

Approved on June 13, 2018

Minutes  
Town of Waldoboro  
Planning Board Meeting  
May 9, 2018

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Roll Call

The meeting was called to order by Chairman Scott Simpson at 6:07 p.m. in the meeting room at the Municipal Building. Other members present were Barbara Boardman (at 6:30 p.m.), Sara Hotchkiss, Laura Mewa, Tara Pelotte and Marcia Smolin. Planning and Development Director Max Johnstone was present. There was no audience.

1. Minutes of April 11, 2018 – Approved as Amended

On motion of Pelotte/Mewa the Board voted 3 - 0 - 2, Mewa and Simpson abstaining, to approve the April 11 minutes as amended to include a new second paragraph under Item 2, Mushrall's dog boarding kennel, and a revised first sentence in the second paragraph on p. 2 regarding lower-level office space in Goldenson's building at 4 Bremen Road. The new second paragraph in Item 2 on p. 1 reads, "Pelotte asked whether the new pens will have insulation for warmth and to reduce noise. Mushrall said she does not plan on any insulation, just plywood panels." Boardman joined the meeting after the vote on the April 11 minutes.

2. Review and Revision of Land Use Ordinance Article 7 Shoreland Zoning

Planning Board members reviewed copies of a 3/28/18 draft of the Shoreland Zoning ordinance, given out at the meeting. Proposed new text is shown in gray highlighting, along with some questions and comments from secretary Alexander, for discussion by the group. Johnstone said we have to present recommended Shoreland Zoning changes to the Select Board. Then there will be a public hearing, before a vote in November. We missed the deadline for getting on the warrant for Town vote this June.

p. 7-3. Footnotes 2 and 3 at the bottom of p. 7-3 do not appear anywhere in Table 1 Land Uses in the Shoreland Zone. Johnstone will check what land use(s) in the table should have these footnotes. Mewa thinks that Simpson brought this discrepancy up at a previous meeting. Johnstone will check earlier versions of Planning Board discussion of LUO Article 7 Shoreland Zoning.

p. 7-8. Planning Board members agreed that 7) c) should remain "as is": lawn grass is not permitted within the vegetated buffer area within 25 feet of the normal high-water line. One reason is that landowners might fertilize lawn grass in that area, and we do not want use of fertilizers that close to the water. Add a semi-colon after "buffer area".

p. 7-17 15 Agriculture subsection b. Manure storage. Boardman suggested increasing the required setback distance from water bodies for manure storage to 150', from 100'. Simpson said that manure spreading (15. a, p. 7-17) is governed by State guidelines. He is not opposed to change, but we need to know the rational basis for the change. Boardman said we should make a list of questions to be addressed. We have not yet considered the effects of sea level rise. Simpson said the subsections about manure in #15 say nothing about the age or amount of manure. Boardman said that State regulations specify that if you have a certain number of animals, you have to have a manure pile that meets State standards. Simpson wanted more specifics, and

asked Johnstone to contact planning consultant Bill Najpauer. Smolin said it would be a hardship for her to be required to relocate her manure pile further back from the water or wetlands.

p. 7-17, 15 Agriculture subsection c. Planning Board members discussed the language requiring a conservation plan “to be filed with the Planning Board” for soil tillage in excess of 40,000 square feet within the shoreland zone. Is this required State language, or can we modify it? Johnstone will check with Najpauer. Does the Planning Board have the right and duty to approve the conservation plan? If not, then perhaps the conservation plan should be filed with the Planning and Development Director or the Code Enforcement Officer, rather than with the Planning Board. If conservation plans are indeed to be reviewed and approved by the Planning Board, or by a local official, what criteria should be applied, and where are the criteria specified? Johnstone will consult Najpauer. Simpson favored changing the sentence to “approved by the Planning Board”, or if this is not legal, then “filed with the Code Enforcement Officer”, subject to input from Najpauer.

Pelotte thinks that Najpauer told us that the Planning Board has no authority to approve or modify a conservation plan for activities in the shoreland zone. Johnstone will consult Najpauer. Simpson asked whether the State requires a conservation plan, and if so, what are the criteria. Boardman suggested checking with the Natural Resources Conservation Service.

p. 7-18 top of page, 15 Agriculture subsection d Tilling Setback: Same issue: Should the last sentence of subsection d. be revised to read, “Operations in existence on the effective date of this Article and not in compliance with this provision may continue, provided that such tilling is conducted in accordance with a Conservation Plan approved by the Planning Board.” This is the same issue discussed in 15 Agriculture subsection c above, namely, whether the Planning Board has the authority to approve the conservation plan for tilling within the tilling setback. If not, then perhaps the conservation plan should be filed with the Planning and Development Director, or the Code Enforcement Officer, rather than with the Planning Board.

p. 7-18 15 e. Setbacks – livestock grazing. Same issue, whether the required conservation plan should be “filed with the Planning Board” or “approved by the Planning Board”, or neither. Johnstone to consult Najpauer.

p. 7-18 16. Timber Harvesting. Simpson suggested changing the first sentence to read, “Timber harvesting on lots of two acres or more within the shoreland zone must follow the Maine Bureau of Forestry guidelines.” Later, Simpson said that the Bureau of Forestry regulations govern all timber harvesting in Waldoboro, and that we should change the LUO to reflect this. Boardman suggested deleting the reference to the web site [or, “adding a reference to the appropriate website”? *Ask Boardman which is right!*] If the second sentence in section 16 is retained, Simpson questioned whether “Waldoboro Planning Department” is the right title.

The definition of “Timber Harvesting” in the Definitions chapter on p. 16-26 of the Land Use Ordinance includes the following two sentences: “The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Article 7. K. 17. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting”.

Simpson said that timber harvesting is allowed on lots of 2 acres or more in the shoreland zone. Boardman disagreed. Johnstone will get a copy of the timber harvesting rules from the State. This will be an item for discussion at a future meeting.

p. 7-29 G. Shoreland Zoning Administration, Section 4 Procedure for Administering Shoreland Zoning Permits, subsection c: Johnstone has changed the text to read that the Planning and Development Director, not the Planning Board, shall note the date and time of receipt of each application.

Shoreland Zoning Definitions

A handout at tonight's meeting was a sheet titled "Shoreland Definitions" with suggested definitions for "footprint", "hazard tree", "non-native invasive species of vegetation", "invasive species", "sapling", "seedling", and "tree". Planning Board members discussed each definition.

**Footprint:** The entire area of ground covered by the structure(s) on a lot, including, but not limited to, any cantilevered or similar overhanging extensions, as well as unenclosed structures such as patios and decks. Mewa suggested deleting "cantilevered" as not generally understood. Boardman said it is an architectural term with a specific meaning. The consensus was to keep the definition as shown on the sheet. Boardman would like to include the driveway (or perhaps only impervious driveways) in computing the total footprint of manmade structures on a lot. Pelotte said that "hardscape" refers to all manmade impervious areas on a developed lot. Boardman asked whether the word "footprint" is ever used in the Land Use Ordinance. Pelotte asked whether "footprint" is used consistently in the LUO.

**Hazard tree:** Mewa did not like the definition. She asked who makes the decision that a tree "poses a serious and imminent risk".

**Invasive Species:** The definition was modified to read [*added words in bold face type*]: Plants, animals or pathogens that are non-native (or alien) to the ecosystem under consideration and whose introduction or spread causes, or is likely to cause, harm.

**Sapling:** a tree specimen that is less than two (2) inches in diameter at four and one-half (4.5) feet above ground level.

**Seedling:** a young tree specimen that is less than four and one-half (4.5) feet in height above ground level.

**Tree:** We did not resolve the conflict in defining "tree" as "a woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity", while using the word "tree" also in the definitions of "sapling" and "seedling", both of which have trunks smaller than two inches at 4.5 feet above the ground.

[Webster's Seventh New Collegiate Dictionary (1963) defines "tree" as "a woody perennial plant having a single, usually elongate, main stem generally with few or no branches on its lower part". "Sapling" is defined as "a young tree, specifically one not over four [*sic!*] inches in diameter at breast height". "Seedling" in this context is defined as "a tree smaller than a sapling".]

Planning Board members suggested adding definitions of: buffer (the way it is used in the text does not agree with the definition in Article 16); conservation plan; herbaceous (or, "Vegetation, herbaceous"); pathogen; and shoreland buffer.

3. Comments from Planning Board Chairman Simpson

Simpson thanked Vice Chair Hotchkiss for chairing two meetings while he was away, and thanked all Planning Board members for continuing to work on ordinance revision and other Planning Board issues.

4. Next Meeting: Wednesday, June 13, 6:00 p.m.

The agenda includes two applications: one regarding telecommunications, the other an application for a new retail store and caregiver facility at Cider Hill. Planning consultant Bill Najpauer will talk about the Municipal Climate Adaptation Guidance document handed out at today's meeting.

Adjournment: The meeting was adjourned at 8:17 p.m.

Respectfully submitted,

Susan S. R. Alexander

### Action Items

#### Johnstone

Send Simpson copies of the approved minutes of the February 14 (approved March 28) and March 28 (approved April 11) Planning Board meetings. Both sets of minutes were approved as distributed.

Consult with Bill Najpauer whether the required conservation plan for tilling within the shoreland tilling setback (p. 7-18) should be reviewed and approved by the Planning Board, or simply filed with the Planning Board (or instead, filed with the Town Planner or Code Enforcement Officer). Same issue for 15 e., Setbacks for livestock grazing, p. 7-18.

Consult Najpauer about manure regulations (p. 7-17), ask if he can send us written material promptly. If not, Simpson suggested asking Boardman to do some research on manure piles.

Get a copy of the timber harvesting rules in the shoreland zone from the State. Discuss at a future meeting.

Send Planning Board members copies of document "06-096 DEP Chapter 1000 Guidelines for Municipal Shoreland Zoning Ordinances" p. 29 - 33.

Send PB members a typed version of LUO Article 10 with Simpson's addition.

#### Planning Board members

Read LUO Article 10 Non-conforming Uses (copies given out at 5/9/18 meeting, but not discussed).

Review "Municipal Climate Adaptation Guidance" document given out at 5/9/18 meeting. Najpauer will speak on this at the June 13 Planning Board meeting.