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Minutes
Town of Waldoboro Planning Board
Special Meeting on Revisions to Land Use Ordinance
March 26, 2008

Contents

1. Review of Draft Shoreland Zoning Map; Vote to Recommend Shoreland District Changes
2. Timing of Material for Vote at June Town Meeting
3. Review of Land Use District Map
4. Roads
5. Next Meetings: Planning Board Wednesday April 9, Ordinance Revision Wednesday April 23
6. Gateway One Information Meeting: April 30, 5 – 9 p.m., Thomaston

Roll Call

The meeting was called to order by vice chairman JoAnn Myers at 7:00 p.m. Other members present were Carlo Bianchi, Chuck Campbell, Chuck Flint, Ed Karkow, and Abden Simmons. Code Enforcement Officer John Black and Assessors' Agent Darryl McKenney were present. Richard Baker of the Shoreland Zoning section of Dept. of Environmental Protection was a special guest. No members of the public were present.

1. Review of Draft Shoreland Zoning Map

Rich Baker was introduced and welcomed. Maps available were the Town's draft shoreland zoning map, draft land use district map, a DEP wetland map showing significant wildlife habitat for Waldoboro, a copy of the National Wetlands Inventory map that includes Waldoboro, a map showing bluff areas on tidal water, and a map showing areas of landslip hazard. Both of the latter maps are for the salt water estuary only.

The draft shoreland zoning map and land use district map for Waldoboro have been updated with current tax parcels as of 2006 by Aerial Survey and Photo, Inc., of Norridgewock. The shoreland zoning map attempts to include all non-forested wetlands over 10 acres. The DEP map shows only wetlands that are classified as of moderate or high value as waterfowl and wading bird habitat (WWH). Baker said the DEP map is being updated and a revised version will be available in October, 2008. He suggested that the Town wait until the updated DEP map is available before finalizing its revised shoreland zoning map. The deadline for adopting a revised municipal shoreland zoning ordinance and revised shoreland zoning map has been extended to July 2009. Later in the meeting, Baker said that if Waldoboro is zoning all non-forested wetlands Resource Protection, we do not have to wait for the updated WWH map. Developed lots have to be exempted from Resource Protection.

The DEP maps show a 250' setback around any significant habitat for wading birds and waterfowl. Any moderate to high value waterfowl and wading bird habitat that is not already developed is to be designated Resource Protection.

CEO Black has raised the question how to identify areas of two or more contiguous acres with a sustained slope of over 20%, which are supposed to be designated Resource Protection. Baker said that the Town of Bristol has addressed this problem by adding language to its ordinance that there shall be no new structures on areas with a sustained slope over 20%. Landowners are required to demonstrate that proposed new structures are not within an area with a sustained slope over 20%. Baker offered to supply Waldoboro with the Bristol language.

Baker said if a wetland is found within an areas zoned Stream Protection (75-foot setback), the wetland can continue to be zoned Stream Protection and does not have to have a 250-foot setback. If a first-order stream not designated Stream Protection has a wetland, the wetland does not need to be designated Stream Protection.

Baker said the criterion for zoning as Residential is a density of two principal structures within 1000 feet of water frontage or less. He said an accessory structure such as a garage or boathouse does not count toward whether a piece of land is considered developed.

Baker said the National Wetland Inventory map does not show forested wetlands. Baker said a forested wetland greater than two acres in size next to a pond, tidal water body or non-forested wetland should be zoned Resource Protection. Black said this has not been done on Waldoboro's draft shoreland zoning map.

At its March 12, 2008 meeting, the Planning Board voted to recommend changing the shoreland district designation of land in the first 250 feet back from non-forested wetlands over 10 acres from Limited Residential to Resource Protection, except for any lots with existing structures. Darryl McKenney has a list of 343 tax parcels whose owners would have to be notified by mail of the change in shoreland zoning designation of their property. He knows which lots contain structures. It was suggested that McKenney work with Rob Rogers at Aerial Survey and Photo, Inc., of Norridgewock to locate the developed lots and work out the fine detail of what shoreline is undeveloped and designated Resource Protection, and which is developed and should be designated Limited Residential. Black suggested that McKenney and a member of the Planning Board could go to Norridgewock to meet with the mapmaker, but McKenney said communication by telephone and e-mail should be adequate. Baker said that Aerial Survey and Photo has done satisfactory shoreland zoning maps for other towns and should be able to use aerial photography and input from the assessors' agent to differentiate the developed from the undeveloped properties. Baker offered to speak with whoever at Aerial Survey will be doing the work to be sure they are using the right criteria. Black said that Rob Rogers has indicated he has gone about as far as he can with the Waldoboro map, and does not expect to do significant further work for the \$1500 bid price.

Baker said it is essential to make sure that the ordinance text agrees exactly with the shoreland zoning map, or the Town could lose a court case. It is important to make sure that the shoreland districts on the map agree with the definitions in the ordinance.

Baker said our draft shoreland map does a good job of delineating the shoreland zone. The next step is to be sure that the locations of the various shoreland districts are depicted correctly. McKenney is the best person to do this because he knows which the developed lots are, and the nature of the development.

Black asked for suggestions on how to handle the new shoreland district General Development II. Baker suggested that if Waldoboro has no area zoned General Development II in 2008, to put a key on the map for General Development II and the notation "none present".

Baker said it is legal under shoreland zoning to create a district with a shoreland setback less than 100 feet, if all the lots are already developed. He gave an example of a stretch of road along a lake, where every lot is developed and the average setback from the normal high water mark is 35 feet. You could designate this stretch as having a 35-foot setback from the water. Similarly, it is possible to create a Limited Commercial district with a 25' setback of structures from the water, if that is the setback of the existing structures in that district.

Baker said that Waldoboro should not hesitate to send him a draft shoreland map for review well before it is in final shape, in order to get input from the Shoreland Zoning group.

Baker said that owners of land within one of the State's WWH areas (waterfowl and wading bird habitat, significant wildlife habitat) need to talk with DEP in advance of any development, regardless of what shoreland district the land is in on the Town map.

Flint asked about the new regulations regarding vernal pools. Baker confirmed that often there is a very narrow window of time within which the animals breed, and that if you miss that critical period, you have to wait until the next year in order to make the determination. The breeding period could be two weeks any time within a month, and varies from year to year. For private

landowners DEP staff will come to the property to make the determination. Commercial developers are expected to provide their own expertise. The rule is that a maximum of 25% of the area within 250 feet around a vernal pool can be developed. If existing development is already 25%, you cannot do any further development within 250 feet of the vernal pool, but if existing development is only 18%, you can develop an additional 7%.

Baker was thanked for attending, and left the meeting at 8:17 p.m. He said he would provide a copy of DEP policy about the definition of "developed" in the shoreland zoning ordinance, and a copy of Bristol's ordinance language regarding slopes over 20%.

The Board continued discussion of the shoreland zoning map. McKenney noted that one change suggested by Baker was to identify forested wetlands and include them on the shoreland zoning map. The biggest concern is what to do about shoreland zoning along the Medomak River. Simmons, a clammer, would like to see all of the river shoreline zoned Resource Protection, so that the clam flats can be kept open. McKenney agreed that a lot of the river frontage is undeveloped. Now would be the time to rezone the shoreline, if we are ever going to do so. McKenney estimated that there are about 100 property owners in Waldoboro with houses within the shoreland zone on the freshwater river. He would not advise rezoning tidal shore frontage Resource Protection. Another way to protect water quality on clam flats is to require a greater setback of septic systems from the shore (currently 100 feet).

Vote to Recommend Two Shoreland District Changes

1) The Planning Board recommended rezoning all undeveloped lots north of Route One on the freshwater river Resource Protection. On motion of Flint/Bianchi, the Board voted 6 – 0 to recommend placing all land on the freshwater Medomak River in the Resource Protection District north to Medomak Pond, starting north of the Limited Commercial shoreland district and excluding the General Development District (Industrial Park).

2) Rather than rezoning the shoreline of the salt water Medomak River as Resource Protection, the Planning Board suggested increasing the minimum setback of septic systems from the water in the area from Main Street south along both sides of the estuary to the southern boundary of town. On motion of Simmons/Bianchi, the Board voted 5 – 1, Karkow opposed, to recommend that all new septic systems in the Limited Residential shoreland district abutting salt water must be located a minimum of 200 feet from the normal high-water line. Existing septic systems and replacements of existing systems would be grandfathered.

2. Timing of Material for Vote at June Town Meeting

Black told Myers that the Planning Board is about out of time to submit material to the Selectmen for inclusion on the warrant for vote at June Town Meeting. This means that it is too late to make changes in the shoreland zoning map or text for vote in June, or to add material on performance standards for outdoor wood boilers. The latter was not discussed at tonight's meeting, although it was on the agenda. Likewise, ordinance revision regarding driveways/entrances/streets/roads is too late for inclusion on the June warrant, and was not discussed tonight.

3. Review of Land Use District Map

Planning Board members briefly considered the revised land use district map, but had no changes to suggest in district boundaries. There has been a change in the ordinance language regarding uses on Old Route One, but no boundary change. Black noted that lots in Route One Commercial A or B with principal frontage on side roads off Route One do not need to meet the setback requirements and other standards that apply to uses on Route One.

4. Roads

Black will probably not be working with the Planning Board by the time the road ordinance is revised. He suggested that language be added allowing use of geotextile fabric and 8" of gravel as an alternative to a 24" excavation. After grubbing out all organic material, the road builder would

lay geotextile and 8" of gravel, plus 3" of surface gravel. The ordinance currently calls for removal of rocks down to 24" below grade. The less expensive alternative is recommended as equally good by Road Commissioner John Daigle. No vote was taken.

5. Next Meetings: Planning Board Wednesday April 9, Ordinance Revision Wednesday April 23

Black said the April 9 Planning Board meeting will likely be his last. He will be away later in the month and does not expect to attend the Ordinance Revision meeting on April 23.

6. Gateway One Regional Information Meeting: April 30, 5 – 9 p.m., Thomaston

Jennifer Merritt of the Gateway One committee told the Planning Board that a regional Gateway One meeting will be held on Wednesday April 30 from 5 to 9 p.m., with food, in Thomaston. Selectmen, Planning Board members and members of Boards of Appeals from area towns are invited to attend and ask questions. Please notify either Gateway One steering committee member Bill Pacy (slipper3@gmail.com) or Jennifer Merritt (jlmerritt@earthlink.net) if you plan to attend, so the organizers will know how much food to order.

Adjournment: The meeting was adjourned at 9:07 p.m.

JoAnn Myers, Vice Chairman

Carlo P. Bianchi

Charles Campbell

Charles Flint

Edward Karkow

Submitted by:

Susan S. R. Alexander

Abden Simmons

WALDOBORO PLANNING BOARD