

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

Roll Call

The virtual Planning Board meeting was called to order by chairman Scott Simpson via Zoom at 6:04 p.m. Other Planning Board members present were Johnny Kosnow, in person, and Sarah Rich and Jim Russo, remotely. Planning and Development Director Max Johnstone was present in person. There was no audience.

A quorum was present until 7:05 p.m., when Russo left the meeting due to a prior obligation of which he had previously notified Simpson and Johnstone. After his departure, a quorum was lacking and no binding votes could be taken, although Board members discussed several issues.

1. Introductions

New Planning Board member Sarah Rich was introduced and welcomed to her first meeting. She and her partner operate a vegetable market farm at Tall Tree Farm on Route 220 in south Waldoboro. She attended graduate school in mathematics (University of Texas, Austin) and computer science (University of Wisconsin, Madison). She works as a data scientist for a company that lists used cars.

Board and staff members introduced themselves to Rich.

Johnny Kosnow is a registered respiratory therapist who has worked in health care for 35 years. He has written seven books, and holds three world champion titles in power-lifting in his age and weight division. Jim Russo has lived and worked around the world in the gas business, including in China, Portugal, Tennessee, and Houston TX. He retired and moved to Waldoboro full time in 2017. He and his wife had been part-time residents of Waldoboro since 2000.

Scott Simpson has had a career in research and development of high-performance materials, often traveling to China, Korea and Japan. He and his wife have been part-time residents of Waldoboro since 2002. He retired in 2015 and began a new career growing elderberries on his farm.

Planning and Development Director Max Johnstone has worked as Waldoboro's planning officer since 2017. He attended college in Ontario, Canada. His mother is Canadian, and he has dual citizenship.

Board secretary Susan Alexander has been taking minutes of Waldoboro Planning Board meetings for 35 years. She did graduate work in geology at Harvard. She has worked at Chesapeake Bay Institute and the Dept. of Oceanography at Johns Hopkins University and the Institute of Optics at University of Rochester. She has experience in editing and proofreading technical reports, scientific journal articles, and a textbook.

2. Citizen Comments unrelated to tonight's agenda – none

3. Old Business

3. 1. Proposed Land Use Ordinance Amendments - Discussion

Materials distributed to Planning Board members in advance of tonight's meeting included a six-page document from Johnstone, "Land Use Ordinance Amendment Suggestions to be reviewed on September 9, 2021". These are proposed changes to the Town of Waldoboro Land Use Ordinance adopted by Town Meeting November 3, 2020. Words shown in red on the handout indicate material that differs from the prior recommendations dated July 8, 2021. Planning Board members discussed each item in the handout.

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Section 3.3.4 Conditions of Approval: A condition may not be imposed to regulate an item not specifically addressed in this Ordinance. At tonight's meeting, the Planning Board agreed to delete the rest of the sentence, which formerly read "nor an item that is outside the scope of the proposal". Johnstone has

consulted Maine Municipal Association, which advised that this additional wording is unnecessary and should be omitted.

Section 3.3.5 Permit Issued after Municipal Review: If approved, or approved with conditions, the Code Enforcement Officer shall issue a permit for the proposed activity. Municipal approval does not exempt the applicant from other regulatory bodies or private agreements. (proposed new text underlined).

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Section 3.4 Public Hearing Requirements: At the end of the first paragraph, that ends with the words “giving the time and place of the hearing”, add two sentences: “For applications that require using private roads, a notice must be sent out to the relevant Road Association. If there is no Road Association, then a letter must be sent to each property owner/resident that benefits from the private road.” Addition accepted.

Discussion: Rich asked if there is a definition for “road association”. Another Planning Board member asked the meaning of “relevant” road association. He was told that it refers to the road association for the relevant area. Rich asked whether there is any guarantee that the road association has informed the affected residents. Johnstone said that the procedure is for all affected property owners to get a notice, plus an additional letter sent to the road association, if there is one. If there is no road association, then a notice is sent to all property owners and residents who use the private road. Property owners are asked to notify abutters and people who are renting their property.

Second from last paragraph above 3.5: The second sentence in this paragraph is amended to read, “Failure of an abutter/resident to receive a notice shall not invalidate the public hearing, nor shall it require the Board to schedule a new public hearing.” (added word “resident” underlined).

Page 6-19 (last page of Article 6 Land Use Districts)

Johnstone had previously recommended adding a new subsection clarifying side and rear lot line setbacks for residential structures located on private roads. This sentence is shown in red on p. 2 of the “Land Use Ordinance Amendment Suggestions” document being reviewed at tonight’s meeting. It read: “All residential structures that are built on parcels that use a private road shall have their measured setback based on the standards of the Side, Rear setbacks as opposed to the Road Setbacks. The measurement shall be made by the edge of the traveled way.” Johnstone now recommends tabling this item at tonight’s meeting. He now thinks that setbacks for residential structures on private roads should be the same as setbacks for residential structures on public roads. He recommends deferring discussion of this item to a future meeting. Russo and Simpson agreed not to try to decide this at tonight’s meeting. Johnstone can do research on what other towns do about required minimum setbacks of structures from private roads, and report back.

Pages 7-8 and top of 7-9:

According to Johnstone’s memo, heading 7.10.3.3.10 on p. 7-8 of the Nov. 3, 2020 edition of the Land Use Ordinance should be re-numbered 7.10.3.3.9.1. This change requires re-numbering subsequent subheadings on p. 7-8 and 7-9, through 7.10.3.3.18.5, which is re-numbered 7.10.3.3.17.5.

Header of subsection 7.10.3.3.13 **Creative Architectural Design & Public Art** should be in bold-face type. [Note: This subsection was previously re-numbered 7.10.3.3.14.]

Page 7-12:

Fire Chief Paul Smeltzer has asked for clarification of Section 7.12 Emergency Services, as to whether all items listed (e.g., lockboxes) are required, or if he can grant waivers. Section 7.12 should read: “All applicants will speak with the Waldoboro Fire Chief for the following items. The Waldoboro Fire Chief will make recommendations for each item under this Section at their discretion, which the Municipal Authority may choose to accept or deny.”

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Section 9.2.14.9 Design Standards (table)

Johnstone noted that residents seemed troubled about the lack of required standards for Major Private Streets,

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when there are minimum standards for Intermediate Private Streets. To address this, he suggests the following changes to the table on p. 9-8 under the column heading Major Private Street, to replace “N/A”: Minimum Tangent between curves of reverse alignment: 60’; Roadway Crown, ¼”/ft; Minimum curb radii at intersections, 15’.

Page 10-29 of Nov. 3, 2020 edition of Waldoboro Land Use Ordinance

On p. 3 of Johnstone’s hand-out “Land Use Ordinance Amendment Suggestions”, to be reviewed at tonight’s meeting, he suggests adding the following text, to avoid confusion about repurposing shipping containers: Section 10.23.2.4 Shipping containers that are significantly repurposed to change the primary function from storage to a commercial or residential use shall be exempt from the restrictions of this Section. This exemption does not apply if the shipping container is used primarily for storage.

Page 10-29, Section 10. 24 Single-Wide Manufactured Homes

The smallest housing unit that Ralph’s Homes in Waldoboro has sold is 672 sq. ft. The smallest inventory home at Ralph’s Homes is 780 sq. ft. The minimum size for a residential dwelling recommended by the State of Maine is 750 s.f. If the Waldoboro ordinance were to allow manufactured housing smaller than 750 sq. ft., we would need to adopt language stating that the smaller home still complies with certain HUD regulations. Johnstone suggests changing the figure 600 sq. ft. to 650 sq. ft., if the Town wants to allow smaller manufactured homes. Johnstone also suggests placing “tiny homes” under a new specific standard.

Planning Board members were told that the price of a single-wide manufactured home does not vary much depending on size.

Johnstone asked whether Planning Board members want to keep the minimum number of square feet of living space the same, or reduce it in the revised Ordinance. 750 s.f. is the State minimum size for a manufactured home. Usually, a town’s minimum size can be more restrictive than the State’s minimum, so long as the lower figure meets HUD certification. The unit should have a sticker on it saying that it meets the HUD minimum. 400 s.f. is the lower size limit for manufactured homes. Simpson said that there is a size gap between the square footage of a “tiny home” and that of a manufactured home. Johnstone’s memo on LUO Ordinance Amendment Suggestions suggests changing the minimum size of a manufactured home to 650 s.f. of living area (Section 10. 24.4.3.2. Size, p. 3). A travel trailer cannot legally be used as a permanent residence, because it does not meet the standards for either a tiny home or a manufactured home (Section 10.24.5). Any travel trailer in use as a temporary dwelling (i.e., one lived in for no more than three months) shall have adequate health and sanitation facilities provided.

A Planning Board member asked whether the existing Land Use Ordinance includes a definition of a “tiny home”, as distinct from a travel trailer. If not, a definition should be added. Simpson asked Johnstone to add a definition of “tiny home” to the draft LUO before the next discussion of this material at a Planning Board meeting.

There was no discussion of material regarding tiny homes on p. 4 of Johnstone’s “Land Use Ordinance Amendment Suggestions to be reviewed on September 9, 2021”, because the proposed changes to this Section involve only numbering of subsections.

Section 10.35 Renewable Energy Structures (Commercial)

10. 35.1 Decommissioning Plan

Johnstone said that there is standard language that can and should be added to the Land Use Ordinance regarding decommissioning of a renewable energy structure or facility. If a solar company ceases to operate a facility, there should be money already set aside in escrow, or as a bond, to pay for site remediation. The decommissioning plan must be reviewed and approved by the Planning Board prior to granting of a permit. New Section 10.35 of the Land Use Ordinance, Renewable Energy Structures (Commercial), on p. 4 and 5 of Johnstone’s Amendment Suggestions handout, addresses requirements for the decommissioning plan.

In subsection 10.35.1.5, the words “in current dollars at the time of decommissioning” were added to the end of the second line.

9/9/21 Additions

At the bottom of p. 5 and on p. 6 of the handout (in red type) are last-minute additions to Johnstone's presentation about revisions to the Land Use Ordinance. These concern Shoreland Zoning, Schedule of Dimensional Requirements, and Mass Gatherings. There was brief discussion of these items at tonight's meeting.

At this point, at 7:05 p.m., Russo had to leave the meeting, resulting in lack of a quorum for the rest of the meeting. Discussion could continue, but no further binding votes could be taken.

Simpson said that the budget for decommissioning a solar installation is submitted to the Town as well as to the Planning Board. The performance bond is payable to the Town.

Rich asked whether the Planning Board could ask for funds to pay for outside review of a proposal. Simpson said Yes. Johnstone said that the Land Use Ordinance allows the Planning Board to hire outside consultants, with the cost to be borne by the applicant. He will consult with other towns to find out their policy and how their ordinances read about hiring and paying for outside consultants.

Shoreland Zoning

See bottom of p. 5 of Johnstone's memo. He proposes adding to the local ordinance a new subsection 11.7.7.1. Photographic Record, based on language found in 38 MRS Section 439-A(10):

11.7.7.1 Photographic Record. An applicant must provide the municipal permitting authority with pre-construction photographs and, no later than 20 days after completion of the development, post-construction photographs of the shoreline vegetation and development site.

Schedule of Dimensional Requirements (p. 6-18 in Land Use Ordinance adopted 11/3/2020)

Johnstone suggests that the Planning Board reconsider the schedule of dimensional requirements in the 2020 edition of the LUO, and possibly allow more dense development, smaller lots, and a reduced building setback from the road, in certain areas having lots served by municipal water and sewer. As an example, he cited the inconsistency in minimum lot size and building setback between the north side of Route 1 (Atlantic Highway) and the south side, in the area immediately west of the intersection of Route 32. Tucker Chevrolet, on the north side of the highway, is zoned Commercial A, while businesses across the road on the south side of Route 1 are zoned Commercial B. This zoning was done in 2005. He does not know why. Should the area near Tucker Chevrolet on the north side of the highway be rezoned Commercial B? He asked for guidance from Planning Board members.

Simpson agreed that there is a large minimum lot size for land on the north side of the hill heading west toward Damariscotta, and also for lots on Route 1 in the vicinity of Moody's Diner. He favors reducing the minimum lot size along certain sections of Route 1 where we want to encourage denser commercial development, while keeping a larger minimum lot size to avoid commercial development in areas zoned Rural. Kosnow asked whether Waldoboro residents would want a large retail development, such as a WalMart, in town. Simpson said this question about desired location of development was addressed in the Comprehensive Plan.

Rich asked about the cost to the Town of providing public water and sewer service.

Johnstone said that November and June are the two months when Waldoboro residents can vote on ordinance revisions. We need to decide whether there is time to finalize ordinance revisions this fall for vote in November, or whether a vote next June is more realistic.

Mass Gatherings

Now that Event Centers are a separate category in the LUO, Johnstone suggests that the category Mass Gatherings should either be combined with Event Centers, for events that are singular as opposed to

recurring, or that the definition of Event Centers be amended to acknowledge the difference. People who want to hold a one-time mass gathering, like a wedding or anniversary party, could apply for a one-time permit, similar to a plumbing permit. The category Event Center could be reserved for places like Cider Hill Farm or Tops'l Farm, that are in the business of providing venues for parties on an ongoing basis. 100 people is currently the minimum size for a mass gathering requiring a permit in advance. An "event center" is a place at a specified physical location, while a "mass gathering" is a one-off event which may be held at any location, and may require an advance permit, depending on the number of people.

3.2. Application Submission Checklist

A revised application review submission checklist was distributed in advance of tonight's meeting, as part of meeting materials. It was discussed briefly, starting at 7:33 p.m., in the absence of a quorum. Johnstone uses the checklist in evaluating whether an application is complete enough to be placed on the Planning Board agenda, or if not, what additional materials are needed to make it complete enough to be placed on the agenda. Certain normally-required items can be waived if appropriate. Johnstone began using this revised checklist in January of 2021 for the Syncarpha application, for his personal use ahead of the meeting. Chairman Simpson suggested that the Planning Board start to use the new submission checklist, in order to evaluate it.

4. Minutes of Planning Board Meetings of June 9, July 8, and August 12, 2021 – review deferred

None of these three sets of minutes could be reviewed and voted upon at tonight's meeting, in the absence of Planning Board members Boardman and Erskine. Their input is needed in order to approve minutes of meetings which they attended.

5. Comments from Planning Board Members – none

6. Next Regular Planning Board Meeting: Thursday, October 7, 6:00 p.m.

Johnstone does not know of any new applications.

Adjournment: The meeting was adjourned at 7:40 p.m.

Respectfully submitted,

Susan S. R. Alexander

Action Items

Johnstone

Add definition of "tiny home" to revised draft of Land Use Ordinance before the next meeting at which LUO revision will be discussed.

Get missing Planning Board signatures on applications approved at last several virtual meetings.

Consult other towns about their policy on hiring and paying for outside consultants for the Planning Board.

Send your draft Land Use Ordinance amendments to Alexander for editorial input and proofreading before the PB meeting at which they will be discussed.