

Town of Waldoboro, Maine  
Planning Board Meeting  
June 9, 2021

Roll Call

The virtual Planning Board meeting was called to order by chairman Scott Simpson at 6:02 p.m. Other Planning Board members present were Barbara Boardman, Jeff Erskine, Johnny Kosnow and Jim Russo. Russo left the meeting at 7:15 p.m. A quorum was present throughout. Planning and Development Director Max Johnstone was present. Applicants or their representatives/consultants attending the virtual meeting included applicants Richard Hoermann and Janice Cormier-Hay; William Lane from Gartley & Dorsky Engineering & Surveying; and Allen Mathieson of Coastal Land Surveying LLC. Alfred, Dana, Erica and Michelle Rolerson were present in the live audience in the conference room at the Town Office during the Apple Barn Lane agenda item (4.2).

1. Adjustments to the Agenda - none
2. Citizen Comments unrelated to tonight's agenda - none
3. Pre-Applications - none
4. Site Plan Review

4.1 Approval of One-Lot Subdivision, 775 Feylers Corner Rd. (Map R20 Lot 7) - Hoermann

In August of 2020 Richard and Debra Hoermann bought a 17.3-acre portion of a 29-acre parcel owned by the estate of Marie Gervais, which retained the remaining 12 acres. Now the Hoermanns wish to sell a 4.02-acre portion of their 17.3-acre parcel. See pre-application review at the May 12, 2021 Planning Board meeting (Item 3, p. 1). This proposed division will result in creation of three lots from a common "parent parcel" within a five-year period, which might appear to require subdivision review. However, according to a letter dated June 1, 2021 to the Planning Board from David A Starr, Jr., of Gartley & Dorsky Engineering and Surveying, the remaining Gervais land and the retained 13.3-acre Hoermann lot are not part of the "subdivision" and do not require subdivision review. Only the proposed new 4-acre lot requires subdivision review, according to Starr's interpretation of the Waldoboro Land Use Ordinance and State subdivision law. (See Johnstone's undated application summary provided to Planning Board members along with other materials for tonight's meeting.)

Materials submitted by Gartley & Dorsky include a survey of the property showing location of an existing wetland. The net developable area of the lot is 2.39 ac. A test pit by soil scientist Natalie Marceau shows adequate soils for an on-site septic system. Planner Johnstone has a copy of the soil evaluation. Russo noted that a stream is shown crossing the property; he asked whether the lot is in fact developable. Engineer Lane said that there is adequate solid land for development, and that the property has no stream requiring a setback.

On motion of Russo/Boardman, Planning Board members voted unanimously to approve creation of a one-lot subdivision at 775 Feylers Corner Road, owned by Richard and Debra Hoermann.

4.2 Approval of Subdivision Amendment, Apple Barn Lane (Map R8 Lot 2) – Hicks

EricaJo Hicks is applying to amend the Apple Barn subdivision off Friendship Road by adding one 12.4-acre lot, Lot 7, located at the east end of the subdivision at the end of Apple Barn Lane, with vehicular access over Apple Barn Lane. Fred Bess, who created the original Apple Barn subdivision, is the current owner of the lot. Surveyor Allen Mathieson stated that the proposed new lot will meet all restrictions of the Apple Barn subdivision, except that it can be subdivided after appropriate municipal review. The six current lots in the subdivision are smaller, and cannot be subdivided. Hicks wants to subdivide Lot 7 into three lots to be owned by members of the Rolerson family, several of whom were in the live audience during tonight's meeting.

The future owners of new Lot 7 want to be able to use Apple Barn Lane for vehicular access. Bess owns the land underneath the subdivision road. Notice has been sent to all lot owners in the Apple Barn subdivision notifying them of the planned addition of new Lot 7. Members of the road association, which maintains Apple Barn Lane, can talk with Bess if they have questions or problems. The Town has no jurisdiction over this private road. The Planning Board could ask for a statement from members of the Apple Barn Lane road association that they have no problem with the owners of Lot 7 using Apple Barn Lane for access. One of the Rolersons said that the family will be contacting members of the Apple Barn Lane road association to get signatures to allow the Rolersons to join the road association and to use the road.

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Johnstone has sent notices to all members of the Apple Barn Lane subdivision association, notifying them that Lot 7 is proposed to be subdivided and that the new owners wish to use Apple Barn Lane for access and to become members of the road association. An attorney working with the applicant has hand-delivered letters to all lot owners in the Apple Barn subdivision, notifying them that the new owner of Lot 7 wants the right to use Apple Barn Lane for legal access. The letter did not say that Lot 7 is to be subdivided into three parcels.

Johnstone said he could send a notice to all lot owners in the Apple Barn subdivision, telling them what has been approved at tonight's meeting. Mathieson recommended referring the question to Town counsel. Johnstone said that he usually consults Maine Municipal Association on such matters.

Russo recommended sending a letter to lot owners in the Apple Barn subdivision telling them why Lot 7 can be subdivided, whereas none of the existing lots, which are smaller, can be subdivided. One of the Rolersons also favored putting this into writing. Johnstone said that putting things into writing contemporaneously is always a good idea, whether or not it is required.

On motion of Boardman/Kosnow, Planning Board members voted unanimously to approve amending the Apple Barn subdivision to add a 12.4-acre lot, new Lot 7.

#### 4.3 Recreational Facility Addition, Maine Coast Gymnastics, 30 Manktown Rd. (Map R13 Lot 9) – Janice Cormier-Hay

Janice Cormier-Hay was in to request approval for a 30' x 30' addition to the rear of the existing building in order to provide more space for the gymnastics program. The building in is the Route 1 Commercial A zone. The proposed addition would be located about 27' from the side property line with the abutting property, which is owned by Richard and Linda Vannah. The Vannahs do not object to the addition, but request that within one month after construction is complete, a 6' high stockade fence be erected along the property line, starting at the beginning of the current metal building, at the expense of Cormier-Hay. Johnstone will confirm the legality of this arrangement with the Town attorney, or by consulting Maine Municipal Association. He will ask for a legally-binding signed agreement between the Vannahs and Cormier-Hay regarding the fence.

The total floor space of the facility, including the proposed addition, is 2,776 s.f. Sports clubs are required to have five on-site parking spaces for every 1,000 s.f. of floor space. Maine Coast Gymnastics is required to provide 15 parking spaces. There are already 15 parking spaces on site, so no increase in parking spaces is needed.

On motion of Erskine/Boardman, Planning Board members voted unanimously to approve the proposed 30' x 30' addition to Maine Coast Gymnastics, contingent upon a legally binding easement agreement between owner Janice Cormier-Hay and abutters Richard and Linda Vannah including installation of a 6' high stockade fence between the two properties along the site of the proposed addition, to be erected at Cormier-Hay's expense, within one month following completion of the addition, subject to confirmation by the Town attorney or Maine Municipal Association's legal department in consultation with Town Planner Johnstone, or a transfer of sufficient property.

#### 5. Approval of Minutes of May 12, 2021, as revised

Boardman requested a change to the second paragraph under 4. New Business: Farmers' Market at East Forty Farm (bottom of p. 1, top of p. 2). The second paragraph should read: "This is a commercial use of a residential property. Boardman asked Johnstone: if the current owners, Laikin and Foley, should sell the farm, does the permit for a farmers' market stay with the farm? Johnstone said that approvals have been interpreted both ways: yes, the approval stays with the property; or no, a new application is required when a property changes hands. Boardman suggested that this permit approval would be best if it stayed with the current applicants, for this property."

On motion of Boardman/Russo, Planning Board members voted 3 - 0 - 1, Simpson abstaining, to approve the May 12 minutes as revised with the above change.

#### 6. Old Business

##### 6 a. Change of Planning Board Meeting Day: Second Thursday in Each Month at 6:00 p.m.

Due to renovation work at the Town Office, the Fire Department is currently using the main conference room on Wednesdays at 6:00 p.m., so Planning Board meetings can no longer be held in that room at that day and time.

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Planning Board members agreed to change the day for Planning Board meetings to the second Thursday in the month at 6 p.m., which is closest to the present meeting schedule, starting in July. Members agreed to continue meeting virtually, at least in the short term.

#### 6 b. Land Use Ordinance Amendments

Johnstone spoke about changes to the Land Use Ordinance for commercial activities in the Shoreland Zone at the Pine Street public landing and the Dutch Neck Marine Park. Commercial activities and uses must prove that they are water-dependent in order to be allowed in the Shoreland Zone at these locations. He asked Planning Board members whether they are willing to discuss this issue and other proposed amendments to the local Land Use Ordinance. These and certain other possible changes to the Land Use Ordinance have been discussed by the Land Use Committee in the past, but no action has been taken.

Other possible ordinance changes might include reducing the legal minimum size of a permanent dwelling in Waldoboro, in order to allow people to live legally in manufactured homes less than 750 s.f. in floor area, or in “tiny homes”. Boardman suggested inserting reference to State law regarding tiny homes. Where should owners of such homes go to get permits for permanent occupancy? She asked Johnstone to supply a reference to the appropriate State law.

Boardman asked about parking requirements. Do these come from the State of Maine? Johnstone thinks that many come as a result of traffic studies. Generally, a local town has leeway to interpret suggestions that come from such traffic studies. Johnstone was asked to find out from the State under what circumstances a parking “requirement” from the State is only a suggestion, and not binding. If the former, the Planning Board might be able to grant a waiver.

Chairman Simpson said that none of these items is pressing enough to justify holding a special Planning Board meeting on ordinance changes. Johnstone said that if he can find the time, he can present his suggestions for changes to the local Land Use Ordinance, and show where in the LUO each proposed change or suggested new material would go. If Planning Board members approve the changes, they could be placed on the warrant for vote by townspeople in November. There was general agreement on doing this.

Johnstone asked Planning Board members to give him any suggestions for changes to the Land Use Ordinance.

#### 7. New Business: Problem Intersections/Problem Areas in Waldoboro

Johnstone is using input from a senior capstone project at University of Maine at Orono to work on ways to improve certain local intersections and parking behind the business block at the corner of Friendship Street and Main Street. He has forwarded input, including design analyses and cost estimates, to various local groups, but has not yet submitted this material to the Select Board. He can make a presentation to the Select Board at its June 22 meeting, or in July. He will forward material to Planning Board members.

Simpson called attention to poor sight lines at the intersection of Rt. 32 and West Main St. He can forward material to Planning Board members.

#### 8. Status Update on Solar Farm at 481 Controversy Lane (R16/55D) and 230 Stagecoach Road (R16/70)

Syncarpha Capital owns Waldoboro Solar I, which received approval at the January 20, 2021 Planning Board meeting to build a solar farm at 481 Controversy Lane/ 230 Stagecoach Road, subject to six conditions, listed on p. 4 of the meeting minutes.

One of the conditions was that Waldoboro Solar repair the roads to meet Town standards for a major private street, and complete the work prior to receiving permit approval from the Code Enforcement Officer and Town Planner. The question has been raised, whether the company is required to repair all roads in the immediate area of the solar installation, or only one road. Simpson thought that the wording of the motion referred to repairs to a single road, Controversy Lane. Russo thought that the motion required repairs to all roads. Johnstone said that he has watched the video of the original meeting to get the sense of the motion.

A road association for road maintenance has been formed for Controversy Lane. Buddy Brown has been working on repairs only to Controversy Lane.

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Maine Municipal Association advises that Syncarpha/Waldoboro Solar I should come back before the Planning Board to request clarification, in order to determine whether all conditions on approval have been met. Is the Planning Board willing to hold a special meeting about this? Simpson questioned the need for a special meeting.

9. Comments from Planning and Development Director Johnstone

The State now requires a formal roll call vote whenever a committee votes on something. Each Board member will be asked to state his or her vote individually.

Sara Hotchkiss has resigned from the Planning Board. Johnstone asked for suggestions for new members.

Simpson needs to come to the Town Office to sign some papers. He said he will try to do so in the next few days.

Planning Board signatures are needed on some documents. Johnstone will leave the papers with Marcus Benner at the Town Office for signature tomorrow, and will drive around to get signatures from Planning Board members at their homes if necessary.

10. Comments from Planning Board Members

Simpson noted that Maine Coast Heritage Trust has named Susan Alexander as the 2021 recipient of the Espy Land Heritage Award, a state-wide award, in recognition for her 35+ years of work in local land conservation.

11. Next Meeting: Thursday July 8, 6:00 p.m. (via Zoom)

Johnstone has received no applications to date for consideration at the next meeting. The Board could work on ordinance changes.

Adjournment: The meeting was adjourned at 7:38 p.m.

Respectfully submitted,

Susan S. R. Alexander

Action Items

Johnstone

Send input from UMO study on local intersections and parking to Planning Board members.

E-mail Mattson, Gartley & Dorsky.

Leave material with Marcus Benner for signature by Planning Board members; drive material around to get remaining signatures, as necessary.

Supply a reference to the appropriate State law regarding the legal minimum size of a permanent dwelling, per Boardman's request.

Find out from the State: under what circumstances is a parking "requirement" from the State only a suggestion, not binding on local municipalities?

Planning Board members

Come in to Town Office to sign papers.

Give Johnstone suggestions for possible new Planning Board members or alternates.

Give Johnstone suggestions for changes to the Land Use Ordinance.

Simpson: send material about problems at intersection Rt. 32 /W. Main St. to Planning Board members and Johnstone.

Come in to Town Office to sign papers.