

Final Signing Copy Upon Approval,- includes PW, CC changes.

Minutes  
Town of Waldoboro  
Planning Board Meeting  
August 12, 2009

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Roll Call

The meeting was called to order by chairman Chuck Campbell at 7:02 p.m in the meeting room at the Municipal Building. Other members present were Chuck Flint, Ed Karkow, JoAnn Myers, Jody Perry, and Abden Simmons (at 7:55 p.m., start of Skyview Ridge agenda item). Code Enforcement Officer Patrick Wright was present. The audience included Deborah M. Bellows, Dennis Blanchet, Jacqueline Blanchet, Dan Bolita, Robert Butler, Sam Cohen, Elizabeth Conry, Evangeline Dudley, Henry O. Dudley, Jr., Craig Lewis, Robert L. Morin, Dale Maxcy, Becky Maxwell, Doug Meservey, Ronald L. Miller, Robert Morse, Andrew Roberts, Grant Sorterup, Matt Tibbetts, Jeanette Wheeler, Mahlon Wheeler, and Ellen Winchenbach.

Newly appointed Planning Board member Jody Perry was introduced and welcomed.

1. Citizen Comments – Items not on Agenda

Sam Cohen criticized how the July 22 public meeting was handled by the moderator, Bob Faunce. Cohen said Faunce should have told people in the audience not to interrupt the presentation by LaMarr Clannon. Near the end of the meeting, Faunce should have said public comment would cease and the Planning Board would then decide how to vote about the proposed shoreland zoning changes. Many in the audience started to leave, believing that the meeting was over at the end of the public comment period.

Cohen said the gist of what the audience wanted was the bare minimum required by the State. He was personally disturbed that owners of saltwater shoreline were exempt from the proposed rezoning of the first 250 feet back from the saltwater Medomak into Resource Protection. He said the main reason for Resource Protection zoning is to protect the clam flats, and salt-water landowners are major contributors to pollution of the clam flats.

Cohen thought that Bianchi's motion to kill all the proposed changes to shoreland zoning was seconded. He said the minutes do not reflect that.

Robert Morse asked what is the mandate the State is imposing. He asked for a copy of the State statute that requires that the first 250 feet back from wetlands rated medium-value or high-value as habitat be zoned Resource Protection. He does not see that requirement in the material he was given. With regard to the Planning Board motion at the July 22 meeting, he said we should be able to verify the wording from the tape recording of the meeting. He asked for a copy of the tape. (Wright later said the tape was being changed at that point and the wording of the motion is missing.)

Morse referred to Title 5, Chapter 375 §8001 et. Seq. - Administrative Procedures Act. If the rezoning of land around high-value and medium-value wetlands as Resource Protection is in a State statute, it has to have been in a regular bill passed by both houses of the Legislature.

Morse said that rezoning of land under shoreland zoning is a taking of land without compensation. He started with eight acres in the Industrial Park. Now he is down to two acres of usable land. Planning Board members should read the goals of the Comprehensive Plan. Only 3.5% of land in Waldoboro was set aside for industrial uses. Planning Board members have to swear an oath to uphold the State and federal constitutions. They are violating their oath and promoting communism.

Doug Meservey said he has not seen the criteria on which the State based the new shoreland zoning setbacks of 250 feet around high- and medium-value wetlands. Other towns have found errors in the habitat maps: land was included in Resource Protection that did not meet the State criteria. He recommended that the Planning Board look into this for Waldoboro. Requiring setbacks around vernal pools goes beyond good stewardship. He hopes the Town will vote NO to the State's interpretation of habitat.

Unidentified man: At one time there was a 100-foot setback. We need the Code Enforcement Officer to enforce current laws. We don't need more laws.

## 2. Minutes of July 8 and July 22, 2009

### A. Minutes of July 8, 2009

On motion of Myers/Karkow, the Board voted 4 - 0 - 1, Perry abstaining, to approve the minutes of July 8 with two corrections:

1) A new sentence is added under Item 9, Preapplication Discussion of Wayne Brown Subdivision, at the end of the first full paragraph on p. 11, to read, "Tower indicated that it does.", meaning that the five-lot subdivision proposed at the July 8 meeting takes the place of some 60-80 lots presented for preapplication review at the October 8, 2008 meeting.

2) On motion of Myers/Karkow, the Board voted 4 - 0 - 2, Perry and Simmons abstaining, to clarify in the minutes at the bottom of page 9 that the vote on agenda Item 6 approving issuance of a permit for Donald and Kelly Benson was also approval for a one-lot subdivision of land of Nicholas and Dominic DePatsy at 402 Friendship Road (Map U2 Lot 20). (See Item 6, p. 8 of these minutes.)

B. Minutes of July 22, 2009

On motion of Myers/Karkow, the Board voted 4 – 0 – 1, Perry abstaining, to approve the minutes of the July 22 public meeting with the following changes:

- a) to add Wayne Brown, Rich Connolly, Emy Kanewske, and Dick Noble to the list of attenders on p. 1 ;
- b) in the third sentence of the first complete paragraph on p. 8, to add “establish” between “to” and “a Resource Protection buffer”.

Board members discussed their recollection of the motion on p. 9 of the July 22 minutes regarding the shoreland zoning amendments. They regretted that Carlo Bianchi, who made the motion, was not present at tonight’s meeting. Campbell said he understood that Bianchi’s motion was to cancel the public hearing until the Planning Board has taken more time to work on the proposed shoreland zoning changes. Myers’s recollection of the wording and the intent of the motion was that the Planning Board would not recommend holding a public hearing until it has had time to work on the shoreland zoning changes.

From the audience, Dennis Blanchet said he wrote down the exact wording of the motion at the meeting, which he read aloud. According to Blanchet, the motion was to “not approve the adoption of the proposed resource protection ordinance, and let the issue die tonight, and not to hold a public hearing, and not to send this to the selectmen.” Chairman Campbell and Myers said that this was not the motion that he had heard from Bianchi.

CEO Wright said the Town had obtained a copy of the video recording of the meeting by Lincoln County TV. The tape stopped before the motion, and continued as Bianchi was being asked to restate his motion. Bianchi made a second motion to “not hold a public hearing on the Land Use Ordinance amendment until we can get things settled”. Wright said on the video, there was commotion from the floor, at which time the meeting chairman, Campbell, said that there was a motion on the floor, and “to the best of my understanding, the motion is to cancel the proposed land use amendments and continue to work on them.”

Myers’s interpretation was that the July 22 public meeting was called to look at the additional material proposed by the Planning Board to be added to the State’s new shoreland zoning requirements, that went beyond the State’s new shoreland zoning. She said the public information meeting was not intended to discuss the entire shoreland zoning mandate from the State.

Cohen asked whether the next step will be to go directly to public hearing, or whether there will be another public information meeting after the Planning Board has revised its recommendations. Campbell said there will be another public information meeting, and all affected landowners will receive written notice of the meeting. Wright confirmed that given the sensitivity of the issue, the town will err on the side of over notification, and that another notice would go out to landowners whose property would be affected by the state minimums.

Most of the audience left at the end of the approval of the July 22 minutes.

3. Approval of Mass Gathering Permit, Third Annual River Festival, Medomak Valley Land Trust

Liza Conry was in to present Medomak Valley Land Trust’s application to hold a mass gathering on Saturday August 22 from 11 a.m. to 3 p.m. in the parking lot behind Waltz’s Pharmacy in

Waldoboro village. The event will be similar to last year's event, except one hour shorter and with the addition of a 5K foot race.

Wright gave out copies of written comments from four municipal officials. All recommended approving the request. EMS director Mike Monck said EMS will do its best to cover the event but will be shorthanded that weekend. Public Works Director John Daigle said the dump closes at 4 p.m. He noted that the Kuhn parking lot is also available. Police Chief Labombarde suggested that with a beer tent and anticipated attendance of 400, a police detail is warranted, but noted that he did not believe this should hold up permitting. Fire Chief Paul Smeltzer had no comments. Conry said that if a police presence is required, MVLTA may decide not to offer beer, since the cost of the police would be more than the beer revenue. This is a mid-day family event; beer is served with a sit-down lunch in a special area of the tent. Flint suggested seeking off-duty police volunteers. The Planning Board agreed not to require that police be present.

Chairman Campbell went through the specific performance standards for mass gatherings on p. 5-38 and 5-39 of the 2009 Land Use Ordinance. The Land Trust's application contains the following required information: area to be used for the mass gathering; area to be used for parking (none on-site); proposed structures to be used (temporary tents); and written information addressing how traffic control, emergency medical services, and fire control will be handled. Proper containers for refuse will be provided during the event and all refuse will be taken to the transfer station. Three rented port-a-potties will be on site. Signs will be small and will not block road signs or motorists' views. With permission of landowners, two sandwich board signs will be posted on Route One the week before the event and taken down promptly after the event. There will be small signs in the village directing people to the festival and parking. Campbell determined that all requested information has been provided.

On motion of Flint/Karkow, the Board voted 4 – 0 – 1, Myers abstaining, to approve granting a mass gathering permit for Medomak Valley Land Trust for a River Festival on Saturday August 22.

4. Approval of Permit for Dock Reconstruction, Segarra, 1404 Back Cove Rd (Map R9 Lot 62)

Matt Tibbetts representing Art Tibbetts Marine Contractor was in to present plans to rebuild an existing pier on the Jay Segarra property on Back Cove Road. Abutter Dan Bolita was also present. Bolita confirmed that the original dock was built in the mid-1970s, and replaced by the present dock in the 1990s. The rebuilt structure will be the same size and footprint as the one that was storm-damaged this winter.

Applications have been submitted to the Maine Dept. of Environmental Protection, Dept. of Conservation, and U.S. Army Corps of Engineers, as well as notice to the Maine Historic Preservation Commission. The MHPC supplied a letter stating that the Segarra dock area does not contain any historic shipwrecks or other valuable historic features.

The application contains schematic diagrams of the wooden pier and seasonal ramp and float, a detailed cross-section, and photographs of the pier showing storm damage. Pressure-treated wood approved for marine construction will be used. Pilings are pinned to ledge. Wright said he and Planning Board member Abden Simmons, chair of the Shellfish Conservation Committee, visited the site and confirmed that the pier is on ledge and not in a clamming area.

The Planning Board currently has no review checklist for docks. Chairman Campbell went through the review standards in Article 7 Shoreland Zoning, p. 7-21 of the 2009 Land Use Ordinance. The proposed reconstruction will

- a) maintain safe and healthful conditions. Wood used is approved for marine use.
- b) will not result in water pollution, erosion, or sedimentation to surface waters. There will be no soil disturbance, and the pilings rest on ledge.
- c) wastewater – not applicable
- d) will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat. No change from existing dock.
- e) will conserve shore cover and visual, as well as actual, points of access to coastal waters. No change from existing dock.
- f) Site does not contain any identified prehistoric or archaeological site, according to the Maine Historic Preservation Commission.
- g) will not adversely affect existing commercial fishing or maritime activities, confirmed by visit of CEO Wright and Shellfish Committee chairman Simmons.
- h) floodplains – not applicable. Replacement of existing structure.
- i) is in conformance with the provisions of Article 7 Section F. Land Use Standards subsection 3 Piers, docks etc. (p. 7-7 and 7-8, 2009 Land Use Ordinance):
  - a) Siting: This is a replacement of an existing dock not located over mudflats that are active or potential shellfish harvesting areas.
  - b) Appropriate soils: Shore access point is on riprap and no soil disturbance is required for the reconstruction.
  - c) Beach areas: Not applicable. There is no sand beach at this location, just ledge, gravel patches, and rockweed.
  - d) Fisheries: The existing dock location minimizes adverse effects on fisheries. It is not located in an area of clam flats, as confirmed by Wright and Simmons.
  - e) Size: The reconstructed dock will be the same size as the one it replaces.
  - f) Structures: Not applicable. No structures are proposed to be built on, over or abutting the dock.
  - g) Prohibition on conversion: Not applicable. There are no existing structures on the dock.
  - h) Structure height on docks: Not applicable.

On motion of Myers/Karkow, the Board voted 5 – 0 that the Segarra dock application meets all of the requirements of the Land Use Ordinance. On motion of Myers/Karkow, the Board voted 5- 0 that a permit be issued for reconstruction of the Segarra dock.

Simmons joined the Planning Board at the conclusion of this agenda item, at 7:55 p.m.

#### 5. Review of Application for Two-Lot Subdivision, Expansion of Skyview Ridge Mobile Home Park, Skyview Ridge LLC, 400 Friendship Road (Map U2 Lot 20-A)

Andy Roberts was present for review of his firm's application for a two-lot subdivision, to add two more mobile home lots to Skyview Ridge Mobile Home Park. See Wright's August 5, 2009 memo, "Findings of Fact – Skyview Ridge Mobile Home Park Expansion". Wright recommends that the Planning Board go through the submission requirements checklist and make a determination whether the application is complete. If it is found incomplete, the Board should specify what further information is needed.

The first paragraph of page 2 of Wright's memo suggests that the two proposed lots "meet the standards of the Land Use Ordinance with the exception of a dedicated recreational area not being

shown on the plan. Further, it states that the final submissions should include specifics of recreational components as well as the calculations used for the stormwater management plan, and an updated soil erosion and sedimentation control plan that shows only two lots.”

Chairman Campbell and the Planning Board then went through the subdivision submission checklist. The following items have been received: 12 copies of plan and application; fee paid; locus map, location map and boundary survey.

4. Existing conditions plan: The following items have been received: a) title block; b) land use district; c) existing contours; d) buildings; e) existing streets and driveways; f) existing utilities; g) significant features; i) existing surface water drainage; j) existing signs; k) easements; l) location of nearest fire hydrant; m) name and registration number of profession who prepared plan. Wetland delineation (h) was not applicable.

5. Proposed conditions plan: The following items have been received: a) title block; b) lots, lot lines; c) contours at 2-foot interval; d) design plans and sight distances of roads, driveways, parking areas; e) easements, rights of way and legal restrictions; f) location, dimensions, setbacks, buffers and proposed uses of all buildings; g) location, front view, materials and size of all signs; h) soil erosion and sediment control plan; i) storm water management plan; l) utility plan; m) landscaping plan including buffering and screening; n) professional certification; o) approval block. One item was not applicable: j) parcels dedicated to public use.

6. Written documentation: The following have been received: a) evidence of title to the property; b) description of proposed use; evidence that the project will satisfy the following general performance standards: c) air emissions; d) buffers; e) construction standards; f) electrical disturbances; g) lighting and glare; h) hydrogeologic assessment of groundwater impacts; i) net developable acreage calculation; j) noise; k) off-street parking and loading; l) refuse disposal; m) signs; n) soils; o) soil erosion and sedimentation control plan; p) subsurface sewage disposal; q) storage of materials and equipment; r) stormwater management plan; s) street access and driveways; t) traffic impact analysis; u) evidence of technical capability; v) evidence of financial capacity; w) construction schedule; x) estimated volumes of water and sewerage; y) statement from the utility providing water or sewer services that it has the capacity to accommodate the project.

Vote: On motion of Myers/Flint, the Planning Board voted 6 – 0 that all applicable application materials have been received, and the application is complete.

Campbell and the Planning Board then started through the Subdivision Worksheet for Planning Board Review. The Board completed review of the checklist for Article 4 General Performance Standards, but did not have time to review Article 5 Specific Performance Standards or Article 6 Planning Board Approval Criteria for Subdivision Review.

Article 4 General Performance Standards: The following were found applicable and conforming: A) air emissions; C) construction standards; D) electrical disturbances; G) lighting and glare; I) noise; J) parking and loading; L) refuse disposal; M) sanitary provisions; N) signs; O) soils; Q) storage of materials; S) street access and driveways.

The following general performance standards were found not applicable: B) buffer areas; E) Historic Village District architectural standards; F) Hydrogeologic assessment of groundwater impacts; H) net developable acreage calculation; K) phosphorus control; T) street/road standards; U) traffic impact analysis; V) water quality impacts.

Two general performance standards need more information: P) soil erosion and sedimentation control, and R) stormwater management. Campbell said he does not think a note on the plan “The contractor will do what’s right” is sufficient regarding soil erosion and sedimentation control. Roberts said he has addressed soil erosion and sedimentation control in a separate note to Wright. For stormwater management, there is a note on the plan, and calculations have been provided to Wright, but not distributed to Planning Board members until tonight’s meeting. Wright said that the Public Works Director/Road Commissioner requests that a stormwater management plan be done for the whole mobile home park, not just the two lots being considered tonight. Roberts said it is unreasonable to delay approval of his two-lot subdivision until a stormwater management plan for the whole park is available, when Greiner’s calculations indicate that development of the two proposed lots will not significantly increase erosion or stormwater flow. Wright said the results of a stormwater management plan for the whole park might show a worse situation for the two proposed lots. Roberts argued that he is making no changes to the rest of the park, so he should be required to address stormwater only on the two proposed lots.

Roberts has submitted stormwater calculations done by Drew Greiner of Corner Post Surveying showing the existing runoff before adding two trailer pads, the runoff after adding the gravel pads, and runoff after construction of a riprap ditch along Lot A. These calculations are dated August 12 and had not been seen by the Planning Board previously. Greiner concludes that “there should be no more erosion out at the street after the development than before the proposed development”.

Wright said that the Land Use Ordinance gives the Planning Board the right to require review of stormwater calculations by an outside engineer, or the Knox-Lincoln Soil and Water Conservation District. Flint said that the runoff from the mobile home park uphill from new lots A and B is relevant and should be known. On motion of Flint/Myers, the Board voted 4 – 2 (Karkow and Campbell opposed) to get an opinion from the Knox-Lincoln County Soil and Water Conservation District. Myers said the Board does not have a stormwater management plan for the whole mobile home park, which predates the Land Use Ordinance. Roberts has told the Board that there are problems with stormwater runoff in the immediate area. The Board would like to know how the two proposed lots relate to the stormwater runoff from the park as a whole. This means that stormwater management (Item R under Article 4 General Performance Standards) is on hold and cannot be found conforming at tonight’s meeting.

The Planning Board stopped at the end of Article 4 of the submission checklist. Article 5 Specific Performance Standards and Article 6 Planning Board Approval Criteria for Subdivisions will be reviewed at the next Planning Board meeting.

Roberts asked the Planning Board if they would vote on acceptance of his proposal for open space/recreation. Roberts wants to know whether this plan will satisfy the Board’s interpretation of the Ordinance requirement for common open space and recreation space separate from that on individual mobile home lots. Wright’s memo suggests (next to last paragraph on p. 2) that Roberts provide a “tree-lined sidewalk that extends from Friendship Road to the open space area on the plan” to provide a common recreation area separate from the private space available on the mobile home lots. Roberts gave out copies of a sheet titled “Open and Recreational Space” with a labeled diagram showing the proposed Open Space and Recreational Space. The Open Space area, 3676 s.f., is located behind the bowling alley lot. It contains a bench, a flower garden, and a dog exercise area. It is shown as connected to Friendship Road by a 4400 s.f. Recreational Space consisting of a sidewalk along the south side of the road to the mobile home park, separated from the road by a grass strip on both sides of the sidewalk and a row of trees. Elsewhere, Roberts specified that the trees would be planted by the new owner of the bowling alley building as part of the required

vegetative buffer of that building, and that the line of trees would not extend any farther toward Friendship Road than the building. The sidewalk is to be 36” wide with a two-foot depth of pea stone packed over a gravel base.

Wright said he would like to see more specificity in the plan for the Recreation Area. It should show that there is grass on both sides of the walkway, and show where the trees go. Roberts said there will be grass on both sides of the sidewalk all the way to Friendship Street, but he does not think there should be trees along the front parking lot of the bowling alley lot.

On motion of Myers/Simmons, the Board voted 6 – 0 to accept Patrick Wright’s conceptual compromise regarding open space and recreation space, specifically accepting Mr. Roberts’s plan, and that grass and sidewalk will extend from the open space area all the way to Friendship Street.

Written Review Comments by Municipal Officials

Fire Chief Glidden and Police Chief Labombarde recommended approval of the proposed two-lot subdivision without comment. Director of Emergency Medical Services Monck recommended approval but requested that a directory of lots be placed at the entrance to the park, to assist EMS, fire and police in locating residences. Road Commissioner Daigle declined to recommend approval until more information is submitted. His comment is that drainage issues should be addressed with the State Dept. of Transportation to solve erosion problems.

6. Vote to Approve DePatsy One-Lot Subdivision, 402 Friendship Rd. (Map U2 Lot 20)

The agenda for the July 8 Planning Board meeting called for review of a proposed one-lot subdivision of land of Dominic and Nicholas DePatsy as well as site plan review for Benson’s proposed bowling alley/family entertainment center on that lot. The vote taken was to approve the Benson site plan only. At tonight’s meeting, on motion of Myers/Karkow, the Board voted 4 – 0 – 2, Perry and Simmons abstaining, to clarify that approval for issuance of a permit for Donald and Kelly Benson was also approval for a one-lot subdivision of Nicholas and Dominic DePatsy at 402 Friendship Road (Map U2 Lot 20).

7. Next Ordinance Revision Meeting: Wednesday, August 26, 7:00 p.m.

Adjournment: The meeting was adjourned at 9:55 p.m.

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Charles Campbell, Chairman

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Charles Flint

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Edward Karkow

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JoAnn Myers

Submitted by:

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Jonathan Perry

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Susan S. R. Alexander

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Abden Simmons

WALDOBORO PLANNING BOARD