

MINUTES  
PLANNING BOARD  
TOWN OF DAMARISCOTTA  
April 04, 2016  
7:00 PM

**MEMBERS PRESENT:** Jonathan Eaton, Wilder Hunt, Bruce Garren, Shari Sage

**STAFF PRESENT:** Anthony Dater, Town Planner

**PUBLIC PRESENT:** Dick Chase, Martha Lynch, Corrone Bryant, John Gallagher, David Lash, Celia Cart, Jonathan Hull, Ronn Orenstein, Robin Mayer, Rick Burt, Sarah Rodgers, Teresa Simpson, Kelley Holbrook, Shane Creamer, William Gartley, Tor Glendinning, Alan McKinnon, Matt Lutkus, Maia Zewert, Lincoln County News, Sherry Flint, S. Hallett, Stephanie Berry, Timothy Kimpton, Susan Rockwood.

**CALL TO ORDER:** Jonathan Eaton opened the meeting at 7:00 pm.

**PUBLIC HEARING – DRAFT 2016 ANNUAL TOWN MEETING WARRANT ARTICLE – SIGN ORDINANCE**

Board reviewed changes to draft at hand for correctness and noticed some changes they'd previously agreed upon were missing from this draft.

Garren read section aloud for the record:

Page 3 Section 4-2 should read: it is the intent to allow flexibility in the design of signs for uses covered by the medical and municipal districts – which includes town office building, miles hospital, fire house, etc. – signs are encouraged to be in keeping with those currently in use.

Garren: it appears that an old draft was picked up for that whole page – it should be checked carefully.

Sage: Page 7 section 5-H was decided previously as well

**PUBLIC COMMENT:**

**ALAN MCKINNON:**

Section 4 #3 from the last draft sent to him by Dater – Downtown Commercial C-1 – not sure if harbor is included in wording or being deleted

Page 4 Section E: Blackboard signs – 3 square feet is really too small. Suggests increasing the size to 6 square feet.

Are interior or window signs included?

Board: Not intended to be.

McKinnon: Are sandwich signs included in grandfathering?

Eaton: No – must adhere to the sign ordinance regulations – under temporary signs.

McKinnon: What about open flags – is that included in this ordinance?

Eaton: entire section was stricken in previous discussions due to concerns about making the ordinance overly complicated.

McKinnon: Does the town even need the ordinance – it is dictating taste.

MARTHA LYNCH:

If sandwich signs are permitted by ordinance and someone trips and falls over a sign is the town then liable?

Lutkus: The Town would not have any liability in that situation.

Dater read aloud the sandwich / sidewalk sign portion of the proposed ordinance.

Garren: Page 5 section 4A – the grandfathering section – to eliminate any confusion – add “no sandwich or temporary signs will be grandfathered”.

Sage: address signs shall not be illuminated – why? It seems that would benefit rescue purposes.

Page 5 section 4E Sage still wants any illuminated signs required to be turned completely off from 11pm – 7am because there are still residential homes in C2.

Hunt: in favor of leaving it as written

Garren: it was a subject of discussion at many previous meetings and the requirement of turning them down to 50% was a compromise from a public hearing – not really in favor of revisiting something already done.

Sage: send notices to solicit affected residents’ input at a future meeting?

Rockwood: agrees with the idea if a business is not soliciting business between 11pm – 7am then there is no reason for the sign to be lit - light pollution is a real issue that we need to be careful about.

Eaton: Town Manager have anything to interject?

Lutkus: a bit frustrated with this process to date – it’s important to have a completed ordinance – without questions in it - for the public to react to. Still a number of questions to be answered before it goes to the Board of Selectmen.

Eaton: polling the public in the C2 district about light will be a lengthy process – will need a list of residents, mailing notices, getting feedback, compiling data.

Garren: polling the public now – at draft 13 – is non-productive. The public gets to vote on this ordinance – that is the poll.

Sage: light is evasive! People were there first – businesses should not be allowed to invade these people’s homes. A small town should be more compassionate to this issue.

CEO: the only sign with residents around is the new DB & T on outer Main Street.

McKinnon: what is the rush? Why must we meet a town meeting deadline – why not work on it to get it right?

Hunt: Started last July...

Bryant: very effected by the light – definitely prefers no light from 11pm – 7am.

PUBLIC HEARING WAS CLOSED AT 7:50PM BY CHAIRMAN JONATHAN EATON

REGULAR MONTHLY PLANNING BOARD MEETING:

A. REVIEW DRAFT 13 OF SIGN ORDINANCE FOR ANY CHANGES / ADDITIONS:  
AND POSSIBLE APPROVAL FOR 2016 ANNUAL TOWN MEETING FOR SUBMISSION  
TO SELECTMEN.

Dater reviewed each of the updates / changes with the Board for Draft 14 submittal.

Subdivision signs – maximum height of 9 feet and maximum sign area of 32 square feet in size.

No internal illumination allowed in general residential or rural zone – external lighting will be from above & will be equipped with a timer to turn off between the hours of 11pm to 7am.

CEO: Are lit home address signs in windows covered in the proposed sign ordinance?

Board: Window signs are not addressed in ordinance

Review Garren's wording for Medical / Municipal section from last meeting.

Section 3C – no change to meaning – just to clarify wording.

Sidewalk Signs – including a local police officer in addition to the code enforcement officer as being able to require safety steps for securing signs.

Remove wording C1 district as the whole section is IN the C1 district section of the ordinance – it's redundant.

CEO: looking for clarification of permissible placement of sandwich boards – can as many businesses as wants place signs on the sidewalk?

Dater: if they meet the CEO's criteria of 3 feet apart and 3 feet from the curb AND if they have permission of business owner.

CEO: what about that business charging \$\$ for the advertising space? Thinks the number of off premise signs should be limited to prevent selling space.

Board: Good point - didn't think about that...

Dater: Suggested wording – could add sentence “ each Main St. business shall have no more than 1 off premise sign in addition to their own in front of its property...” to try to limit businesses selling sidewalk space.

Board decided to leave wording as is.

Section 5D: Electronically changeable signs - remove the words “single sided”

Section E: Electronically Digital Changeable signs shall be programed to be turned down to 50% of their maximum illumination between the hours of 11pm – 7am

Dater: turn off or turn down?

Garren: need to vote

Sage: it's required to be turned off in ALL other sections of this ordinance – it should be turned completely off here as well. There is NO traffic at those times to even see the sign. It's invasive to those residents near the businesses.

Garren: there is currently NO restriction on lit signs so requiring them to be turned down to 50% IS a compromise that has been discussed at length – the wording should stay at 50%.

Dater: grandfathering option? It's possible that anything currently in existence could be one way – anything new could be subject to the stricter wording.

Garren: that makes it complicated and seems unfair.

Eaton: this is specific to the electronically digital changeable signs.

Hunt: should move on – working a dead horse on this issue.

Sage: Will speak out against this ordinance at Town Meeting if she has to - Just can't understand how the Board can be so insensitive about this.

Eaton: if this ordinance makes people turn all the signs off it will fail immediately.

Sage: how do other towns that are also hubs (Camden & Boothbay) get away with it?

Eaton called for a vote on the wording – all those in favor to leave the wording as is – “Electronically Digital Changeable signs shall be programed to be turned down to 50% of their maximum illumination between the hours of 11pm – 7am” Yay hands up – nay hands down  
**Vote 3-1 Yay**

Under “other permitted signs” 4A: where is says ...or any changes in lighting to an existing sign that changes the visual impact... shall require a new permit...

Garren: Should say significantly changes the visual impact – adding the word significantly is what was discussed.

Administration – add local Police Department to enforcement.

Dater: The Board could vote & he could prepare to send it off to Selectmen.

Garren: would like to see it 1 more time before that.

Dater: should a public meeting be scheduled? Next week?

Garren: Required?

Dater: Yes

The Board agreed to have a short meeting on Monday April 11<sup>th</sup> at 6pm to act on the final draft before sending it to the Selectmen.

B. **MINUTES**

The Board review the minutes for the February 1, 2016 meeting.

On motion Hunt / Garren to approve the minutes as submitted.

Vote 4-0 in favor

C. **OLD BUSINESS**

1) HOFFMAN – MAINE-LY PAWN AT 535 MAIN STREET – C2 DISTRICT:  
APPLICATION FOR CONDITIONAL USE PERMIT PURSUANT TO THE SITE PLAN  
REVIEW ORDINANCE FOR OUTDOOR DISPLAY AND STORAGE OF SALES  
GOODS.

Mr. Hoffman was not present for this meeting. CEO Stan Waltz had some updates for the Board.

There are currently 4 sections of 4 x 8 plywood in place as a representation of what that type of fencing would look like. Mr. Hoffman knows he would need to cut 2 feet off the top to meet the maximum height of 6 feet. Waltz stated that the Hoffmans have submitted a couple of drawings and would like to install a 3 rail split-rail fence with multiple plantings in front of it – including fire bushes for screening. The fence will be 60 feet long with a 10 foot angled wing at each end. There will be more fencing and plantings on the school side of the property later.

Corrone Bryant: Could live with the split rail fence design easier than the plywood that is currently in place.

CEO: Hoffman is looking for direction from the Board on what type of fence to install.

Bryant: Will he agree to not put things in front of the fence?

CEO: Yes – he knows

Board: Mr. Hoffman needs to submit a completed application to be considered.

Eaton: Picket fence with plantings?

Garren: Stockade fence?

Sage: a picket fence was suggested at a previous meeting and Mr. Hoffman's answer was NO.

Eaton: Would like to see a detailed drawing – with specifics on type of fence and specific types of plants and spacing and a time line – and that he is held to the time line.

Hunt: Feels the fence should be a minimum of 4 feet tall but the plantings should be at least 5 feet in height.

Martha Lynch: would like to see evergreen trees. Also an FYI - the burning bush is an invasive species.

Garren: Applicant needs to work with the planner to get a sufficient drawing.

D. NEW BUSINESS

PEMAQUID OYSTER COMPANY, INC. – DAMARISCOTTA RIVER AT BRIGGS ROAD  
EXTENDED OFF BRISTOL ROAD – LOT 1/6 – RESIDENTIAL SHORELAND ZONE –  
APPLICATION FOR PERMANENT PIER.

They are proposing a pier with a ramp to a 10 x 20 dock.

Celia Cart told the Board that Pemaquid Oyster Company has received permits from the DEP and the Army Corps and has submitted them in their application packet before the Board.

Carter Newell gave an overview of the proposed project, noting that they received approval from the Planning Board in 1996 to use the lot for storage of equipment – and have done so continuously since that date - they only access the property from the river even though they do have a right of way to Rt. 129. The construction of a permanent pier will aid in the safety of moving their equipment to and from their skiffs.

Hunt: Planner believe this is a complete application?

Dater: Yes.

On motion Hunt/Garren to accept the application for permanent pier by Pemaquid Oyster Company as complete.

Attorney Jonathan Hull requested permission to address the Board regarding the completeness of the application. He is representing abutters Helen & Penn Way who are immediately adjacent to the applicant's property. Hull told the Board he believed this project, being commercial would fall under the Site Review Ordinance and that application is not even close to complete. He reminded the Board that under Site Review they needed to consider light, noise, other usages, septic if applicable, pollution.

Hull reviewed a hand out he shared with the Board & the applicants outlining his concerns with the application. In his opinion there are potentially 3 town ordinances that apply to this project; Shoreland Zoning, Site Review, and Land Use Ordinances and since the applicants haven't submitted applications for all it cannot be viewed as complete. He reminded the Board that all Town Ordinances say that if there is a conflict among multiple ordinances, the strictest standard must govern the application review.

Shoreland Zoning Ordinance – has a provision for piers but does not specifically address residential vs commercial – only permanent vs. temporary.  
Commercial activity requires a minimum of 80,000 square feet – this property is only 55,000 square feet.

Land Use Ordinance - does not have an exception to allow a commercial pier in a residential zone and that seems to be the strictest standard that the Board must adhere to in reviewing this application.

Site Plan Review Ordinance – several performance standards that have not been addressed by the application currently before the Board.

Attorney Hull noted that his clients are concerned about the deeded road access detrimentally affecting their property and questioned whether the Board could limit Pemaquid Oyster Co. to only water side access as a condition of the approval, if granted.

Dater told the Board that he did not see anywhere in the Shoreland Zoning Ordinance that required either of the other 2 ordinances mentioned by Hull and asked him to show where it states that a site plan review & land use application would be required in the Shoreland Zone.

Hull told him that Site Plan Ordinance applies to any commercial use – the commercial use of the proposed pier qualifies under Site Plan. The Shoreland Zoning Ordinance does not overrule.

Dater wasn't sure Hull was comparing the ordinances correctly for "strictest standard" statement. He felt the State statute (Shoreland Zoning) speaks specifically about piers and to him that pre-empts all other ordinances.

Hull disagreed with Dater's interpretation of the Town's ordinances.

Dater: asked the applicant if they have been using this site to store their things in the past. Carter told him they had used it for the planned purpose since purchased in 1986 – there is Planning Board approval in 1996 for the current use. Dater questioned whether it would then be a grandfathered use.

Hull: a grandfathered use does not apply to new structures.

Dater felt reading by the Town Attorney may be in order before continuing.

CEO: if the pier does not touch shore does it qualify as a structure? If the entire project stays below the high tide mark and doesn't touch land it seems that the Town Land Use Ordinance would no longer apply – it would be State.

The Board decided to table any decision on this application for further review.

#### **E. OTHER**

##### **1. INN ALONG THE WAY – 741 MAIN STREET (RT. 1B) – LOT 3/46 – C2 HIGHWAY COMMERCIAL & RURAL DISTRICTS – SKETCH PLAN REVIEW OF PROPOSED PLANNED-UNIT DEVELOPMENT RETIREE HOUSING CAMPUS.**

Inn Along the Way Representative Sherry Flint gave the Board a general overview of the project planned for the 31-acre Chapman Farm property and architect Rick Burt presented a preliminary 3-D model of the plan. He told the Board they plan to apply as a Planned Unit Development (PUD). The project will be designed for "older active adults to end of life".

Flint: Planning an inter-dependent community (first in the area) consisting of 12 small, simple, environmentally friendly, rented homes; 4 respite cottages for families who are care giving for loved ones towards the end of life; and a commercial area that will include a restaurant, an inn, a café, & an art center

that will help fund the site. There is also a plan to do farm to table right on site with a farm stand as well. This will not be a medical community.

Burt: Reviewed a site plan sketch submitted to the Board previously. The property is currently split between the C2 & Residential zones – They request clarification on exact location of that division line. They plan to move the entrance to the property to improve visibility on the road & will meet with MDOT to confirm that option at a later date. On site parking will meet or exceed the ordinance requirements.

Burt handed out 16 questions from Inn Along the Way clarifying the Boards expectations as they go through the review process.

Dater: reviewed PUD requirements, including a written plan outlining permanent preservation of open space – in this case would need to be a minimum of 170,000 square feet to support the number of dwellings currently planned. He encouraged Burt to consider future needs of the PUD when constructing the plan.

**2. VINE STREET, LLC – VINE STREET EXTENSION – LOT 3/94-1 – C2 HIGHWAY COMMERCIAL DISTRICT – SKETCH PLAN REVIEW FOR PROPOSED MULTI-UNIT RESIDENTIAL DEVELOPMENT.**

Tor Glendinning & William Gartley brought a site plan for the Board to review. They are proposing 10 individual cottages that will be less than 700 square feet – approximately 22 x 30 each; plus, a small community room and small storage shed for each cottage. They are creating a condominium association on the site, not individual lots.

Gartley: Ordinance requires a 100 ft. diameter turning radius. They met with the Fire Chief and he confirmed the outside diameter for the turning radius on his largest truck is 80 so they are hoping the Board would be willing to discuss that criteria.

Dater: Will there be a secondary, emergency access through the parking lot at the dollar store?

Gartley: no legal access or an easement for that at this time.

Glendinning: was discussed at initial meeting with the owner and would require some negotiation to get something in writing in order to gain deeded access from the neighbor.

Dater: The Board will be interested in public safety.

Glendinning: Fire Chief Roberts did not view it as a big deal as long as he can get his apparatus in and out safely.

Dater: Why are there 2 parking spaces per unit proposed when the ordinance only requires 1?

Glendinning: just as a matter of convenience to the residents.

Dater: impervious area will be increased & there are storm water management regulations that must be adhered to.

Eaton: What is width of Vine Street?

Gartley: the development road is proposed at 18 feet. Vine St at its narrowest point is 16 feet.

Lynch: Has concerns about the narrow street and the increased traffic. The corner at the intersection of Vine / Church / Main is very sharp and can be dangerous.

Glendinning: Hope to bring a formal application before the Board at their May meeting.

Eaton: Cottages for sale or rent?

Glendinning: for sale – as a condo with a homeowner's association.

**2A. CREAMER – 131 ABBIE LANE – LOT 17/16 – RESIDENTIAL SHORELAND ZONING DISTRICT – PEMAQUID POND – REPLACEMENT OF EXISTING STRUCTURE.**

Architect Teresa Simpson presented the Board with the site plan & application info. The Creamers are proposing to replace their current non-conforming structure on Pemaquid Lake with a new non-conforming structure. The new structure will actually be more non-conforming by 240 square feet, but still well within the 1,500 square feet that is allowed on their lot. The Current structure has been in place since 1992. CEO has done a site visit.

Dater read aloud from the Shoreland Zoning Ordinance: section 12C; C2

Simpson: With the new proposed structure they are at 1,413 square feet.

On a motion Hunt / Garren to accept the application as complete and approve as submitted for the appropriate permit to be issued.

Vote: 4-0 in Favor

**3. Questions from the public to Planning Board.**

None

**4. Planner's Reports.**

None

**5. Fee's for SPR, SUBDIV, WIND POWER ORDS.**

None

F. ADJOURNMENT


On motion Garren / Hunt to adjourn the meeting at 10:50 pm


Vote: 4-0 in favor

Respectfully submitted by:

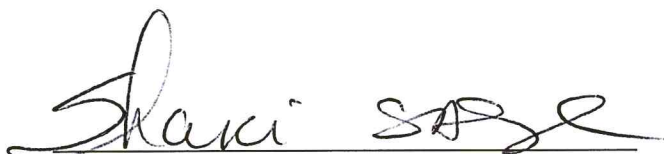
  
Rebecca J. Bartolotta, Deputy Clerk

We, the undersigned, do hereby approve the minutes of the April 4, 2016 Planning Board meeting:

  
Jonathan Eaton, Chairman

  
Wilder Hunt, Vice – Chairman

\_\_\_\_\_  
Stephen Cole

  
Shari Sage

  
Bruce Garren

Dated: 07/11/16