

**MINUTES OF THE PLANNING BOARD PUBLIC HEARING
AND PLANNING BOARD MEETING**

**SATURDAY, SEPTEMBER 15, 2007
FRYE ISLAND COMMUNITY CENTER**

Present: Dave Treacy, Margarete Schnauck, Steve Kaplan, Sam Donio, Marge Hommel and Ed Johnson,

Absent: Paul Peterson

Attendees: Wayne Fournier, Town Manager 113, Rich Purtell 39, Ernie Wrzesinsky 285, Bob Sutherland, Chairman Comp. Plan Committee 31, Talli Sutherland -31, John Masayda 63, Steven & Barbara Aranyi 271, Ron Cedrone 85, Frank & Rebecca Limauro 74.

Dave Treacy, Chairman opened the **Public Hearing** at 8:35a.m. to discuss amendments to Land Use Ordinances. Hand outs were distributed to the Board and to the attendees prior to the meeting.

Change in Article I, 101- I- 14- F- 4.Reconsideration of Board of Appeals Decisions.

This section replaces the prior section in its entirety as recommended by the Town attorney to the Board of Appeals.

Ernie Wrzesinsky asked if this is exactly the language that the Town attorney recommended and was told yes by Dave Treacy. Since there were no further comments, Dave Treacy closed this part of the public hearing and moved forward to the next item.

101-I-11-E-2 Application for a Building Permit.

New proposed language was presented for an ordinance recommended by the Appeals Board to reduce the number of appeals due to inappropriate property line set backs. No discussion followed.

Regulation of Docks.

Steve Kaplan opened the discussion by explaining that the DEP has stated that the Town does have the option not to regulate temporary docks. Currently docks now require permitting which allows for Town ordinance control. Steve stated his reasons on why he felt opting out would be an advantage.

Sam Donio went on to explain what opting out really entails- that anyone can put any size dock any where they want to. He stated that the State of Maine is concerned about clarity going down and phosphate level going up in the lake. They are concerned that that people are placing structures on the lake with no concern for others or for esthetics.

At the 9/08/07 meeting two people questioned if they could totally replace a non conforming structure (dock) with the same footprint? Would they be grandfathered or would the new six foot width regulation now apply? Paul White was asked to come up with a definite yes or no answer.

Paul did consult with Mike Morse, Assistant Shoreland Zoning Coordinator and the following was his response **Replacement of the entire dock does indeed cause the new six foot width limitation to apply to the replacement dock, temporary or not. Repair and maintenance would be a good idea if they want to keep what they have.**

Ernie Wrzesinsky wanted to have a specific definition of a temporary structure and was told the definition was under Shoreland Zoning 101-III- 1 under C4. Ernie also wanted to know where it says size and was told the zoning part defines the size.

Barbara Aranyi wanted to know the consequences if their insured dock which is greater than six feet wide is destroyed by a storm and needs be replaced? How does the new six foot width regulation impact them if the insurance company says it needs to be replaced as it originally was? Sam Donio stated that the Planning Board had no control over that type of issue and suggested she consult with her insurance company.

Ernie Wrzesinsky feels that the people who bought waterfront property here for water recreation are paying the most taxes and now they are challenging our docks. He does not feel that docks pollute the lake. He feels that the Planning Board should consult with the Town attorney before we adopt these changes.

A lively discussion followed with many questions and suggestions. Steve Kaplan stated the he felt the town should opt-out because he feels it would be less restrictive.

Marge Hommel wanted to know what would happen if the town doesn't enact the Shoreland Zoning in a timely fashion and Ernie wanted to know specifically what the law says.

Dave Treacy stated that the DEP plays a major role in determining the regulations. In the Maine State Guidelines Shoreland Zoning Environmental Protection we last updated our Shoreland Zoning May 1, 2006. At our 8/25/08 meeting Paul White distributed Maine Shoreland Guidelines that mandate we must update our Shoreland Zoning as of May 1, 2008. Dave Treacy stated that if our CEO says that we need to follow Mike Morse's mandates then we run against it at our own peril.

Ernie feels that we should put this issue on the back burner until we find out what the law actually says.

Ed Johnson stated that under Environmental Protection, first paragraph, the act requires that Municipalities respond by April 1st.

Steve Kaplan stated we are not against Shoreland Zoning, just the dock issue.

Barbara Aranyi stated that a lot of people are complaining because of too many regulations and the people are not taking advantage of neighbors, but do have to make adjustments because of rocks, water levels, etc. She stated that if this is the only chance to opt-out take it, then if we have problems, go back and put the regulations back in . She felt if we opted out, people would still be compliant. We still couldn't have boat houses because they would be within the 100 ft. and other ordinances would protect against abuse.

Rich Purtell wanted to be specific about the opt-out and wanted the definition of temporary structures which was provided to him under Definitions.

Wayne Founier stated that he will check with the Legal Dept. of the MMA. As the ordinance is now, it still requires permitting for temporary structures. The thing that brought this whole thing to a head is the fees for temporary structures. He also stated the Board of Selectmen have the authority to lower the permitting fees for temporary structures.

Two important questions remained unanswered

- 1) We do not know the time span when the opt-out opportunity will still be available.
- 2) We do not know what will happen if we do not send in our Shoreland Ordinance amendments before the April 1st. deadline.

Bob Sutherland suggested that since we have an ordinance that we are compliant with, how about sending in our current ordinance and see what happens.

Sam Donio suggested moving on and not sending the issue to the town meeting.

Land Use Clearing / removal of vegetation 101- III 15N 3-C. DEP changes addressing added language re: leaf litter and forest duff layer.

Ernie Wrzesinsky felt this was an addition by the CEO and voiced his objection regarding not being able to rake his leaves. Sam Donio pointed out that it was not our CEO who made the change, but the DEP and it could be found on page 41- Environmental Protection under the Water Quality section.

Ed Johnson made a motion to close the Public Hearing; Seconded by Steve Kaplan.; All in favor

The Public Hearing was closed by Dave Treacy at 9:45 a.m.

Planning Board Meeting

The Planning Board meeting was called to order at 9:45 a.m. by Dave Treacy, Chairman

Ed Johnson moved to approve the amended minutes of the 9/8/07 meeting; seconded by Steve Kaplan; all in favor.

Old Business

Decisions regarding Hearing matters

1. Reconsideration

Marge Hommel moved that the reconsideration changes as recommended by the Town lawyer to the Appeals Board be sent to the Board of Selectmen for inclusion in the 10/06/07 Town Meeting. The motion was seconded by Ed Johnson. All were in favor.

2. Application for a Building Permit

Marge Hommel moved to approve the Application for a Building Permit as amended and forward it to the Board of Selectmen for inclusion, as a warrant, at the 10/06/07 Town Meeting- unanimously approved.

3. Shoreland Zoning

Marge Hommel moved not to send Shoreland Zoning to the Board of Selectmen and to table any amendments until next year. The motion was seconded by Sam Donio. It was approved by a vote of 4 to 1 with Dave Treacy being opposed.

Review/Confirmation of Planning Board By-Laws

Steve Kaplan presented his changes in the by-laws to increase efficiency of time at meetings (new additions on page 2.

Marge Hommel recommended the 6 day prior notice be decreased to 3-4 days. With e-mail messages can be received quickly as opposed to regular mail. Steve preferred to leave it at 6 days.

Ed Johnson moved that in article 4.24 the time frame be moved to 4 days; seconded by Marge Hommel; all in favor.

Marge Hommel moved that in article 4.25 the following language should be added: This rule may be waived by a unanimous vote. All were in favor.

Other Business

Marge Hommel questioned who is going to make the presentation at the 10/6/07 Town Meeting and suggested a brief 15 minute meeting to discuss the issue. Marge also suggested that Dave Treacy contact Tim McCarthy, Appeals Board Co-Chairman to see if Tim will be presenting the Appeals Board issues.

Next scheduled meeting: 10/06/07 at 8:00 a.m. prior to the Town Meeting at the Frye Island Community Center.