

8/1/06 revision with Yerxa's input

Minutes
Town of Waldoboro Planning Board
Public Meeting #1 on Revisions to Land Use Ordinance
Specific Performance Standards for Large Scale Development and Franchises
July 26, 2006

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[Note: The minutes refer to two different documents: the Gateway 1 Performance Standards for Large Scale Developments handout dated June 2006 with color photographs and suggested ordinance language, and the revised "Proposed Amendments to Waldoboro Land use Ordinance, Section 5 Specific Performance Standards" distributed to the Planning Board on July 21, 2006.]

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, Chuck Flint, JoAnn Myers and Abden Simmons. Code Enforcement Officer John Black and Lincoln County Planner Bob Faunce were present. The audience included Mark Berger, Carleton Johnson, Ben Lupien, Tyler Lupien, Jennifer Merritt, Ellen Winchenbach, Claire and Robert Yackel.

1. Welcome and Introduction

Chairman Yerxa welcomed the audience and said this is the first of three open meetings at which the Planning Board will concentrate on performance standards for large-scale development and franchise stores, to determine how the Town can best accommodate large commercial retail buildings and franchises, in the wake of the size cap vote. Public participation is welcome and encouraged. The next meetings are Wednesdays August 16 and 30 at 7:00 p.m. The aim is to have new ordinance language to present to the Selectmen by the end of August. The new language will go to public hearing and, if the Selectmen approve, be placed on the warrant for town vote in November. Yerxa said the goal is to have performance standards as clear as possible and interpreted fairly. Faunce said that developers want the ordinance to say "shall", not "may" or "should". They want clarity and predictability, so they can know in advance that their design meets the criteria.

Yerxa asked people to introduce themselves and say why they are here.

Planning Board:

Bo Yerxa has chaired three different Planning Boards in Maine. His academic background is in community & economic development.

Carlo Bianchi has been on the Planning Board for 11 years. He has lived in or visited Waldoboro for 23 years.

Chuck Campbell arrived after the introductions. He works as a technical draftsman at an architect's office, where he has gained familiarity with many different towns' ordinances. He is interested in helping Waldoboro improve its land use ordinance.

Chuck Flint was raised in Waldoboro. He is a contractor who joined the Planning Board because he is interested in guiding growth.

JoAnn Myers farms on Finntown Road.

Abden Simmons grew up in Waldoboro. He is a clam digger, chairman of the Shellfish Committee, and is interested in preserving the water quality & economic resources of the Waldoboro River.

John Black was born in Waldoboro but lives in Friendship. He has been Code Enforcement Officer in Waldoboro for seven years. His background is in engineering and surveying and he has been a small business owner.

Bob Faunce has worked part-time as Lincoln County planner for eight years. He reviews projects for Holden, is updating Lewiston's land use ordinance, and staffs the Gateway 1 project. He has done big-box applications for clients and has reviewed them for towns. He got funds from the State Planning Office to hold a series of meetings this winter and spring with representatives from five towns along Route 1 in Lincoln County to develop standards for big-box stores and smaller franchise stores to make them more compatible with existing development. Planning Board chairman Bo Yerxa and Selectman Ellen Winchenbach represented Waldoboro on this committee.

Waldoboro residents:

Mark Berger of Pine St. has lived in Waldoboro for five years. He is interested in seeing what direction the town will go in as it grows, and what the town will look like in future.

Carleton Johnson is an independent small business operator and chairman of the Board of Selectmen. He wants the Planning Board not to expend energy devising ordinance restrictions that will limit businesses in conflict with the citizen vote not to have a size cap on large retail stores, thus disenfranchising Waldoboro citizens.

(Chairman Yerxa assured Johnson that it is not the intent of the Planning Board to do an end run around the size cap vote. The spirit of the five-town committee and the Planning Board is to devise standards for what large retail stores will look like, to make them fit into small-town architecture, and to make new development safe and attractive.)

Ben Lupien was raised in Waldoboro and has worked in a family business. He is concerned that the ordinance not be so restrictive as to limit expansion of existing businesses.

Tyler Lupien is Ben's older brother, who also works in the family business on Route 1.

Jennifer Merritt, who joined the meeting late following a meeting of the Waldoboro Business Association, is president of WBA and is a member of the Gateway 1 committee for Waldoboro. She lives on Route 1 near Moose Crossing Garden Center.

Ellen Winchenbach of Manktown Road was raised in Waldoboro. She is a small business owner, a Selectman, and is interested in planning and economic development. She and Yerxa represented Waldoboro in the five-town group that met this winter and spring, **working** with Faunce to develop standards for large-scale development. She is also on the Gateway 1 committee.

Claire Yackel of Wagner Bridge Road has lived here for six years. She grew up in New Jersey and has seen the negative effects of **poorly-planned commercial** development.

Bob Yackel **also lives on Wagner Bridge Road, and is concerned about traffic impacts of development**, noting that the expanded Hannaford store in Damariscotta has required widening Business Route 1 to add a turn lane.

2. Power Point Presentation "Performance Standards for Large Scale Development"

Faunce gave his PowerPoint presentation, given on July 11 to the Selectmen and Planning Board, showing photographs of **"best practices"** and **less** desirable designs for big-box stores and franchise stores, and giving specific language that can be added to ordinances to require attractive design features and promote safe and attractive development that is in harmony with the local built environment. He gave out copies of the accompanying Gateway 1 handout to those who did not already have copies from the Selectmen's meeting presentation. The handout contains photographs and suggested ordinance language. Faunce said that franchise stores and big-box stores have a number of different plans on file that they can use to meet local requirements. They will start with the cheapest one, but can upgrade to another plan if required. He believes that if a Wal-Mart decides to locate in a particular town, having to landscape the parking lot or create a more attractive façade is not going to keep them from locating the store there. The additional costs of meeting local ordinance requirements are minor compared to the total project cost. Developers are more concerned with the time needed for Planning Board review and the predictability of the process. If requirements are clear and explicit, they can be met.

Ben Lupien said this may be true of a franchise store or national chain superstore, but that it is a hardship on local business owners to be required to meet the same standards for new stores or expansions of existing businesses. He was concerned that the proposed ordinance requirements will keep local business people from opening new businesses in Waldoboro or expanding existing

businesses, because of the additional cost. Faunce said a minor addition might not have to meet the requirements, but a major addition would have to.

At the end of the meeting, Faunce gave out a four-page list giving each of a number of specific performance standards proposed for addition to the Waldoboro ordinance, with a space to comment on each. He asked each person in the room to read over the performance standards, make comments, and return the comments within a week. The comments will be considered at the next ordinance revision meeting, August 16. It was suggested to get input from other local business people not present at tonight's meeting, such as Dana Dow and George Seaver. Yerxa volunteered to take the performance standards comment sheet to Dow.

3. Discussion of Proposed Specific Performance Standards for Large-Scale and Franchise Development

Ellen Winchenbach asked how much control the Dept. of Transportation has. Faunce said MDOT has no control over land use, only over access from a State highway. They control use of their right-of-way.

Faunce said towns like Nobleboro that have no zoning or land use districts must find another way to have some control over location of big-box or franchise development. One way to do this is to require that such development have direct access from a certain type of highway. The suggested requirement on p. 24 of the Gateway 1 handout (access directly off an arterial or major collector road with posted speed less than 40 mph) is not necessary for Waldoboro, he said, because Waldoboro has land use zones.

Facade Appearance: Carleton Johnson said that the rear and side façades of a building should not be required to complement the architectural treatment of the primary façade when the side or rear of the building faces an undeveloped woods or wetland. He suggested deleting "or adjacent properties" from the suggested performance standard at the top of p. 6 of the Gateway 1 booklet. Ben Lupien suggested that if the store is not visible from the highway, it does not need to have the extra architectural details suggested, such as pitched roofs, arcades, etc.

Johnson noted that Faunce's presentation encourages redevelopment of urbanized parts of a town. Instead, in Waldoboro we are encouraging big-box development along Route 1 in rural areas. He said any kind of development will look better than the haphazard appearance of Route 1 east of Moose Crossing. He agreed that appearance is important. Route 1 in Waldoboro is known as "the valley with all the gas stations and Moody's".

Chuck Flint noted that of the three convenience stores/gas stations on Route 1 in Waldoboro, the one with the "smallest pockets" fits best with the local ambience.

Size: Ben Lupien said the ordinance needs to clarify whether an addition of 5,000 sf to an existing 60,000 sf business means that the whole business must meet the new performance standards, e.g. regarding parking lot location, landscaping, and lighting. How large must an addition be in order to be required to meet the new standards?

Performance Standards for Small Stores: Tyler Lupien said Faunce's examples of good and bad designs for a 1500 sf Dunkin Donuts are way below the size threshold for a big-box development. He asked whether it is possible to have different design requirements and performance standards for a 1500 – 3000 sf franchise store than for a non-franchise store of equivalent size. Ben Lupien said most local businesses are in the size range 1500 – 3000 sf. Local business people may not be able to afford the extra cost of meeting the proposed design standards. **In his opinion, this would discourage new businesses from locating in Waldoboro and may keep existing businesses from expanding.**

Increase in Maximum Sign Size: Code Enforcement Officer Black noted that the maximum size limit for signs may have to be increased from the present 32 sf. A big-box store that is set back from the road and screened will want a big sign, he said.

Outdoor Storage of Merchandise: Ben Lupien asked how the prohibition on outdoor storage of merchandise (5Y 6.b., p. 5) would affect a business like Moose Crossing Garden Center. Others present suggested that a commercial greenhouse/garden center may be exempt from the prohibition on outdoor storage. Mark Berger said the prohibition on “outdoor storage of products for sale in an area where customers are not permitted” (p. 11 of Gateway 1 booklet) is intended to make retailers include within the building sufficient warehouse space to store all the store’s stock. Faunce said he will have to think about how this applies to a garden center.

Lupien also asked about 6. c, “Outdoor sales areas must be clearly depicted on the site plan and separated from motor vehicle routes by a physical barrier and 10’.” He wanted to know if this would apply to a garden center.

Landscaping: Yerxa said the existing ordinance does not have good guidelines for landscaping. This must be improved. Faunce said he considers landscaping an integral part of the site plan for a project. Trees or bushes that die must be replaced within a set time, which could be 30 or 90 days.

Landscaping of Parking Lots: Ben Lupien said that breaking up a large parking lot with landscaped aisles will increase the cost of the project. No other parking lots in Waldoboro look like that. Faunce replied that other towns do require landscaped parking lots. Wal-Mart will not decide which town to locate in based on the amount of landscaping required.

Location: Section 9 Location includes a requirement that retail buildings that are set back more than 50 feet from a designated road shall not be visible from that road. The ordinance can designate which roads fall in this category. The building can be screened by smaller buildings located close to the road, by an earth berm planted with trees, or by preserving an existing forested strip between the road and the development. Campbell did not think this standard requires that you cannot see any of the building from the highway.

Ben Lupien suggested that this requirement may not be necessary along Route 1, where new buildings are required to be set back behind a 100-foot vegetated buffer. He suggested that the ordinance may not need both the 100-foot buffer and the requirement that the building not be visible. Yerxa agreed that perhaps the 100-foot buffer needs to be re-thought **should it prove in conflict with an alternative, better standard for larger developments.** Lupien suggested that having both requirements may scare away potential developers.

Lupien asked whether Faunce and the Planning Board really want large buildings placed as close to the road as possible, with most of the parking behind the building. He thought it preferable to site the building further back from the road so that it appears smaller.

Building Re-Use, Maintenance/Restoration Bond: Section 8 refers to building re-use and the requirement for a maintenance/restoration bond for retail businesses over 20,000 sf. If the building is vacant, the site must be maintained, grass mowed, etc. If the site is vacant for a year and the site is not maintained, the Selectmen may vote to exercise the bond to pay for site maintenance. If the building is vacant for four years, the Selectmen may exercise the bond to remove the building. This provision is to guard against the building owner refusing to lease or sell the building to a competitor.

Ben Lupien wanted to know how much such a bond would cost. Yerxa said a commercial insurer could quote a figure. Myers said the cost of the bond is related to the risk perceived by the bondholder. An established local business would not have to pay as much for a bond as a Wal-Mart would, because Wal-Mart is known for abandoning buildings after a few years. Faunce said the amount of the bond is based on an estimate, prepared by a registered professional engineer, of the cost of four years of maintenance of all site improvements and the cost of razing the building and removing demolition debris. He said the cost of the bond is 1% of the amount of the bond.

Assessment of Community Impacts: The material in section 10 requires that for retail establishments over 50,000 s.f., the applicant provide adequate funding to allow the Town to retain a consultant to complete an economic and fiscal impact analysis addressing impacts listed

Notes from Waldoboro Planning Bd. Ordinance Revision Mtg. 7/26/06, p. 5

on p. 27 of the Gateway 1 handout (language from Stoughton, Wisconsin). These include how the development might affect local employment, the local economy, demand for municipal services, tax revenues, commercial property values, and existing local businesses. Faunce said that Damariscotta asked for an impact analysis but were disappointed with the result, because they did not know what questions to ask.

Myers's e-mail dated 7/24 asks also for analysis of the potential for an over-supply of retail space not only in the town but in the market area targeted by the large-scale development (10.b. v., p. 8) She would also want to learn how the large-scale development would reduce diversity of the market area's economic base by eliminating smaller businesses.

Yerxa **cited an example where** a big developer coming in to a small town **agreed** to fund staff to promote small local businesses. Faunce said if Wal-Mart came to Damariscotta, it would have been required to participate in a business promotional campaign.

Applicability to Proposed Amato Shopping Plaza

Ben Lupien asked whether the new ordinance language regarding major developments will be retroactive and if it will apply to Peter Amato's proposed shopping complex on Route 1. He was told that if Amato's application is complete before the ordinance amendment is adopted, the new language will not apply.

Conclusion

All participants in tonight's meeting are asked to go over the performance standards checklist and fill in comments for discussion at the August 16 meeting. Chairman Yerxa asked for feedback even if a person is not able to attend the next meeting. The more public input, the better the final product will be, he said. He asked people to bring others to the next meeting. Faunce said that at the next meeting the group will go through the individual performance standards and try to reach a consensus.

Ben Lupien asked the group to keep in mind that **if** townspeople think that the Planning Board is trying to make it so difficult for a developer that he will go to another town, then the ordinance will not be approved by the voters. People in Waldoboro want to allow big-box development. He asked the group to bear in mind that the majority of people to whom these proposed standards will apply are local business people.

Adjournment: The meeting was adjourned at 9:25 p.m.

William Yerxa, II, Chairman

Carlo P. Bianchi

Charles Campbell

Charles Flint

Submitted by:

JoAnn Myers

Susan S. R. Alexander

Abden Simmons

WALDOBORO PLANNING BOARD