

Draft 1/26/06 for review by Myers, Campbell? prior to distribution

Minutes  
Town of Waldoboro Planning Board  
Special Meeting on Revisions to Land Use Ordinance  
November 29, 2006

Contents

1. Agenda
2. Review of Campbell's List of Ordinance Problems #21 – 32
3. Subdivisions where One Lot Has Already Been Sold
4. Need for Index to Land Use Ordinance
5. Planning Board Meetings Twice a Month?
6. Next Ordinance Revision Meeting: no date set

Roll Call

The meeting was called to order by vice chairman JoAnn Myers at 7:02 p.m. Other members present were Chuck Campbell, Chuck Flint and Abden Simmons. Code Enforcement Officer John Black was absent because his wife is in the hospital. A quorum was present throughout. There was no audience.

1. Agenda

Myers said the items proposed for discussion include

- Campbell's list of 61 items dated 11/29/06 with actions take to date shown in yellow highlight
- Campbell's draft sign-off sheet for department heads
- Myers's memo distributed 11/20/06 on Single Lot Review
- Myers's memo distributed 11/21/06 on the "Right to Farm" Law, regarding the State's definition of a farm. Does not help us define farm stands.

Flint added discussion of the discrepancy he finds in the ordinance regarding the number of subdivision driveways. He was not sure whether the two sections cited are in conflict, but Campbell said this should be resolved. Campbell thinks the present driveway language is oriented toward commercial driveways and offered to bring in sample language on residential driveways (see Item #32 below).

The group decided to start with #21 on the Campbell list and proceed until 9 p.m. They ended with #32 at the bottom of p. 2.

2. Review of Campbell's List of Ordinance Problems #21 - 32

#21. Thirty-day promotional signs. Is a separate permit needed for each 30 days? Is enforcement feasible?

Land Use Ordinance p. 4-13 N. 5. b. indicates that promotional signs displayed outdoors (as opposed to in a store window) shall not be illuminated and shall not exceed 10 square feet. They are limited to one sign per business and shall not be in place for more than 30 days per promotion. The group felt that they should pass over this item and come back to it when CEO Black is present and can comment on how common a problem this is and whether consistent enforcement is feasible.

#22. Add definition of a farm stand. Is a permit required?

In discussion, the group felt that the Spear farm stand in a new building on Route 1 is not a farm stand within the meaning they are addressing. The Brown farm stand next to Hannafords is an example of a small operation selling locally grown vegetables and fruits on premises other than

those on which the produce was grown. Myers sells produce at her Beau Chemin Farm in a small open shelter. She said it would not be unreasonable to charge people like her \$15 per year for an annual permit for a farm stand. Some people with home gardens sell or give away extra produce at the roadside. Perhaps people should not have to pay an annual permit fee to sell or give away extra produce on their own property. The consensus was to consult Lincoln County Planner Bob Faunce as to what other towns do about permits for farm stands for sale of produce on and off the premises where the produce is grown. The consensus was that probably a permit is a good idea, but that the permit requirement should not apply to people who give away extra produce as a community service.

#23. Road setback on side roads within Route 1 Commercial A District (Rural)

The Table of Dimensional Requirements on p. 3-10 and 3-11 states that the minimum required road setback for structures in Commercial A District is 100 feet measured from the edge of the traveled way. Black raised the question what to do about an addition to a structure on a side road within the Commercial A District where the existing structure is closer than 100 feet from the edge of the traveled way of the side road. Can the addition be at the same setback as the existing building, even if this is less than 100 feet, or must the addition meet the 100-foot setback?

Planning Board members noted that there are not many lots on side roads within Commercial A District, so this is not an issue affecting many owners. For continuation of an existing use (such as an addition to an existing house), it was suggested to use the ordinance language for expansion of a nonconforming use. For a change of use, either development of an undeveloped lot or replacing an existing structure with a new one, it was felt that the new construction should meet the ordinance setback requirement. If meeting the setback requirement creates undue hardship or makes the lot undevelopable, the owner has the option of applying to the Board of Appeals for a setback variance.

On motion of Campbell/Flint, the Board voted 4 – 0 to make no change in the road setback requirements for land within Route 1 Commercial A District.

*\*\* Secretary Alexander suggests that perhaps the setback distance for Commercial A in the Schedule of Dimensional Requirements was intended to apply only to setbacks from Route 1, and that the required setback from another road that happens to be within the Commercial A District could be whatever the road setback is in the nearest land use district, which would be 75 feet in the Rural or Residential Districts. If Planning Board members agree, the table could be footnoted that the 100-foot setback requirement in Commercial A applies only to the setback from Route 1.*

#24. Shoreland Districts must match new rules throughout the Land Use Ordinance.

Most Planning Board members present have not read the new Shoreland Zoning material given out by Black. Campbell suggested that the most helpful version to read is the “white cover” version that shows new language with underlines and deleted language with strike-throughs. Revising the 2006 Land Use Ordinance to incorporate the required changes to Shoreland Zoning is complicated because the references are scattered through the Ordinance rather than all being in one section.

Planning Board members present suggested asking Bob Faunce to undertake revision of the Land Use Ordinance to incorporate the revisions to the Shoreland Ordinance. Campbell will talk with CEO Black within the next week about having Faunce undertake this.

#25. New Shoreland Zoning Map

No action is needed by the Planning Board. See #24.

26. Additions to the Schedule of Uses Matrix

a) Commercial self-storage units: See #10 on the 11/29/06 list of proposed Ordinance changes. The Planning Board has already voted to recommend adding commercial self-storage units to the matrix under Commercial Uses and make them allowable in the Route 1 Commercial A and B Districts with Planning Board review.

b) Commercial boat storage: This refers to exterior storage of boats, not storage inside a structure. Specific performance standard N Industry/Manufacturing, Warehousing and Trucking Terminal, 2. General requirements j on p. 5-12 addresses exterior storage. It requires external storage of materials to occupy no more than 5,000 s.f. of contiguous land and be screened from residential areas or roads. Planning Board members believe more than 5,000 s.f. is needed for a typical commercial boat storage facility. Flint suggested using the same screening standards as for salvage yards, because of the mass of boats, with no limit on the maximum amount of ground covered so long as the facility is adequately screened. Myers suggested restricting commercial boat storage to the same land use districts as manufacturing.

The consensus was to have commercial boat storage a separate line item in the land use matrix for outdoor storage over 5,000 s.f., and allow it in the same land use districts as warehousing, with required screening from residences and public roads. Perhaps new language also needs to be added to the text, or a new subsection for commercial boat storage over 5,000 s.f. with screening.

On motion of Myers/Campbell, the Board voted 4 - 0 to add to the Land Use Matrix a new line item under Industrial Uses for Commercial Boat Storage, allowed with Planning Board review in the following land use districts: Rural, Residential, Route 1 Commercial A and B, and Industrial.

It was suggested to have Warehousing be a separate category from Industry/Manufacturing and Trucking Terminals.

c) Paintball facility - no action needed. Consider under Recreation Facility under Commercial Uses.

d) Commercial horseback riding, riding stable

Flint did not think a large commercial horseback riding establishment is appropriate in the Rural District or the Residential District. Simmons did not think it belongs on Route 1. All agreed it should not be in the Wellhead Protection District nor close to rivers, ponds and streams because of water quality issues. A commercial riding stable would not be allowed in land use districts in which agriculture is not allowed: Village, Historic Village, Downtown Business, and Industrial.

Planning Board members present judged that a commercial riding stable is more nearly related to agriculture than to commercial recreation. The consensus was that the Planning Board wants to be able to review any commercial horseback riding establishment. On motion of Myers/Simmons, the Board voted 4 - 0 to add a new line item for "Commercial Horse Operation" under Open Space Uses, allowed with Planning Board review in the following districts: Rural, Residential, Rural Village Business (verify), and Route 1 Commercial A

Planning Board members noted an inconsistency in the Land Use Matrix on pp. 3-6 and 3-7 in the districts in which agriculture and related businesses are allowed as Open Space uses (p. 3-6) and the districts in which a commercial farm or garden is allowed under Commercial Uses (p. 3-7). Agriculture as an Open Space use is allowed in the Rural and Residential Districts and the Route 1 Commercial A (Rural) District with no CEO permit and no Planning Board review, whereas a commercial farm or garden is not allowed in the Residential District (or Village, Historic Village, or Downtown Business Districts), and is allowed with Planning Board review in the Rural, Rural Village Business, Route 1 Commercial A and B, Industrial, and Wellhead Protection Districts. Should this inconsistency be addressed?

e. Other

In John Black's absence, no one could think of other items not in the matrix that ought to be. This will be revisited when Black is available.

There was some discussion of whether the last several items in the Land Use Matrix on p. 3-8 under Miscellaneous give the Planning Board (or CEO) the right to make determinations in its best judgment, for uses not listed in the matrix. In general it was felt desirable for the Planning Board to be able to use its discretion and make interpretations, except in an unusual case in which an ordinance amendment voted on by townspeople is felt to be needed.

Flint suggested putting in a line item for "Other" in the Land Use Matrix and leaving it blank in all boxes, indicating that nothing not in the matrix is allowed. Others suggested putting "PB" in all boxes, indicating that Planning Board review is required for any use not in the matrix that is not similar to a use in the matrix. No action was taken. The three items under "Miscellaneous" on page 3-8 cover most instances: "uses similar to allowed uses", that do not require any permit or review; "uses similar to uses requiring CEO permit", that require a permit from the Code Enforcement Officer; and "uses similar to uses requiring PB permit", that require Planning Board review.

It was suggested to add a statement in the text of the Land Use Ordinance that the Planning Board reserves the right to make determinations about uses not listed in the Land Use Matrix and not similar to uses listed in the matrix. No vote was taken. Campbell will try to check other municipal ordinances to see what other towns do.

#27. Wellhead Protection is not copacetic with the underlying Rural District in many instances. [ "*Copacetic*" is used by John Black to mean "consistent with" or "in harmony with". The secretary's dictionary defines it as "very satisfactory (origin unknown)"]

Campbell said it is frustrating and unsatisfactory to have two land use districts overlap. Perhaps the solution is to have a separate land use district for the Wellhead Protection District and apply its standards exclusively, without consideration for what is allowed in the Rural District or Industrial District. Likewise, Shoreland Zoning consists of several districts which overlap with other underlying land use districts. It was suggested to re-do the land use district map to show the Shoreland Zone as a separate district from the Residential, Industrial, and Village Districts along the Medomak estuary, and to show the Wellhead Protection District as its own entity, not part of the Rural District or Industrial District. This needs further discussion when John Black is present.

It was suggested to involve George Seaver in discussion of changes to the Wellhead Protection District vs. Industrial District. Flint said that most of the developable part of Seaver's industrial park is not in Wellhead Protection.

#28. Driveway setback from property line reduced to eight feet

Planning Board members opted to return to this item when John Black is present. If it has to do with the right-of-way width of a road or driveway, we find on p. 4-23 that the minimum right-of-way width varies from 80' for an arterial road to 36' for a private road. The minimum traveled way width is 16' for a private road. If this applies to driveways, there is 20' within the 36' minimum right-of-way width on either side of the traveled way, or 10' per side.

#29. Buffer strips in Route 1 Commercial B District

Page 4-1 B. 1. c. Route 1 buffer states that "a vegetative buffer equal in depth to the minimum building setback, measured from the edge of the traveled way, shall be provided along Route 1 for all new commercial developments and for the redevelopment of existing commercial properties". The minimum building setback in Commercial B (Urban) is 25 feet, and 100 feet in Commercial A (Rural). What is the problem? Has it already been addressed? At one time we think the Route 1

buffer strip was required to be wider than the minimum building setback, but this appears to have been addressed. John Black can advise us.

### #30. Parking Flexibility

Planning Board members want to have flexibility to require that there be space on the lot for the maximum number of required parking spaces for the use, but not to require that the maximum number of parking spaces actually be developed until there is a demonstrated need. The plans for the Waldoboro Public Library were cited as an example.

### #31. Sanitary Provisions – discussion of septic easements

Defer discussion until John Black is present.

### #32. Street Access and Driveways

It was suggested that “driveways” may be a poor choice of terms for the section heading of Article 4 Section S (p. 4-17). Campbell feels strongly that the present ordinance material on driveways is written for commercial uses and is not readily applicable to driveways serving houses in a subdivision. He will look for material from the Bath land use ordinance and supply copies.

There was discussion of how to encourage or require developers of subdivisions to limit the number of curb cuts by use of shared driveways. This is especially important where driveways enter a public road rather than a low-volume subdivision road. Although Planning Board members like the concept of shared driveways, they are not comfortable with Bob Faunce’s interpretation that a five-lot or six-lot residential subdivision is a medium-volume or high-volume traffic generator and is thus limited to “two two-way or three driveways in total onto a single roadway” (Article 4 General Performance Standards Section S. Street Access and Driveways, subsection 11 Number of Driveways, b., p. 4-21).

Campbell said the City of Bath allows less frontage per lot if shared driveways are used, for example, 180’ per lot instead of 200’ of frontage. This would be a “carrot” to induce developers to consider shared driveways. Are there any other inducements? Planning Board members did not want to suggest reducing the total developable area or net developable area of the lots. Flint suggested having the Town pay for culvert installation for shared driveways only. No decisions were made.

### 3. Subdivisions where One Lot Has Already Been Sold

Myers led discussion of how better to handle subdivision review in cases where one lot has already been subdivided off and sold, and the developer then comes in for subdivision review to create additional lots. In terms of subdivision planning (and driveway access), it is far preferable from a planning perspective to include the first lot as Lot #1 of the subdivision and count it toward the total number of lots. This would facilitate use of shared driveways. State subdivision law says that a person can divide off one lot and sell it without creating a subdivision requiring Planning Board review, but creation of a second lot (plus any remaining back land) does require subdivision review if it results in creation of three lots within five years. Can the Town be more strict than the State in this situation? John Black can advise us.

### 4. Need for Index to Land Use Ordinance

Planning Board members present felt a need for a much more detailed index at the back of the Land Use Ordinance, so that people can look up a term such as “setback” and be directed to a page or pages of the Ordinance. The present system with the table of contents and definitions section is not satisfactory.

5. Planning Board Meetings Twice a Month?

It was suggested to set meeting dates for twice a month for the next several months or until March, and to have all meetings be "regular" Planning Board meetings for which attendance is required unless a member is ill or has another excused absence. No dates were set, because only four of the seven Planning Board members were present. The second and fourth Wednesdays were suggested. Flint suggested meeting two nights in a row, for continuity. He will be away February 13 through March 12. Campbell preferred the meetings to be two weeks apart. Flint asked whether Planning Board ordinance revision meetings always have to be on Wednesdays.

It was suggested to discuss attendance requirements at a meeting when more members are present.

Flint suggested that the Planning Board does not have to complete review of all items on the list by a deadline. When the time comes to print a version for review by the Selectmen and for public hearing in the spring of 2007 for town vote in June, the Planning Board can simply submit the changes it has addressed up to that date, and continue ordinance revision as an ongoing process.

It was suggested to review Items 33 – 61 on Campbell's list and prioritize them to some extent so that the most important items are addressed first.

6. Next Ordinance Revision Meeting: no date set.

The date of the next Ordinance Revision meeting will be set at the December 13 Planning Board meeting.

Adjournment: The meeting was adjourned at 9:15 p.m.

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JoAnn Myers, Vice Chairman

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Charles Campbell

Submitted by:

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Charles Flint

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Susan S. R. Alexander

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Abden Simmons

WALDOBORO PLANNING BOARD