

Approved on August 8, 2018

Minutes  
Town of Waldoboro  
Planning Board Meeting  
July 11, 2018

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Roll Call

The meeting was called to order by Chairman Scott Simpson at 6:06 p.m. in the meeting room at the Municipal Building. Other members present were Sara Hotchkiss, Laura Mewa, Tara Pelotte, and Ted Wooster. Planning and Development Director Max Johnstone was present. There was no audience.

1. Approval of Minutes of June 13 and June 27, 2018

On motion of Wooster/Mewa, Planning Board members voted unanimously to approve the minutes of June 13 as amended to change the last sentence in the second paragraph under Item 2, at the top of p. 2, to read in full, "Planning Board member Pelotte did not participate in this agenda item, stating that she has a conflict of interest."

On motion of Hotchkiss/Mewa, Planning Board members voted unanimously to approve the minutes of the June 27 Planning Board meeting as distributed.

2. Pre-application Discussion, Carlson, Medical Marijuana Office ± Retail Sales, 760 Atlantic Hwy. (Tax Map R4 Lot 20)

Tim and Eric Carlson were in to present plans for occupying part of the building that currently houses the Midcoast Vape Shop on Route One. They are a father and son, both medical marijuana caregivers. They want to rent office space in which to meet privately with their 10 medical marijuana patients. They may also want to open an accessories store for use by patients and non-patients, selling mainly plug-in vaporizers. This would require a separate entrance for the store. The proposed location is in the Route 1 Commercial A land use district.

Pelotte recused herself from participation in this agenda item.

Johnstone said that half the building is already in use for retail sales. The other half was previously approved for retail auto sales. The proposed marijuana accessories shop is a different kind of retail sales, requiring separate evaluation and approval. Simpson asked whether the Carlson's plan to keep marijuana products on site when the office is closed. Eric Carlson said that they would keep only two days' worth of products on-site. Simpson said that another pair of medical marijuana caregivers, Renée Grover and Jamie Barstow, received Planning Board approval on June 27 for retail sales of medical marijuana products at Cider Hill Farm, 777 Main St. They will also meet with private patients in a private office in the same building. Grover and Barstow will not be storing any marijuana products on-site overnight. Tim Carlson said he and

his son are willing to do likewise if it seems best. Simpson suggested that the Carlsons talk with the Police Chief.

### 3. Election of Planning Board Chairman Simpson and Vice Chair Pelotte for 2018 - 2019

No new Planning Board member has yet been appointed to replace Marcia Smolin, who did not seek reappointment.

Laura Mewa reported that she is no longer a Waldoboro resident. She now lives on Jefferson Road in Washington. She has sold her house in Waldoboro, with closing on August 14. Since she is not a Waldoboro resident and will soon no longer own property in town, she cannot continue on the Planning Board. This means that there are two Planning Board vacancies to fill.

On motion of Wooster/Hotchkiss, Planning Board members voted 4 - 0 - 1, Simpson abstaining, to elect Scott Simpson as Planning Board Chairman for 2018 - 2019.

Hotchkiss does not want to continue as Vice Chair. On motion of Hotchkiss/Mewa, Planning Board members voted 4 - 0 - 1, Pelotte abstaining, to elect Tara Pelotte as Vice Chair for 2018 - 2019.

### 4. Revisions to Waldoboro Land Use Ordinance Article 7, Shoreland Zoning

Johnstone gave out copies of the 7/11/18 revised draft of the Shoreland Zoning Ordinance for discussion. Planning Board members went through the text discussing desired changes.

p. 7-1 C. Applicability: Simpson asked whether the last sentence in C, “On-site studies may show a need to revise this list.” should be deleted. This sentence was in the last previous version of Article 7. The group decided to leave this sentence in the text.

p. 7-3 Footnotes (2) and (3) at the bottom of the page do not refer to anything in Table 1. Their text is deleted and replaced with the word “*Removed*” in italics. Mewa said that footnotes (2) and (3) also do not refer to anything in the 2014 version of Article 7.

p. 7-8 and 7-9 f. Stairways: Simpson said it is illogical that stairways cannot “extend below or over the normal high-water line of a water body”, while piers and docks are allowed to extend “over or beyond the normal high-water line of a water body” (F. 3., p. 7-9). He has a steep bank on his property going down to the water. He has built a rock stairway that extends below the high water line. Johnstone will check with Bill Najpauer tomorrow to see if this ordinance language is State-mandated, and will e-mail Simpson. Wooster said stairways are not allowed to alter the terrain or to cause erosion. Simpson’s rock stairway helps prevent erosion by stabilizing the bank.

p. 7-9 3 b. Siting of piers, docks, etc. extending over or beyond the normal high-water line: The language of this section says that docks or other structures built over mudflats are permitted only for commercially licensed marine-related use. “Structures for private or recreational uses are prohibited over mudflats that are active or potential shellfish harvesting areas.”

Johnstone will check with Najpauer about the second paragraph of 3. b., which prohibits new permanent piers or docks on non-tidal waters “unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the DEP, pursuant to the Natural Resources Protection Act”. He will ask Najpauer whether a permit should be required.

p. 7-17 15. Agriculture b. Manure storage: Pelotte asked about the minimum required setback of manure piles from water bodies. The text calls for a minimum setback distance of 100 feet, horizontal distance, from a great pond, a river flowing to a great pond, or from other water bodies, tributary streams, and wetlands. Manure storage areas within the shoreland zone must be constructed such that they produce no discharge of effluent or contaminated storm water. Smolin has said that a smaller setback would be a problem for her.

Pelotte asked whether there should be a farmland exemption as an overlay on this section in order to determine how many Shoreland Zone landowners might be affected. Simpson recalled that Boardman or Najpauer was going to look into this. Neither of them was present at tonight's meeting. Wooster said that Sara Gladu can provide advice about setbacks for manure storage. She works for the Maine Dept. of Environmental Protection. If she is not available, we could consult Mark Hutchinson at the Cooperative Extension office in Waldoboro. Wooster said it is important that testing be done as necessary. Simpson said the Planning Board has insufficient knowledge to make a text change at this time, and recommended coming back to the matter at a future time. Simpson said that regulations about manure storage should take into account the volume and condition of the manure. He gets manure in the fall and stores it on-site for application in the spring. You cannot tell by looking at a pile of manure how old it is, or how potent, or what it is made of. Action: Johnstone was asked to consult Barbara Boardman, who is a farmer as well as a Planning Board member.

p. 7-17 15. Agriculture c. Soil tillage in excess of 40,000 square feet: In line 3, the words "State-approved" should be added before "Conservation Plan" in the Definitions (Article 16) Johnstone has not yet done this. The change is only to the Definitions, not in the text of Article 7.

Planning consultant Najpauer says that individual conservation plans are to be filed with the Maine Department of Agriculture. They are to be approved by the State, not by the local Planning Board.

p. 7-18 15. Agriculture e. Setbacks: Next to last line: Add "State-approved" before Conservation Plan, in Definitions section (same as on p. 7-17: no change to text, only in Definitions).

p. 7-18. 16. Timber Harvesting: The three lines here are proposed new text, which Johnstone read to the Planning Board. He said that the Planning Board must vote on the new language.

p. 7-18 #17, to p. 7-32: No further changes to Article 7 Shoreland Zoning were discussed.

Action: Johnstone said that the Planning Board must have completed its recommended revision of the Shoreland Zoning Ordinance by the end of August, in order for there to be a Town vote in November to amend the Shoreland Zoning Ordinance. The Planning Board should vote to approve revisions to Article 7 Shoreland Zoning at its regular meeting on August 8.

##### 5. Revisions to Waldoboro Land Use Ordinance Article 10, Non-Conforming Uses

Johnstone gave out copies of revised text of Article 10 Non-Conforming Uses, dated 7/11/18. He said that it contains the changes Simpson and the Planning Board wanted. These were not identified or discussed.

p. 1 A. Purpose: The last sentence under Purpose is intended to refer to abutting non-conforming properties in common ownership. The intent is that one or more of such properties may be made more non-conforming provided that the non-conformity of the remaining lot(s) is lessened by an equivalent amount.

Section D. 4 on p. 3 and 4 addresses existing non-conforming uses. Johnstone gave out copies of a new table to be inserted on p. 4 after e. Foundations and just above 5 Relocation, titled "Expansion limits for existing non-conforming structures". He will change the font to conform to the rest of the text.

##### 6. Discussion of Municipal Climate Adaptation Guidance Series – deferred

At Najpauer's request, this agenda item was deferred until the next meeting at which he is present.

##### 7. Discussion of Relocation of Farmers' Market to Grounds of Town Office, 1600 Atlantic Highway

Mewa asked about the procedure for approving relocation of the Wednesday afternoon farmers' market from Cider Hill Farm, 777 Main St., to the grounds of the Town Office, 1600 Atlantic Highway. Should this move have been reviewed by the Planning Board before being finalized? Operating a farmers' market on the

grounds of the Town Office is a change of use. The vendors wanted a more visible location to attract more customers.

Mewa said the Town Office grounds is a poor location for a farmers' market. Simpson agreed. There is limited parking on site. Pedestrians and children playing in the driveway are an obstacle to emergency vehicles. Police cruisers, fire engines and ambulances need to be able to leave the grounds quickly to respond to emergencies.

Hotchkiss said that Planning Board members are speaking about the farmers' market as private citizens, not as members of the Planning Board. Johnstone said that Planning Board members could issue a formal statement saying that the members of the Planning Board want more parking spaces if the farmers' market is to continue at its present location. Simpson asked whether he should draft a statement from the Planning Board. Further discussion indicated he should not. This matter is best handled by Board members speaking as individual citizens.

Mewa asked to whom she should present her protest. Johnstone said he will send a note to Town Manager Julie Keizer, with a copy to Selectman Bob Butler. He will also talk with Caren Clark, a member of the Waldoboro Business Association who is on a number of Town committees. She has a table at the weekly Farmers' Market promoting activities of Medomak Valley Land Trust.

Johnstone said that the farmers' market on Town Office grounds is an experiment for this year only. Wooster suggested that an underused site is the former location of Pinkham's Garage at the corner of Rt. 32 and Atlantic Highway.

On another issue, Mewa said that the new illuminated sign at the Town Office never came before the Planning Board for approval. Simpson agreed that the sign may not meet ordinance requirements. Johnstone said that sign permits are issued by the Code Enforcement Officer.

#### 8. Land Use Ordinance Revision Committee

Johnstone said that a Land Use Ordinance Revision Committee needs to be formed, with some 10 - 15 people. It would be helpful if at least one person from each Town committee would serve on the LUO Revision Committee. Pelotte has volunteered to serve. Johnstone hopes that Boardman will be willing to serve.

#### 9. Next Regular Planning Board Meeting: Wednesday, August 8, 6:00 p.m.

Johnstone said that the Carlson application (Item 2 in tonight's minutes) will likely be the only item of regular business at the August 8 Planning Board meeting.

Adjournment: The meeting was adjourned at 7:45 p.m.

Respectfully submitted,

Susan S. R. Alexander

#### Action Items

##### Johnstone

Farmers' Market: Send a note to Town Manager Julie Keizer about concerns about location of farmers' market on the Town Office grounds, with a copy to Selectman Bob Butler. Talk with Caren Clark. Should the Planning Board have been consulted about the change of use before it was approved? Consult Police Chief, Fire Chief, EMS Director about problem with shoppers and children in driveway impeding emergency vehicles.

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Add map and lot reference and street address for Vape Shop location (p. 1, Item 2), which is also the Carlson proposed location.

Check with Najpauer about the second paragraph of 3. b., p. 7 - 9 (next to last paragraph, p. 2 of draft minutes); ask whether a permit should be required.

p. 2, last paragraph, add "State-approved" in Definitions, LUO Article 13 or 16 (decide which number to use).

LUO p. 7-17 15 c, in line 3 add "State-approved"

p.3 p. 7-17 Agriculture – Manure storage: consult Barbara Boardman.

p. 3 LUO p. 7-18 15 Agriculture e. Setbacks : add "State-approved".

p. 7-18 16 Timber harvesting: Planning Board must vote on new language.

p. 3 Action item, just above Item 5: PB should vote to approve revisions to Shoreland Zoning Ordinance by end of August. Put on Aug. 8 agenda.

p. 3 Revisions to LUO Article 10 Non-Conforming Uses.

Change font of new table on p. 4 just above 5. Relocation, to conform with rest of text.

Big question: Will townspeople be voting on LUO revisions this November? or will there be a Land Use Ordinance Revision Committee composed of members of other Town committees, that will work on revising the LUO, taking a year or so, with Town vote deferred until that committee has completed work? Or both??