

Reviewed on July 10, 2019

Minutes
Town of Waldoboro
Planning Board Meeting
June 12, 2019

Roll Call

The meeting was called to order by chairman Scott Simpson at 6:05 p.m. in the meeting room at the Municipal Building. Other members present were Sara Hotchkiss, John Kosnow, Jim Russo and Ted Wooster. A quorum was present throughout. Planning and Development Director Max Johnstone was present. There was no audience.

1. Minutes of May 8, 2019 - deferred

Review of the minutes of the May 8 Planning Board meeting was postponed to the next meeting.

2. Discussion of How to Revise and Update Land Use Ordinance Article 6, Site Plan and Subdivision Review

Chairman Simpson said that in reviewing and updating the Land Use Ordinance, Planning Board members and staff should verify whether the various sections include all current State requirements. We should edit the text to make it more clear, practical, simple and straightforward for users, including members of the public, Planning Board members, and Planning Department staff members.

Text references to “Code Enforcement Officer” should be changed to “Planning Department” throughout, except where specific reference to the Code Enforcement Officer is clearly intended. The requirement for applicants to submit 12 copies of application materials is changed to 10 copies.

Johnstone said he hopes to have the revised Land Use Ordinance ready for Town vote in June 2020. Simpson said that the Land Use Committee has a lot of work ahead of it.

Title of Article 6

Russo suggested changing the title. Perhaps site plan review should be in a separate section from subdivision review. Johnstone agreed that Article 6 was intended to address subdivision review elements required by the State. This matter has been discussed in meetings of the Land Use Committee. What other title would be preferable for Article 6? Johnstone suggested calling it “Application Review”.

Kosnow has just joined the Planning Board. He said that he finds the language of Article 6 voluminous and confusing. He recommended simplifying the language and making it more user-friendly. He gave as an example Section B. Applicability Provisions 1. Activities requiring site plan review subsection f. Changes in Use of Existing Buildings or Structures, at the bottom of p. 6-1.

Russo asked whether we know how much of the language in existing Article 6 is required by the State. Johnstone does not know the answer. He thinks we can change words for clarity, so long as we don't change the underlying meaning. Simpson said that the State will review our proposed changes and presumably correct any errors. They have legal oversight of the local ordinance, and will evaluate our draft revision in light of the State's requirements for site plan review and subdivision review.

Simpson said that he does not know when last there was legal review of a Planning Board decision. Perhaps the most recent was the application to develop apartments above the laundromat on Friendship Street just

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south of the Sproul Block. The developer may have to reduce the number of apartments in the building. Wooster said that he felt that that project had too few dedicated off-street parking spaces.

Planning Board members went through the June 2016 edition of Article 6 Site Plan and Subdivision Review page by page, discussing changes.

Page 6-1 – no specific changes

Page 6-2

Simpson's proposed revision to section 4 Waivers on p. 2, given out at the 1/10/18 Planning Board meeting, was not discussed at tonight's meeting.

Change "site plan" to "application" throughout, or "application package".

Change two references to "Code Enforcement Officer" to "Planning Department" in C.

C. Site Plan and Subdivision Submission Requirements

The group agreed to keep the submission requirement at 21 days (deadline for submission of first-draft application materials to Johnstone), and to keep 10 days prior to the meeting as the deadline for Johnstone to mail final materials to Planning Board members. (Actually, it is currently 9 days, because he does not mail anything on Sundays, which would be 10 days prior to a Wednesday meeting, but the group agreed to ignore that fine point.)

Page 6-3

1. Application Submittal

The group discussed the number of paper copies required to be submitted: one for each Planning Board member (7 total); one copy for the Planning Department and reference by Police, Fire, Emergency Management Services, as needed; one copy for the secretary; one copy as a backup. This means 10 complete copies, minimum. (Electronic review copies could be forwarded to Police, Fire, and EMS at their request.)
Change "twelve (12)" to "ten (10)" copies in line 1.

Line 2, top of page: Change "Code Enforcement Officer" to "Planning Department".

Continuation of C. Site Plan and Subdivision Submission Requirements, from p. 6-2:
subsection 3. Plan Submittals and Map Scale.

Discussion: The current text calls for three sets of all plans, no larger than 24" x 36", at a scale of 30 feet to the inch, and 12 copies of all site plans, maps and drawings, no larger than 11" x 17". Simpson said that some drawings at 11" x 17" are not big enough. He suggested that instead of giving specific numbers, the text should call for drawings and plans "at a scale sufficient for clarity and in sufficient detail for clarity", or "of sufficient clarity and detail to fully define the project", or words to that effect, and to increase the maximum size limit to "no larger than 24" x 36" ". He asked Johnstone to work on revised language to express Simpson's intent, for discussion by the group. Also, change the number of required copies from 12 to whatever number has been agreed upon: a minimum of nine.

3. b. Location map: The current text calls for the applicant to provide a location map which shows all features within 300' of the project boundaries. Simpson said he had forgotten about this requirement. It may be unnecessary. Should we leave it in? He feels that Johnstone should have discretion to simplify the requirements of the application package, and to waive certain requirements if he feels they are not needed in a given case. Simpson suggested adding to this section a list of possible waivers that may be granted upon request.

Discussion: Kosnow asked Johnstone on what basis he would make a judgment that some element was not required for a certain application: common sense? discretion? a Town ordinance? Johnstone said he would make the decision based on two years' experience of what information is needed in order to make an informed decision in a particular case, and what waivers are reasonable, in order to streamline an application in preparation for Planning Board review. To Johnstone, it makes a difference whether an application has been prepared by a professional engineering firm like Gartley & Dorsky, or by the applicant, who may have little or no experience with site plan review. In the latter case, Johnstone might suggest that the applicant write a two-page description of what he or she wants to do with the site. Wooster said that the application ought to contain sufficient information so that an interested neighbor or abutter can understand what is being proposed for the site. Simpson said that the Town Planner can provide guidance to the applicant about submission requirements, but that the final decision about what is required in any particular case is up to the Planning Board.

Page 6-4

5. Proposed Site Plan(s) or Subdivision Plan

The current review of the guidelines for reviewing site plans and subdivisions gives the Planning Board an opportunity to separate the requirements for site plan review from those for subdivision review, and to place these in different sections of Article 6. Would this make the process clearer to applicants, staff, or the Planning Board? Section 5A could be about site plan review, and Section 5B about subdivision review. Russo did not favor splitting the requirements into separate sections, but suggested saying that the review requirements in each case will be determined by the Planning and Development Director (and the Planning Board?) in consultation with the applicant. He suggested giving a complete list of requirements in the ordinance, and saying that applicable requirements in any given case will be determined by the Planning Department. Simpson did not want to put all the responsibility on the Planning Department.

Page 6-5

Subsection O, Approval block (near bottom of page):

Some site plans or subdivision plans may be approved with conditions. Russo suggested providing a space within the approval block in which to state any specific conditions, requirements, or limitations on approval. This would be better than adding a statement to the effect that "Approval is subject to any waivers or additional requirements noted in the minutes of the meeting at which the project was approved." Simpson said that in the latter case, we would need to verify whether the approved minutes of a Planning Board meeting are legally a part of the Town's approval of a project. Simpson liked Russo's suggestion, and said he will check on whether to add a space to the approval block in which to list any conditions or limitations on approval.

6. Written Supporting Information (bottom of p. 6-5): In line 1, change "The applicant shall submit twelve (12) copies of all written supporting information" to whatever quantity is finally decided upon: currently ten (10) copies, per discussion at tonight's meeting.

A Planning Board member called attention to the last sentence in the first paragraph under 6. Written Supporting Information, at the bottom of p. 6-5, which now reads, "The written material must be contained in a bound report..." The Planning Department and the Planning Board do not currently require that applications be contained in a "bound report". Should the sentence be revised to read, "The written material must [or "should"?] contain the following"? This was not discussed at tonight's meeting.

Page 6-6

Subsection g. Evidence of financial capability

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Hotchkiss asked for more information about what is required or desired as “evidence of financial capability”: Should the amount of detail be based on the size or estimated cost of the project? No answer was given, and there was no discussion.

Page 6-7

In 2. Review Procedure, a. Step One, change “Code Enforcement Officer” to “Planning Department” in line 1. In line 2, change the required number of copies to 10 from 12.

Page 6-8

In 5), first line, change “Code Enforcement Officer” to “Planning Department”.

In line 6 under 5), say “and to the Waldoboro Water Department, if we have one, at the discretion of the Planning Department” (new text underlined)

In 6) Notice to abutters, should the notice be provided seven days prior to the meeting, or ten days prior? Simpson said he would try to check the legal requirement. Does “notify by mail seven days prior” mean that the notice should be mailed seven days ahead of the meeting, or that it should be received seven days ahead?

c. Step Three. Planning Board review [middle of p. 6-8]

In subsections 1), 2) and 5) on p. 6-8, should all references to “Code Enforcement Officer” be changed to “Planning Department”? Simpson noted that the Code Enforcement Officer is part of the Planning Department. In subsection c. 5 on p. 6-8, Notice of Incompleteness, currently the Town Planner attends Planning Board meetings, so he does not need separate notification that the Planning Board finds an application incomplete.

c. 6) Decide on public hearing. Kosnow asked how many phone calls would need to be received in order for the Planning Board to decide to hold a public hearing. Simpson said this is up to the discretion of the Planning Board and the Town Planner. Hotchkiss noted that the State has put out a booklet offering guidance on such matters. See “Legal Perspectives for Local Planning Boards”.

Page 6-9

In 4. Final Review b. Plat to be attested, at the bottom of the page, the words “original transparency” were changed to “final approved application, including any waivers, conditions and modifications”. The first sentence under 4. B. as amended reads, “Approval of the final plat shall be attested on three copies of the final application, including any waivers, conditions and modifications, by the signatures of a legal majority of the Planning Board.”

Pages 10 - 14 of Article 6 were not discussed at tonight’s meeting.

Wooster asked for clarification on how many paper copies (“hard copies”) of the application form and materials are required to be submitted, and how many copies can be in electronic form.

Simpson said that he and Johnstone have some work to do editing Article 6. Russo noted that the text seems to start with requirements for both site plans and subdivisions, then splits into individual requirements for each of the two, then returns to common requirements. Should the document be rewritten to contain two sections, one for site plan review and one for subdivision review?

3. Medical Marijuana Dispensary Discussion

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On March 26, 2019, a special town meeting was held at which Waldoboro citizens voted to place a moratorium on medical marijuana dispensaries for 180 days, or until September 2019. Johnstone gave a handout showing specific performance standards for a medical marijuana dispensary and indoor cultivation facility, given in Article 5 Specific Performance Standards of the Waldoboro Land Use Ordinance. Dispensaries are allowed with Planning Board permission in the Route 1 Commercial A land use district only. Requirements include on-site security and video surveillance. Not more than one registered cultivation facility and one registered dispensary may be located within Waldoboro. These restrictions do not apply to medical marijuana caregivers. A town can choose to “opt-out” and not allow any medical marijuana dispensaries.

Johnstone said that originally there were only eight legal marijuana dispensaries in Maine. Now there are 14. Recreational use of marijuana is legal in Maine, although it is prohibited nationally. This inconsistency means that local police officers in Maine would take no action if they saw someone using marijuana, but that a federal official might act. In general, federal agents don’t act to prohibit marijuana use in states where it is legal.

Johnstone wants the Select Board to tell him what they want done about the medical marijuana ordinance, in revision of the Town’s Land Use Ordinance.

4. Planning Board Business

Barbara Boardman’s term on the Planning Board is expiring. Johnstone will ask if she is willing to be reappointed for either two or three years. Wooster is willing to serve another term if reappointed.

The Planning Board currently lacks a vice chairman, since Tara Pelotte left the Board. Election of a vice chairman will be on the agenda for the next meeting. Simpson is not able to attend the October meeting, so someone else must serve as chair.

Johnstone said that he has received no applications for site plan review for the July meeting.

He reported that the revised Shoreland Zoning Ordinance has been approved by the Town and submitted to the State for review. We are waiting to hear back from the State.

5. Next Regular Planning Board Meeting: Wednesday, July 10, 6:00 p.m.

Adjournment: The meeting was adjourned at 7:47 p.m.

Respectfully submitted,

Susan S. R. Alexander

Action Items

Johnstone

Ask Boardman if she is willing to be reappointed to the Planning Board for another two or three years.
Arrange for the Select Board to reappoint Boardman (if willing) and Wooster to the Planning Board.
Verify (for minutes, p. 2) that the version of LUO Art. 6 that all PB members have is the June 2016 edition.
Work with Simpson on revising LUO Article 6.

Simpson

Work with Johnstone on revision to LUO Article 6.
Check about adding a space in the approval form in which to list any conditions or limitations on approval.
Check the legal requirement for advance notice: is it 7 days prior, or 10 days prior (p. 6-4 of LUO, p. 4 of these minutes)