



MINUTES  
PLANNING BOARD  
May 27, 2010

John Potvin - Regular 2014  
Gerald Kamke - Regular 2010  
Jeffrey Ganong - Regular 2010  
Dan Nezol - Regular 2011  
Francis Drake, Jr. - Regular 2011  
Don Fellows - Associate 2014  
Steve Warren - Associate 2011

1. CALL TO ORDER. The Chairman, Mr. Potvin called the meeting to order at 7:00 PM.
2. ROLL CALL. Regular members present were Gerald Kamke (arrived at 7:05), Dan Nezol, Jeff Ganong (arrived at 8:05), and associate members Don Fellows and Steve Warren. Francis Drake, Jr. was absent, unexcused. Also present were Michael Cote, Code Enforcement Officer; Steven Eldridge, Town Manager; John Maloney, AVCOG, Fergus Lea, AVCOG; Roger Cote, Town Councilor; Gina Mason, Town Councilor; and approximately 17 citizens in the audience.

The Chairman granted Don Fellows and Steve Warren voting privileges. The Chairman reviewed the Board's policies and procedures. Mr. Potvin said he would change the agenda to allow the public hearings to be followed by the regular meeting before reviewing the zoning map amendments, the wellhead protection ordinance, and the street lighting ordinance.

3. PUBLIC HEARINGS:

**Conditional Use Permit Application:**

Case # 09-8      **Applicant:**            Wayne & Brenda Lavers  
                         **Property Location:**    306 Ridge Rd./Rte.9            Lisbon Falls  
                         **Tax Map:**                    R4-8D  
                         **Zone:**                        Rural Open Space/Resource Protection  
                         **Intended Use:**            Create Two Rear Lots for Son & Daughter.

The Chairman, Mr. Potvin, opened the public hearing and asked Wayne and Brenda Lavers representative Jeremiah Raitt to explain the reason for the conditional use application. Mr. Raitt explained that the Lavers intend to create two rear lots for their son and daughter. Mr. Raitt said there is a 20 foot right of way to serve both house lots. He said they meet the minimum lot sizes. Emergency vehicle turn around space is noted on the plan. Mr. Raitt said aerial photography shows quite clearly that the second lot is within the Rural Open Space/Resource Protection zone.

**Conditional Use Permit Application:**

Case # 09-12      **Applicant:**            Cristy Bourget  
                         **Property Location:**    36 Upland Road                Lisbon  
                         **Tax Map:**                    U17-14B  
                         **Zone:**                        Resource Protection  
                         **Intended Use:**            Install Septic System in Resource Protection.

Cristy Bourget said that she is requesting a conditional use permit to replace a failed septic system with a new one to serve a house and a trailer. She is not adding anything new, just replacing the failed system.

**Conditional Use Permit Application:**

Case #09-13    **Applicant:**            Edward Bush  
                   **Property Location:**    159 Ridge Rd.                    Lisbon Falls  
                   **Tax Map"**                            R5-7  
                   **Zone:**                                Rural Open Space  
                   **Intended Use:**                    Bring in Fill 15, 000 cubic yards.

Edward Bush said he is asking permission to add fill to a back lot where the land slopes steeply. He said that it is not a wetland area. Mr. Bush said he would bulldoze to a manageable pitch and would add mulch to prevent erosion. He said the fill will improve the drainage for his neighbor to the back and will not negatively affect any of his neighbors.

Mr. Potvin closed the public hearing and opened the regular meeting.

## 4. REGULAR MEETING

**Conditional Use Permit Application:**

Case # 09-8    **Applicant:**                    Wayne & Brenda Lavers  
                   **Intended Use:**                    Create Two Rear Lots for Son & Daughter.

ACTION TAKEN: Mr. Fellows seconded by Mr. Kamke moved to approve the Conditional Use Permit allowing Wayne and Brenda Lavers to create two rear lots for their son and daughter with the condition to have an emergency vehicle turnaround. Vote 5-0 Carried.

**Conditional Use Permit Application:**

Case #09-12    **Applicant:**                    Cristy Bourget  
                   **Intended Use:**                    Install Septic System in Resource Protection.

Ms. Bourget said the Town Engineer Ryan Leighton had told her that it was not possible to use the public sewer line for her property.

ACTION TAKEN: Mr. Warren seconded by Mr. Kamke moved to approve the Conditional Use Permit allowing her to install a new septic system within the Resource Protection zone. Vote 5-0 Carried.

**Conditional Use Permit Application:**

Case #09-13    **Applicant:**                    Edward Bush  
                   **Intended Use:**                    Bring in Fill 15, 000 cubic yards.

ACTION TAKEN: Mr. Fellows seconded by Mr. Kamke moved to approve the Conditional Use Permit for Edward Bush to bring in fill not to exceed 15, 000 cubic yards without returning to the Planning Board. Vote 5-0 Carried.

**Review Zoning Map Amendments.**

John Maloney reviewed the zoning map amendments. He said he has been working for over a year on the text of the zoning ordinance and the map. Mr. Maloney said the ordinance and map was the work of the Comprehensive Plan and part of that plan includes the future use map and future use zoning. He reviewed the major differences between the current zoning map and the future land use zoning map. He drafted a map that reflects the contents of the

Comprehensive Plan. ROSII, rural open space II is a proposed new zone to maintain a land base adequate for agriculture.

Mr. Maloney said testimony at a public hearing led to revisions. The Planning Board asked Mr. Maloney to make several revisions to the zoning map. The commercial area north of Bowdoinham Road was reduced. Along Rt. 196 by Frost Avenue an area previously zoned commercial has been changed back to limited residential. The area at the old high school has been changed from General Residential to V. Zoning for a sliver of property off Upland Road has been correctly zoned as Limited Rural Residential.

Mr. Maloney explained that the Dragon Pit on Moody Road is zoned as general residential. This parcel and two parcels across Moody Road owned by the town will be changed to commercial. The wellhead protection overlay zones add further restrictions to the commercial zoning.

Mr. Potvin asked about the Home Occupation II along the Rte 9 corridor. Mr. Maloney said that had not been drafted yet but the discussion so far is similar to the Home Occupation ordinance in place. He recommended that the Home Occupation II zone allow greater flexibility and not be as stringent as for in town. He said that a business would still not be allowed to put out a sign advertising the business, but that the space allowed within the home would be greater. Currently, a home occupation may not take up more than 25% of the structure. Mr. Maloney said in a rural zone, home occupation could occupy a greater percentage of space. He gave the example of a cabinetmaker using a garage to work in, needing and being allowed to use a space greater than 25% of the home's square footage. He said a number of towns have adopted this model as more and more people seek to establish a home business. Mr. Maloney said the Code Enforcement Officer would control what businesses would be allowed. Mr. Potvin said this was brought up to specifically address the concerns of residents on Rte 9.

Roger Cote said that Rte 9 is basically rural open space where he lives and beyond. He said in recent years businesses have been established on Rte 9 and no one has stopped them despite town ordinances. Mr. Potvin said that was not the spirit of the proposed change to the ordinance. He said Rte 9 is a gateway into Lisbon from the turnpike and that commercial businesses would give people a reason to get off the highway. Mr. Cote said it is wrong to push businesses onto the property owners who moved to a rural residential area for peace and quiet. He said the businesses are not following the existing ordinances.

David Bowie, Upland Road, said he sent a letter to Mr. Maloney addressing his concerns. He is concerned with the zoning on the north and south sides of Upland Road. He said allowing mobile homes is going to create continuing problems. He questioned why the zoning is different for each side and that "finger" lots may be created as they have in nearby towns. He said in those towns developers bought large pieces of land and divided the land into long skinny lots, not what the town planners had in mind.

Mr. Bowie said he is most concerned about the commercial development at the intersection of Rte 9 and Upland Road. Mr. Bowie said there are not strong enough ordinances to protect residential areas from commercial areas. Mr. Bowie said a large commercial park would be preferable to strip development.

Mr. Bowie said home occupation has been abused in Lisbon. He told the board not to loosen standards to allow for home occupations which threaten the lifestyle for people who have

invested in well built homes and are paying their good fair share of the tax burden. He said it is an unnecessary negative impact.

Cindy Stacey, Roberts Lane, said she is concerned about the proposed commercial zoning in her area. She asked if any commercial business could move in there. Mr. Cote said no, any applicant would have to go through the site plan review process. Mrs. Stacey said she does not want a strip mall next to the entrance to Lisbon. Mrs. Stacey said she would prefer a sign directing visitors to the businesses along Rte 196.

Gina Mason asked for a definition of home occupation. Mike Cote said a home occupation must not occupy more than 25% of the structure. He said that signs indicating the business are not allowed. Mr. Cote said that no more than 2 people could be employed. He said nobody is supposed to know you have a business there by signage or storage. Don Fellows asked for a clarification of home occupation II. Mr. Maloney said the proposed zoning for home occupation II would be more for rural areas and would allow a larger percentage of the structure to be used. The primary use of the home is still residential, not commercial. Mr. Maloney said there would be traffic safeguards.

Mr. Potvin thanked everyone for coming and speaking up. He told the audience that their concerns were being heard.

#### **Review Wellhead Protection Ordinance.**

Mr. Lea said there were comments at the first hearing involving the sand and gravel pits, and about remediation of groundwater. Mr. Lea said changes were made to the Wellhead Protection Ordinance to accommodate those concerns. He added a statement to clarify aquifer boundaries. He also clarified the description of Zone 2. Heating oil storage issues were addressed. Mr. Lea said in some cases it is appropriate to ask for waivers; it is better for the Planning Board to issue a waiver rather than use a checklist format.

Mr. Lea said Division 9 in the old ordinance concerned sand and gravel pits. Most of the wording is the same, just made a bit easier now. Remediation or reclamation plans for an existing pit was changed by saying that the plan should reflect State requirements. He said this is in the spirit of the old ordinance and protecting the aquifer.

Mr. Eldridge said he received a letter from the attorney for Maine Electronics, which recommended a change to the ordinance. Mr. Eldridge forwarded that letter to Roger Therriault, Town Attorney. Mr. Therriault recommended that Lisbon not accept DEP standards, that the town should set its own standards. Mr. Lea said he had received the same letter. Mr. Lea said that Maine Electronics is the only firm under remediation now, and he recommends that the town review each remediation separately in the future.

Roger Cote said he was very concerned with commercial property next to the wellhead. He is concerned that Lisbon's water might become polluted and then Lisbon would have to get water from Auburn at a very high cost to the town and citizens. He said allowing businesses that could endanger the aquifer is irresponsible. Mr. Potvin said that is the purpose of the Wellhead Protection Zone. Mr. Kamke said that people would still have to apply to the Planning Board for permission.

Jim Carville said he is concerned that property in the wellhead protection area will be devalued because it limits what they can do on that property. Mr. Potvin said that Pat Dow,

Assessor, told them just the opposite would likely happen, that because the grounds are protected, property values would probably be higher. Mr. Carville disagreed and said that limiting usage would devalue the property. Mr. Carville wanted to know if there would be any compensation because a property is limited. He said other communities buy up the property around a wellhead. Mr. Eldridge said we need to look at what is allowed or not allowed within the wellhead protection zone. He said it really means that heavy industry would not be allowed.

Mr. Carville said he asked at a previous hearing about his son's property. His son has a tractor trailer and Mr. Carville's understanding from the hearing was that his son could not work on his truck at home because it is within the wellhead protection zone. Mr. Cote said he could not have an auto repair shop, but working on one vehicle would be allowed as long as the garage is for his own personal use. Mr. Lea said the decision to allow that might be a policy decision by the Board. Mr. Lea said that if Mr. Carville's son said someone else wanted to bring a truck to his garage for repairs, that use would be commercial and not allowed.

Mr. Carville said any business wants to expand and these ordinances prevent that. He said that devalues the property to the owner and to any potential future buyer of that business. Mr. Ganong said that Mr. Carville and the Board were equating versatility of the property with actual property value. He said just because a property is restricted doesn't necessarily devalue the property.

Mike Gaudeau, Stony Brook Consultants, said he represents the Gendron family, which owns property affected by the Wellhead Protection Ordinance. Mr. Gaudeau said his only question was about Div. 9, 70-801 where the company is grandfathered from regulation, but subject to activity. Mr. Gaudeau said his client has an existing pit that will be grandfathered, but if the client operates in another wellhead district he will still be subject to file an application with the Code Enforcement Officer and tell him where the groundwater is, and make a reclamation plan. There is no notice and no timeframe with this new ordinance. Mr. Gaudeau said identifying the groundwater can be very costly. Recently they had to do that for DEP and it cost \$10,000. The reclamation plan is easier under the new ordinance, but also costly if the pit has to be filled back in.

Mr. Lea said Div. 9 should probably have a timetable for filing the groundwater report and a reclamation timetable. He said the old ordinance did not have a timetable.

Lori Baugh, 2 Moody Road, asked about chemical use, such as fertilizers and pesticides, on her property under the new ordinance. Mr. Potvin said that language was not intended for residential use of a property. He said it was meant to limit commercial businesses, such as a sod farm. Mr. Kamke said it would be good to work with the Water Department to make sure what is safe to use. Mr. Lea said life in that district would go on as it is now.

### **Review Street Lighting Ordinance.**

Mr. Eldridge said the Town Council asked for a policy regulating street lights. He said that The Council wanted to hand over regulation of streetlights to the Town Engineer and to the Police Chief. He said the recent inventory showed that the town has 605 lights. He said we are trying to cut back on the number of streetlights in town. Mr. Eldridge said he doesn't think that we need as many lights as is recommended. Streetlights would be at intersections, dead ends, placed for safety. He said that safety and ornamental lighting are the main issues.

Mr. Fellows said he thought there should be a provision for property owners to appeal placement or removal of streetlights. He said that was in the earlier ordinance. Mr. Eldridge said that could be put back in. Mr. Fellows said the national electrical code standard of street lights every 220 feet should be applied. He said it is not clear when and how this ordinance would be implemented.

Mr. Warren asked about ornamental lighting. Mr. Eldridge said ornamental lighting is the preferred lighting where there are pedestrians. Mr. Eldridge said the Council makes the final decision regarding lighting. The Police Chief or Fire Chief will assess the safety issues along with Public Works and they will make recommendations to the Council. Mr. Eldridge said when a lighting decision meets the ordinance criteria that the Council will not need to be consulted. Mr. Eldridge said the ordinance needs a procedural evaluation to deal with changes in street lighting.

Mr. Eldridge said it will take time assess the inventory of streetlights in town. The map CMP provided indicated only half as many lights as the final inventory showed. He said they will need to look at the zoning map together with the inventory to determine where the lights are and if they need to be removed. Mr. Eldridge said there has been some discussion of changing to LED street lights from the current halogen lights.

Roger Cote questioned why this issue was being brought before the Planning Board. Mr. Eldridge said it was to allow the Planning Board to add anything to the ordinance. He said the attorney had reviewed the draft. Mr. Potvin said new documents are always brought to the Planning Board before going to Council. Mr. Eldridge said this was an opportunity for the Board to weigh in with their opinions.

Mr. Ganong asked about lighting costs. Mr. Eldridge said CMP bears the costs of installing and removing lights. The town pays the electricity bill. Mr. Eldridge said the town may be able to save \$10,000 by removing some lights.

#### **Review Zoning Map Amendments.**

Mr. Nezol seconded by Mr. Kamke moved to table any decision about Zoning Map Amendments to June 24, 2010 meeting. Vote 5-0 Carried.

#### **Review Wellhead Protection Ordinance.**

Mr. Potvin asked to include a timeframe to Div. 9 to remove any ambiguity regarding grandfathering and having requirements brought up by Mr. Gaudeau earlier. Mr. Lea said this could be clarified. Mr. Potvin said this could be discussed at a workshop set for June 9 at 2 PM.

Mr. Kamke seconded by Mr. Warren moved to table any decision about the Wellhead Protection Ordinance to June 24, 2010 meeting. Vote 5-0 Carried.

#### **Review Street Lighting Ordinance.**

Mr. Ganong asked when the appendix would be added to the ordinance. He also asked about the appeal process. Mr. Eldridge said the purpose of the ordinance was to create a policy so that the

Town Engineer and Public Safety could make streetlight decisions without having to involve the Council every time. He said the appeal process would be added to the ordinance.

Mr. Kamke seconded by Mr. Warren moved to table any decision about the Street Lighting Ordinance to June 24, 2010 meeting. Vote 5-0 Carried

5. OTHER BUSINESS: None

6. WRITTEN COMMUNICATIONS:  
Minutes of 4/22/2010.

ACTION TAKEN: Mr. Ganong, seconded by Mr. Nezol, moved to approve the minutes of 4/22/2009 as presented. Vote 5-0. Carried.

7. ADJOURNMENT

ACTION TAKEN: Mr. Kamke, seconded by Mr. Fellows, moved to adjourn at 9:30 PM. Vote 5-0. Carried.

Respectfully submitted,

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Elizabeth French  
Assistant Town Clerk

*Note: These minutes are not verbatim. A recording of the meeting is on file.*