot 27)

Tony Lash and David Williams of Septi-Chip were in for pre-application discussion of a proposed use of part of Lash's land for storing tire chip aggregate used as an approved alternative to stone aggregate in septic system leach fields. Lash proposes to store up to but not exceeding 700 cubic yards of tire aggregate for use in his business installing septic tanks and leach fields, and not for resale. The chips will be stored in unroofed three-sided 35' x 35' bins on an impervious concrete or asphalt pad. The bins and pad must meet NFPA guidelines. The piles will not be over 25' high, to avoid risk of an exothermic reaction (spontaneous combustion). No tires will be processed on the Lash site. The State Dept. of Environmental Protection approved use of recycled tire chips under permit by rule in late 2004. Williams showed a copy of the permit. The State Dept. of Human Services Division of Health Engineering has also approved use of 2" tire chips as aggregate in septic leach fields.

The property contains Lash's home and a 52' x 60' garage-shop building. Crushed rock and loam are stored on the property currently.

Gifford asked whether Lash even needs a permit. He is not changing his business, he is just using a new material in his business. Campbell said yes, a permit is needed because Lash will be putting in new structures to contain the material: the impervious slab and the bins. A sidewalk is considered a structure in many towns. The application may be considered as an accessory use/structure to an existing commercial use (p. 3-9, LUO). It does not qualify as light industry because nothing is being manufactured, only stored on-site.

Williams asked if the Planning Board will require a complete survey of the Lash property, or if only the entrance road and tire chip storage location need to be surveyed for site plan review. Also, he asked if the Board would want a complete survey of the Dale Hahn gravel pit (3900 Washington Road, Map R23 Lot 10B, in Rural District) if he decides to ask for a storage facility at that location

for sale of tire chips. Gifford said this might not be an allowed use, because it might no longer be considered an accessory use to an existing commercial use. Yerxa suggested that separating the two properties for the purpose of any application(s) might result in a more expeditious decision for Mr. Lash.

Yerxa summarized that protection of surface water and groundwater is a priority in the Town's planning regulations, so is of the highest concern to the Planning Board in review of the proposed use. The Lash property is near two ponds and a stream. Williams said that leachate from tire chips has contaminants (primarily iron and manganese) but these are below the safe drinking water standard.

7. Pre-Application Discussion, Three-Lot Subdivision, Anne MacLennan Perkins, 1340 Feylers Corner (Map R20 Lot 17)

Surveyor Bob Furman was in representing Anne MacLennan Perkins, who proposes to divide Lot 17 into two lots of 4.1 acres and 9.5 acres. A year ago she divided off and sold Lot 17A. Creation of three lots within five years requires subdivision review. The first lot now has a house. Soils tests have been done on the two proposed lots. Soils are adequate. The driveway serving Lot 2 may have to be near the lot boundary in order to have adequate sight distance. A driveway shared between Lots 2 and 3 was suggested, in order to minimize the number of driveway entrances onto Feylers Corner Road.

Yerxa told Furman that a full subdivision review will be required, and that all three lots should be shown on the subdivision plan.

8. Ordinance Revision: Special Planning Board Meeting June 28

Campbell suggested setting up regular meetings starting this summer or in September to discuss ordinance revision rather than waiting until November or December. Yerxa said that now that the proposed retail size cap has been defeated, the Planning Board will have to consider adding language on "big box" or franchise stores consistent with Planner Faunce's research to mitigate aesthetic, environmental and traffic impacts. He suggested that raising more policy-oriented issues might necessitate involving broader public involvement, perhaps by some of the local volunteers representing Waldoboro on the "Gateway 1" task force, or other interested stakeholders. A special Planning Board meeting was set for June 28 at 7:00 p.m. for the sole purpose of discussing how best to start work on ordinance revision.

Adjournment: The meeting was adjourned at 10:24 p.m.

William Yerxa, II, Chairman

Carlo P. Bianchi

Charles Campbell

Charles Flint

Submitted by:

Terry Gifford

Susan S. R. Alexander

JoAnn Myers