

Draft 9/25/08 for review and revision by CC and PW prior to distribution

Minutes
Town of Waldoboro
Planning Board Meeting
September 24, 2008

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Roll Call

The meeting was called to order by vice chairman Chuck Campbell at 7:00 p.m. around the conference table in the main office at the Municipal Building. Other members present were Carlo Bianchi, Chuck Flint, Ed Karkow and JoAnn Myers. Director of Planning and Development Patrick Wright was present. There was no audience other than applicant Bob Morse.

1. Minutes of September 10, 2008

The Sept. 10 Planning Board minutes had not been distributed, and were not reviewed. Wright will distribute them along with materials for the October 8 meeting.

2. Procedures on Minutes

In future it was decided to vote on Planning Board minutes at Planning Board meetings, and to vote on ordinance revision workshop minutes at workshop meetings. It was agreed that hard copy of minutes would be mailed to Planning Board members, along with other Board materials, rather than sending minutes via e-mail. Agendas for ordinance revision meetings will be sent by e-mail.

3. Preapplication Discussion of Additions at Atlantic Laboratories, Morse, 42 Cross St. (Tax Map U13 Lot 16)

Owner Robert Morse was in to discuss plans for two additions at Atlantic Laboratories, Inc. Lot 16 has frontage on the Medomak River and is bisected by the Maine Central Railroad tracks. Setback of building additions is an issue. Wright will try to determine the required setback from the railroad right-of-way. Morse wants to add a 40' x 20' extension to the existing building in the area where the 40' x 8' storage trailer now sits, and extend the back of the building for a new boiler room for when he switches to wood pellet fuel in a year. There is an existing concrete pad that extends out beyond the proposed addition and is nonconforming with regard to setback. The new boiler room might be 30' x 15' or 20' x 15'. Both proposed additions will go on existing impervious surfaces (asphalt and concrete pads). Fuel oil for the existing boilers is stored in a trailer that is registered for on-road use. Wright noted that it is illegal to store vehicles in the Wellhead Protection District.

The industrial uses on the site are within the wellhead protection overlay on the Industrial District and are within the shoreland zone of the Medomak River. There will be no new uses in the additions. Existing byproducts of seaweed processing are deemed not harmful to the environment. There is storage of chemicals on site. Wright has discussed the operation with Rick Knowlton of Aqua Maine, who did not feel that chemicals from the extraction process would be detrimental to the water supply. The proposal is for an expansion of an existing use, not a new product line. The Board determined that a full site plan review is not necessary. The principal waste product is cellulose.

Dusty Starr's survey suggests that the new addition will be less than 30 feet from the boundary line, requiring a variance from the Board of Appeals. That Board meets next on October 16. It was recommended that Morse and his consultants appear before the Board of Appeals to obtain the variance, then aim to be on the agenda for the November 12 Planning Board meeting. Morse left the meeting at 7:55 p.m.

3. Discussion of Central Maine Power Co. Proposed Enhanced Transmission Lines

CMP wants to replace existing transmission towers with 75-foot towers in their existing utility right-of-way as part of a long-term project to replace the existing 115 kV transmission line and add a second 115 kV line parallel to the first in the same right-of-way. Attorney Joanna Tourangeau of the Portland law firm Pierce, Atwood had expected to attend tonight's meeting, but the engineer who was to make a presentation was unable to attend, so she requested that her agenda item be deferred. She has suggested revised language in the Land Use Ordinance to exempt utilities from height restrictions. (See minutes of the August 27, 2008 Planning Board meeting.)

At its Sept 11 meeting the Select Board tabled the request to place this item on the warrant as a referendum question for vote in November, and referred the matter back to the Planning Board. The Planning Board is asked to collect more information and draft ordinance revision language if desired. This could be a separate item for Town vote, not part of a larger ordinance revision package. Planning Board members discussed the appropriate public notification and hearing processes. Waldoboro residents need to be given information about radiation effects from electromagnetic fields, the direction of transmission, and alternative energy sources. A public information workshop was suggested to be held in advance of the required public hearing. All abutters would be notified.

Flint said he did not think the current Land Use Ordinance prohibits what CMP wants to do. He said a tower is not a building, because it has no floor space, and is exempt from height restrictions on "buildings" in the Schedule of Dimensional Requirements on p. 3-10 of the February 2008 edition of the Land Use Ordinance. Telecommunication towers are allowed to be up to 195 feet high, but they are restricted in location to within 300 feet of Route One. Campbell agreed that there is nothing in the existing ordinance that says CMP cannot do the project. He said utilities are exempt from height requirements. He thinks CMP is only trying to avoid a possible future legal challenge.

Wright said about 50 homes will have significant visual impact from the proposed double line of 75-foot towers. He can do some research on visual impact analysis and means of mitigation, such as requiring CMP to plant trees or make the transmission towers look like trees.

Wright asked whether the Planning Board wants to limit only this one transmission line to 75-foot tower heights. He said there is another power line that runs through town. Transmission lines carry 4500 volts, but distribution lines on regular telephone poles carry three-phase 220-volt power. No one wants to have regular telephone poles along streets be 75 feet high. Should the proposed ordinance revision allow 75-foot poles for transmission lines only, and not distribution lines? Myers said even distribution lines might in future have to be 75 feet high in places. What would we be opening ourselves up for, if Waldoboro adopted CMP's desired language that essential services be exempt from height restrictions? There is no minimum lot size in Waldoboro for a utility pole, but there is a setback restriction, which creates a minimum lot size by default.

Timetable: If the CMP ordinance language were to be voted on in January, there should be a public workshop first, followed by a formal public hearing with notice to abutters. The Planning Board wants to have an independent consultant come to meet with them in advance of the public workshop. Wright was asked to consult Lincoln County planner Bob Faunce about getting an independent engineering consultant who can advise the Board about electromagnetic field effects, visual impacts, etc. Faunce may have been involved with review of the CMP project in other towns. It was proposed that the Planning Board meet with an independent consultant in October, and meet with Joanna Tourangeau and the CMP engineer in November. Flint called for tabling the matter until we can find an impartial consultant.

Ordinance revisions for the June 2009 warrant need to be given to the Select Board by March 1 for printing and public hearing, roughly five monthly meetings from now.

4. Review of Ordinance Revision Items – Campbell’s Priority List

Campbell presented his 21-item list of ordinance changes to be addressed. Not all of his items were discussed, and items not on his list were discussed. Campbell sent his list to Planning Board members via e-mail on Sept. 26. The numbers 1- 20 on the list below correspond with Campbell’s list (his #21 was not discussed for lack of time). New items not on his list are given letters rather than numbers, and are listed in the order discussed.

1) Shoreline Zoning Map

Wright now has the new State shoreland zoning map that we have been waiting for in order to update the Town’s shoreland zoning map to go with the revised shoreland zoning ordinance. McKenney was to have worked with Aerial Survey and Mapping to update the old shoreland zoning map. The firm told us that they have used up all the Town’s money and will not do any more work on the map without more money. Wright will find out whether this was Planning Board money or Planning Department money. The deadline of June 2009 for updating local shoreland ordinances has been extended (to October or November 2009?) by the State. Wright will find out the correct date when he sees Rich Baker on Sept. 25. We need to check whether the new State map has any wetlands in Waldoboro newly designated Resource Protection. Wright will talk with McKenney to find out the status of Waldoboro’s shoreland map revision.

We may want to change the text section on steep slopes, using the Bristol ordinance as a model. Planning Board members have copies of the Bristol ordinance, given by Baker.

2) Outdoor Wood Boiler Regulations

Myers will look into the status of State regulations. She thinks the State is getting ready to impose other restrictions on OWBs.

3) Street Access, Driveways, Streets and Roads

Items 3 – 8 on Campbell’s list deal with roads and driveways (Article 4 General Performance Standards Sections S and T). Campbell said the Planning Board has been applying road standards to driveways, and driveway standards to roads. A driveway is not a street. The definition of “driveway” on p. 16-7 is in conflict with the usage of “driveway” in Section S. We need to find another word for “driveway” in Section S: “access road”? If a (residential) driveway serves only two one-family homes or one two-family home, it cannot be medium-volume or high-volume. It was suggested to delete “and Driveways” from the heading of Section S. Campbell would like it to read, “Street Access, Commercial, including Subdivisions”.

Campbell has consulted other ordinances, some of which have a section on private driveways serving a single residence or duplex. We may need to change the definition of “driveway” on p. 16-7, he said.

At Flint’s suggestion, on p. 4-19 the group agreed to delete from line two of c. Width “~~on each side of the median~~”, so that the sentence reads, “On a two-way driveway the width shall be between twenty (20) feet and twenty-six (26) feet on each side of the median with a preferred width of twenty-four (24) feet; ...” Flint explained that a two-way driveway does not necessarily have two lanes. It carries traffic in both directions. A one-way driveway, signposted with “in “ and “out” signs, carries traffic in one direction only.

p. 4-23 Section T Street/Road Standards subsection 2 Street Design Standards i. Design Standards table. Bob Faunce sent to McKenney material on minimum right-of-way widths for private roads. The size of the private road depends on how many houses it serves. A private road has a minimum right-of-way width of 36 feet according to the table on p. 4-23 of our LUO. Faunce’s memo suggests that a private road serving fewer than four residences can have a right-

of-way width narrower than 36 feet. A private road serving 4 – 10 residences has a minimum right-of-way width of 36 feet. One serving over 10 residences has a right-of-way width of 50 feet and an 18-foot traveled way. Flint says that according to State law, a lot cannot have frontage on a road with a 36-foot right-of-way width. The road has to have a 50-foot right-of-way width in order to provide legal frontage for back lots. Campbell asked Flint to verify this with something in writing from the State. Campbell said that if Flint is right, any road serving more than two residences should have a 50-foot right-of-way width.

Cul-de-sacs and T turn-arounds. Campbell has language from Flint on cul-de-sacs and T turn-arounds, to be added to the ordinance.

9) Windmills and Alternative Energy Sources

Myers volunteered to work on this. Cape Elizabeth has an ordinance worth looking at. She will flesh out options for consideration by the Planning Board. The language should address windmills for public use, windmills for joint use as in a subdivision, and individual private windmills for use by one household or business. The ordinance should address height, noise, and visual impact. Most private windmills are expected to be 40 feet or lower, and would meet the height requirement for buildings.

10) Nuisance

Someone at a prior meeting volunteered to provide a definition of “nuisance” – who?

11) Performance Standards for Boat Storage

Campbell will e-mail Yerxa and ask if he was the one who volunteered to research language for performance standards for commercial boat storage.

12, 13) Junkyard Permits

At a recent meeting it was pointed out that new applicants for junkyard permits are required to have a local permit and a State permit, but the State will not grant a permit until the Town permit is received, and vice versa. Our ordinance should allow granting a new one-year junkyard permit conditional upon receiving the State permit. It was suggested that local junkyard permits be annual for the first five years, with regular inspections; after five years, if no violations have been found, a five-year permit may be granted.

14) Minimum Lot Size in Mobile Home Parks in Village District

The LUO requires a 6500 s.f. minimum lot size for lots in mobile home parks in the Village District, where the minimum size for a regular lot on public water and sewer is 5,000 s.f. The minimum lot size for lots in mobile home parks ought to be the same as for lots outside such parks, unless the 6500 s.f. figure is State law. Can Wright find out what the State minimum lot size is for lots in mobile home parks?

15) Definition of Farm Stand; Permits?

Should a permit be required for a farm stand? If so, we need a definition of “farm stand”. Might a table or stand on the premises where the produce was raised be exempt from the permit requirement, while an off-site stand like the one for Brown’s Farm next to Hannaford would require a permit, the same as a hot dog stand? (Karkow again asked whether the Waldoboro ordinance should simply prohibit hot dog stands, rather than giving them site plan review. See #20 on this list.)

Did Myers earlier volunteer to provide a definition of “farm stand”? She has one at her farm.

16) Buffering and Landscaping

When a landscaping plan is required, it would be helpful to applicants if the ordinance were more specific about what level of detail is desired regarding quantity, size, species etc. Campbell will address this, as it comes up in his day job. Flint added that we need follow-through by the Code Enforcement Officer to assure that the required landscaping approved by the Planning Board gets installed and survives.

17) Planning Board Duties - Attendance Requirement

Clarify whether ordinance revision workshop meetings count toward the required percentage of Planning Board meetings for attendance purposes, or whether only "regular" Planning Board meetings count. Campbell will look this up in the minutes.

18) Performance Bonds and Guarantees; Evidence of Financial Capability

Campbell suggested that all Planning Board members review the sections of the LUO on performance bonds and think about how and when these should be required, and in what amount. Does the ordinance need to be changed, or only enforced? A related issue is whether we ought to require more solid evidence of financial ability to complete a project, rather than accepting a very general letter from a bank that the applicant has an account in good standing.

19) Vendor Licenses

Should Waldoboro require vendor licenses for hot dog stands? Or, perhaps like farm stands, should a license be required only for stands not on the owner's property? There is concern about traffic control near an intersection, and selling on the shoulder of Route One. Wright said the Town of Woolwich recently dealt with this issue. There it is not allowed to park within 25 feet of the pavement. Karkow asked whether hot dog stands ought simply to be prohibited.

20) Business Signs on Own Premises

Cindy McIntyre was unable to put up a sign advertising her photography because she does not own any land with road frontage. Should the LUO not require that business signs be located on the premises of the business? We could instead require written permission from the landowner on whose land the sign would be placed.

The following items not on Campbell's list were discussed.

a) Personal Watercraft (Jet-Skis)

Karkow suggested that the ordinance ought to have language about personal watercraft.

b) Temporary ("30-day") Promotional Signs

The ordinance now requires a permit for temporary promotional signs on the property of a business. Former Code Officer John Black found this very hard to enforce. Should permits be required for temporary promotional signs? If they obscure visibility of oncoming traffic for drivers, they are dangerous. Perhaps their size or location should be regulated. Wright was asked to look at the sign ordinance and advise the Planning Board whether he recommends any changes. Karkow said the name should be changed from "30-day" promotional signs to "temporary".

c) Sanitary Provisions, Septic Easements (item suggested by former CEO John Black)

This does not refer to communal wastewater treatment systems, but to cases in which lot owners place their in-ground wastewater disposal systems on land of an abutter, generally because their own lots do not have suitable soil for an in-ground septic system.

d) Consent Agreements

Add a definition, or at least a page reference (pages 2-1 and D. 4 on p. 2-5 of the February 2008 LUO)? Campbell did not think it necessary to address this.

e) Additions to Mobile Homes

Flint has pointed out the anomaly that no frost wall is required under a mobile home, but additions to a mobile home must have a frost wall or four-foot posts. Even if the main structure is on a slab, the addition cannot be on a slab because this would violate the International Building Code. Presumably there is nothing we can do about this in the Ordinance.

f) Family Subdivisions; Lot Splits

Subdivision of land into lots deeded to family members does not require review by the Planning Board. Some such subdivisions are poorly designed. It would be nice to require that family subdivisions be done to the same standards as normal subdivisions, but there is no way to enforce this. Likewise, division of one lot into two does not require a permit from the Code Enforcement Officer. Sometimes the new lot meets minimum lot size and frontage requirements but the remaining land does not, creating an illegal lot. Can we require that all such lots be reviewed by the CEO before being registered at the Registry of Deeds? How would this be enforced?

g) “Adult” Businesses

Flint wanted to be sure that there is available land in town for so-called “adult” businesses, in order to avoid lawsuits. The Board reviewed the restrictions in the current Land Use Ordinance. A porn shop has to be at least 1,000 feet from any residence, school, business, church, etc., and located in Route One Commercial A or B land use districts. Does this leave enough latitude for someone to open such a business? No decision was recorded.

Adjournment: The meeting was adjourned at 10:25 p.m.

Charles Campbell, Vice Chairman

Carlo P. Bianchi

Charles Flint

Edward Karkow

Submitted by:

Susan S. R. Alexander

JoAnn Myers