

Town of Waldoboro, Maine
Planning Board Meeting
May 12, 2022

Roll Call

The Planning Board meeting was called to order by acting chairman Jim Russo at 6:01 p.m. Other Planning Board members present were Barbara Boardman, remotely, and Johnny Kosnow and Sarah Rich, in person at the Town Office. A quorum was present throughout. Planning and Development Director Max Johnstone was present in person. Owner Matthew Moody attended remotely for the Muscongus Bay Storage agenda item, along with Alyssa Pulver of Gartley & Dorsky Engineering and Surveying. Anthony Gallace, Dana Ripley and Ryan Ripley were present in person for discussion of the proposed retail store at the northeast corner of Depot St. and Atlantic Highway.

1. Adjustments to the Agenda - none
2. Citizen Comments unrelated to tonight's agenda - none
3. Pre-application: Boat Storage and Self-Storage Units, Muscongus Bay Storage LLC, 2818 Atlantic Hwy. (Tax Map R13 Lot 5-1B), Moody

There is one storage unit on site at Muscongus Bay Storage. The owner, Matt Moody, proposes to add a second storage unit to the east of the existing storage building, with self-storage units located between the two buildings, behind the existing office. No change is proposed to the existing driveway entrance from Route One. The site plan shows two future stormwater treatment areas east of the new building. There is an existing culvert at the driveway entrance. Proposed site grading will not change the direction of storm runoff. All stormwater will drain off in the same direction as it does now. Boardman asked the meaning of "portable" referring to the proposed self-storage units. Moody said that the units are moveable. Russo said they are similar to the ones across from the fitness center on Rt. 32. The self-storage units will be placed on gravel. Moody was told that he might need to get a permit for the self-storage units from Code Enforcement Officer Stan Waltz, depending on how many of them there are. Russo commented that the developed portion of the lot is less than one acre. He questioned whether there is adequate space for vehicles to maneuver around the existing and proposed buildings, and to get boat trailers and vehicles into and out of the buildings. Pulver said that the Gartley & Dorsky engineers have calculated the necessary space considering the turning radius of vehicles using the site, and believe it is adequate. Kosnow asked whether there is enough room in the driveways for emergency vehicles. Moody said there is plenty of space for emergency response vehicles. Pulver said there will be security lighting on the north side of the existing office building. There will be motion-activated lighting activated by people or vehicles entering the property. Customers will have 24-hour access. Moody offered to show the site plan to Fire Chief Smeltzer. If he sees any problems, Moody will pass them along to Gartley & Dorsky to be addressed.

4. Site Plan Review: Retail Store at 1584 Atlantic Highway (Tax Map U5 Lot 11A-1), Gallace

Property owner Anthony Gallace, manager Ryan Ripley and silent partner Dana Ripley were in to discuss plans for a change of use for part of the 0.28-acre property at the northeast corner of the intersection of Depot St. and Atlantic Highway. There are currently three buildings on the site. The most northerly building has been used since 2020 as a medical marijuana caregiver's office. It is proposed to divide this structure with a partition, keeping the eastern part as a caregiver's office and using the western end for retail sales of glassware associated with marijuana use. The entrance to the caregiver's office would be through the glassware shop. The small building closest to Route One could become a farm stand selling local produce and a food stand with a kitchen to dispense hot dogs and ice cream. No exterior construction is involved. Interior construction is the addition of an interior partition dividing the northwest building. Vehicle parking will be designated with stripes. There will be four parking spaces in front of the glassware store, and four spaces near the farm stand. The driveway entrance from Atlantic Highway is planned either to be closed to

traffic, with MDOT permission, or else used as an entrance only. Vehicular access to the property will be from Depot St. over a driveway that leads to the Town Office.

Retail sale is an allowed use in the Route 1B land use district with Planning Board approval. The farm stand and the hot dog/ice cream stand might need approval by the Code Enforcement Officer rather than the Planning Board. However, the Planning Board could require that it must review the application for the farm stand and food stand, which it did later in the meeting.

The most critical issue with the application is having a retail store selling marijuana paraphernalia sharing the same premises as a medical marijuana caregiver. A Medical Marijuana Licensing Ordinance will be on the warrant for town vote on June 14, 2022. If this ordinance is approved by townspeople, the proposed retail store would be a prohibited use, since the ordinance has a retroactive effective date of April 12, 2022.

If the Planning Board determines that the Gallace application is complete, Johnstone suggests one of two courses of action: 1) Approve the application with the understanding that the approval is conditional upon results of the June 14, 2022 town vote. If the Medical Marijuana Licensing Ordinance is approved on June 14, then Gallace's glassware shop would be prohibited, and the Planning Board's approval of the shop would be void. 2) Table discussion and action on the Gallace application until a Planning Board meeting held after June 14, when the results of the June 14 town vote will be known.

Use of the existing Route 1 access driveway was discussed. The Maine Dept. of Transportation (MDOT) says that the Route One driveway could be used as an exit, but not as an entrance. Gallace said that MDOT does not want a gate closure for the driveway. Johnstone asked Gallace to provide something in writing from MDOT about this. The north side of the lot is bordered by a right-of-way to the Town Office. To access the Gallace property, vehicles would enter the right-of-way from Depot St., then immediately turn right

There was a question about the propriety of having a business that attracts kids (ice cream and hot dogs) on the same property as a medical marijuana dispensary. Gallace said that the dispensary is not open to the public. It will not be visible from the outside of the building. There will be no sign on the exterior of the building. Customers need to have a medical card and identification in order to enter the dispensary, which has access only through the glassware shop, not directly from the parking lot. There will be security cameras inside and outside the building.

Gallace said that he wants to be able to open the glassware shop in May, in advance of the town vote, even if it means that he has to close the shop after the vote. Johnstone said that he will check with Maine Municipal Association and the Town attorney and report back. He will also talk with MDOT about the entrance from Route One.

Johnstone suggested a motion to approve the proposed change of use of the Gallace parcel with five conditions:

1. The only vehicular access to this site shall be from Depot Street.
2. Parking spaces for the glassware store will be created and marked with lines.
3. The Town's attorney must confirm if the store can open before the Medical Marijuana Licensing Ordinance decision on June 14th.
4. The Planning Board permit shall be revoked if the Medical Marijuana Licensing Ordinance is approved on June 14th.
5. Tonight's Planning Board approval is only for the glassware shop. The farm stand and the hot dog/ ice cream stand components of the planned site development are not part of tonight's approval.

VOTE: On motion of Boardman/Rich, Planning Board members voted unanimously to approve the proposed change of use on the Gallace parcel at 1584 Atlantic Highway with the above five conditions. Johnstone will contact the Town attorney and the Maine Dept. of Transportation, and will ask for something in writing. If the Town attorney says that Gallace can open a glassware shop before the Town vote on June 14, Johnstone will inform Gallace and Planning Board members.

Follow-up: Johnstone will prepare a typescript of the five conditions on approval for the change of use. He will report back what the Town attorney says about opening the retail store before the June 14 town meeting.

5. Vote to Approve Minutes of the April 20, 2022 Planning Board Meeting

On motion of Rich, Planning Board members voted 3 - 0 - 1, Boardman abstaining, to approve the April 20, 2022 Planning Board minutes as distributed. Boardman was not present at the April meeting, so did not vote.

6. LD 2003 regarding Density of Residential Development

Johnstone reported that a revised version of LD 2003 has passed in the Maine legislature. It no longer requires towns to allow four dwelling units on a two-acre lot zoned for residential use, but does require allowing two dwelling units on a two-acre residential lot, if the lot can meet septic and well water requirements for two dwelling units, or is on municipal water and sewer. Maine Municipal Association will have a comment about this. Johnstone will report further at the next Planning Board meeting. Waldoboro will have to amend its Land Use Ordinance to reflect the new density standard.

With reference to Item 9 below, Boardman said that it is asking a lot, to expect Planning Board members to be qualified to make a decision about whether a denser development will not adversely affect ground water. The Planning Board may have to require applicants to hire a hydrologist to address this issue and provide evidence.

7. Term Renewals

If Boardman and Russo are willing to continue to serve on the Planning Board, they will need to be reappointed this summer.

8. Land Use Amendments

These are not on the June warrant for Town vote, but will be voted on in November. Russo asked Johnstone to find out the latest date on which we can hold a public hearing in order to get a article on the warrant for Town vote in November, and notify the Planning Board.

9. Findings of Fact and Conclusions of Law

Johnstone sent Planning Board members a Finding of Fact template at 4 p.m. today, which was not on tonight's agenda and was not discussed. There should be an official written document from the Planning Board that outlines the application and the Planning Board's decision, apart from the Town Planner's summary. Johnstone was asked to investigate whether Planning Board members incur any personal liability when approving such a document as part of the permit approval process.

Next Regularly-Scheduled Planning Board Meeting: Thursday, June 16, 6:00 p.m.

The next regular Planning Board meeting should be held after the Town vote June 14.

Adjournment: The meeting was adjourned at 7:30 p.m.

Respectfully submitted,

Susan S. R. Alexander
Recording Secretary

Action Items – Johnstone

1. Make a list of the five conditions for approval of the change of use of the Gallace property. Send to Planning Board members and secretary (done, 5/16/22)
2. Check with Town attorney about Gallace opening the glassware store before the June 14 Town meeting.
3. Consult MDOT about closing the Rt. 1 driveway on the Gallace lot, or using it for entrance only, not exit.

4. Find out whether Planning Board members incur any personal liability when approving a Finding of Facts document as part of the permit approval process.
5. Contact Secotte, find out when he will be ready to come before the Planning Board regarding the trucking terminal at 3425 Atlantic Highway.
6. Find latest date for a public hearing in order to place an article on the warrant for town vote in November, 2022.