

Minutes
Town of Waldoboro
Planning Board Meeting
February 20, 2019

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Roll Call

The meeting was called to order by chairman Scott Simpson at 6:15 p.m. in the staff room (*verify what to call this area*) at the Municipal Building. Other members present were Barbara Boardman, Tara Pelotte, Jim Russo and Ted Wooster. Planning and Development Director Max Johnstone was present. A quorum was present throughout. There was no audience. The meeting was not videotaped. Tonight was Russo's first meeting. Board members introduced themselves and gave brief summaries of their background.

1. Minutes of January 9, 2019 – approved as amended

On motion of Wooster/Pelotte, the Board voted 4 - 0 - 1, Russo abstaining, to approve the minutes of January 9 as amended to add an "e" at the end of "Johnstone" in the first line of the second paragraph on p. 3.

2. Discussion of Revisions to Land Use Ordinance Article 7 Shoreland Zoning and Article 10 Non-Conforming Uses

The Planning Board completed draft updates and revisions to LUO Article 7 Shoreland Zoning and Article 10 Non-Conforming Uses at its meeting on August 22, 2018, for presentation to the Select Board at its meeting on August 28. Local ordinance language must be reviewed by the State for compliance with State regulations before being adopted. Town ordinances can be more restrictive than the State's model ordinance, but not less restrictive. Revisions to the Land Use Ordinance must be approved by Town vote. The next such vote will be in June, 2019.

In 2018 the Planning Board recommended a minimum required setback distance from the water of 100' for manure storage, tilling and grazing (*verify latter two*). The Select Board referred the manure storage setback back to the Planning Board for further consideration. Simpson summarized the current status of the Planning Board's investigation in draft memos sent to Planning Board members in advance of tonight's meeting and intended to be sent to the Select Board. These memos were reviewed at tonight's meeting. They could be used to explain the proposed ordinance changes to members of the public in advance of Town vote.

Boardman said that State inspections of manure storage sites near the water are generally done by boat. She questioned whether such inspections provide an adequate survey of manure storage sites, especially ones near wetlands and creeks that drain to water bodies. Simpson said that people from the Maine Dept. of Agriculture and Dept. of Marine Resources have told him that Agriculture is responsible for health assessments on land that drains into wetlands and water bodies.

Simpson said that when the alewives are running in the Medomak River, thousands of seagulls come to the area below Mill Street to feed on the fish. Bird droppings have a very high concentration of bacteria. Johnstone has spoken with Damian Brady [*verify spelling*] at the School of Marine Sciences at University of Maine [*verify*] about bacterial testing in the Medomak. They sample the river and send samples to the

University of New Hampshire for testing. To date they have found no evidence of pollution of the river water by bacteria from livestock. This negative finding is used to suggest that the current minimum required setback distance of manure storage from the water is adequate, and does not need to be increased. Johnstone will send Simpson a summary of the information he got from Brady. Johnstone said he has not talked directly with the man at UNH who does the water quality testing of samples from the Medomak River. The results of the bacterial analysis are sent to the Maine Dept. of Marine Resources. Simpson said that Waldoboro Town Manager Julie Keizer has sent him water sampling data for the Medomak for the last 10 years. He finds the data not easy to comprehend or summarize. If the Town wants to increase the minimum setback of manure storage from the water in the Shoreland Zoning Ordinance, we need to be able to present credible data on why this is needed. Simpson believes that we do not currently have the data, resources or time needed to justify increasing the minimum setback distance for manure storage to more than 100' from the water.

Boardman favors increasing the minimum required setback distance for manure storage, due to the increasing severity of flooding from rain events and the prospect of sea level rise due to global warming. She said that increasing the minimum setback distance for manure storage by 25' is not a major change that would create hardships. It is the length of a pickup truck. We should be proactive, and plan for the future.

Simpson said that Matthew Randall, Agriculture Compliance Supervisor for the State of Maine, says that the minimum setback distance should be based on local soil types. Mark Hedrich, Nutrient Management Director at the Maine Dept. of Agriculture, says that we would need to provide data on local soil types and slopes in Waldoboro on order to justify increasing the setback distance. Boardman questioned whether either man has considered the effects of increased rainfall events. Pelotte said this is something that should be revisited as part of the overall Land Use Ordinance/Comprehensive Plan revision project.

Wooster said the Shoreland Zoning Ordinance should prohibit creation of large impervious areas close to the water, which increase run-off and accelerate its velocity. Pelotte said that Waldoboro appears to have a very specific septic setback ordinance. She suggested that in a time when we are attempting to grow Waldoboro economically, it could harm the Town's ability to attract new buyers or investors if local ordinances appear to be too restrictive. Wooster said it would be wise not to antagonize people who don't want more restrictions, or else the proposed ordinance revisions might not be approved at Town Meeting.

Simpson said this is a risk/benefit calculation. Some Planning Board members favor making new quantitative restrictions on farmland activities, for an unknown benefit. We sent the proposed changes to the Shoreland Zoning Ordinance to the local Shellfish Conservation Committee for their input; they had no comments. The Shellfish Committee includes fishermen and clambers, people who are directly affected by water quality.

Johnstone said that China and Waldoboro are the only two towns in Maine that want to increase the minimum setback distance for manure storage to 100' from the water.

Russo said groups in Damariscotta are collecting data to be given to a graduate student for analysis. They plan to collect water samples from rainfall events over 2" for the next 20 years. Waldoboro could reconsider runoff data and evaluate the need for increasing the shoreland setback in light of new improved data.

Simpson said that closing the clam flats to fishing is not only an economic issue, it is a health issue. Abden Simmons is a local clam buyer, Select Board member and member of the Shellfish Committee, who works on water quality testing in the Medomak River. We could invite Simmons to meet with the Planning Board and talk about the water testing program in the river. The Shellfish Committee had no problem with the proposed revisions to the Shoreland Zoning Ordinance when we consulted them and asked for input in 2018. Wooster said that Waldoboro is tops in the state in shellfish production. It is in everyone's interest to maintain a quality product. Boardman said that a man made a presentation to the Select Board a couple of years ago about water quality in the river (*verify*). We could find out whether that presentation is available on video, and perhaps view it either at a meeting or individually. Simpson said the Planning Board is not a scientific board. We are not going to come up with different numbers from the experts.

At 7 p.m. Simpson called for a motion to submit draft Land Use Ordinance Articles 7 and 10 to the Select Board as previously revised, with no further changes to the minimum required shoreland setbacks, and to request the Select Board to place the revised articles on the warrant for Town vote. VOTE: On motion of Wooster/Pelotte, Planning Board members voted 4 - 1, Boardman opposed, to re-submit revised Land Use Ordinance Articles 7 and 10 to the Select Board for consideration to be placed on the warrant for Town vote. This is the revision previously approved by the Planning Board at its August 22, 2018 meeting and discussed at the Select Board meeting of August 28, 2018.

Discussion

- Boardman suggested consulting Maine Farmland Trust about appropriate setbacks for manure storage.
- Pelotte said that some 60 farmers own land in the Shoreland Zone in Waldoboro. She suggested talking with farmers to try to interest them in using Best Management Practices.
- Simpson asked Boardman to send him her suggestions on the proper shoreland setback for manure storage. He is open to including a paragraph of dissenting comments. Any comments from other Planning Board members are welcome.
- Russo, who was not on the Planning Board during the 2018 shoreland zoning revision, asked what changes have been made by the State, and by the Planning Board, since the current version of the local LUO was adopted. He asked if new material could be indicated by bold face type. Simpson said the State has made many more changes to Article 7 than to Article 10. He will look again at Article 10. The State added a whole new section to Article 10, and the Planning Board added a table.
- The Planning Board could hold a public information meeting about the revised ordinances the day after the Select Board meeting at which the proposed revisions are presented, or at a later date if changes are made.

3. Planning Board Comments

Simpson spoke in favor of having more site visits. Pelotte called for simplifying the application process. Perhaps routine changes of use could be handled by the Code Enforcement Officer, with the Planning Board approving more complex or major applications.

4. Town Planner's Report

Johnstone described recent changes to the draft local ordinance regarding medical marijuana, including possible prohibition of medical marijuana dispensaries, and additional regulations on medical marijuana caregivers who operate out of their homes. Towns can regulate such caregivers, but not prohibit them: e.g., they can be prohibited from operating in locations within 500' of a school. The State has not yet provided sample ordinance language to guide towns.

5. Next Regular Planning Board Meeting: Wednesday, March 13, 6:00 p.m.

There will be two site plan applications for review, one being a seasonal restaurant at 14 Washington Road, postponed from tonight's meeting.

Adjournment: The meeting was adjourned at 7:42 p.m.

Respectfully submitted,

Susan S. R. Alexander

Action Items

Johnstone

Send Simpson a summary of the information you got from Brady. Confirm his name spelling and affiliation. Try to find the paragraph on water test data, and verify the person's name and title.

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Find out whether the presentation made a couple of years ago to the Select Board about water quality in the Medomak River (*verify*) is still available on video. Notify Simpson.

Find out whether the Planning Board's proposed revisions to LUO Articles 7 and 10 can be on the agenda for the Feb. 26 Select Board meeting or on March 12; confirm the date and time to Planning Board members.

Insert in public notice reference to snow date in event of storm cancellation on original meeting date.

Boardman

Send Simpson your suggestions about the proper setback for manure storage in the Shoreland Zone.

Simpson

Revise two summary sheets to be given to the Select Board, as needed. Distribute.

Invite Abden Simmons to meet with the Planning Board.