



MEETING PLANNING BOARD AUGUST 23, 2012

Don Fellows - Regular 2013
Jeffrey Ganong - Regular 2013
Curtis Lunt-Associate 2013
Dan Nezol - Regular 2014
Karin Paradis-Associate 2014
James Lemieux-Regular 2015
Joshua Holmes-Regular 2015

1. **CALL TO ORDER:** The Chairman, Mr. Fellows, called the meeting to order at 7:06 PM.
2. **ROLL CALL:** Regular members present were Don Fellows and Dan Nezol. Associate member Karin Paradis was present. Regular members Jeff Ganong, James Lemieux, and Josh Holmes were excused. Associate member Curtis Lunt was excused. Also present was Amanda Bunker from Wright Pierce; David Bowie, Ethics Panel; Dorothy Fitzgerald, Roger Cote, Larry Fillmore.

The Chairman reviewed the Board's policies and procedures. The Chairman granted Karin Paradis voting privileges.

3. **WRITTEN COMMUNICATIONS:** Minutes of June 28, 2012 and July 26, 2012

ACTION TAKEN: Mrs. Paradis seconded by Mr. Nezol moved to accept the minutes of June 28 and July 26, 2012. Vote 3-0 Carried

4. **PUBLIC HEARINGS: NONE**

5. **REGULAR MEETING:**

Conditional Use Checklist Approval

Mr. Fellows said the second checklist is very cumbersome and unnecessary.

Ms. Bunker said a waiver request form has been added with language regarding when waivers are used. She changed spaces for Board members signatures with the write up on a separate page.

Ms. Bunker said the big question now is attachment checklist 2. The ordinance says that for conditional use you are supposed to have submissions that are required in the subdivision preliminary plan and as you will notice that is almost four pages with a lot of detail. It is called for in the ordinance. Clearly the Board should have the ability to waive that requirement. Until the ordinance can be updated, it is way beyond what is normally filled with conditional use applications. This is not somebody coming in with a large subdivision, for example. There's plenty of language in the first checklist that says if the Board wants additional detail from the applicant. Ms. Bunker said if there are no issues with the Code Enforcement Officer or the Town Attorney, it seems that applicants may be told they can stick to the main checklist.

Ms. Bunker said the Planning Board is allowed to waive things, dimensional standards the Board can't change or land use, certain setbacks have to go to Appeals, but extraordinary unnecessary hardships from compliance with certain standards is in the ordinance. If it doesn't nullify the purpose of the ordinance the Planning Board or the Code Enforcement Officer can.

Ms. Bunker said it is a reasonable timeline to require three meetings to approve conditional use: an initial review at first meeting, public hearing at second meeting, and a final review at a third meeting. Ms. Bunker said if it is so small a project that those three meetings over six weeks is a real burden, then that case could probably be handled by the Code Enforcement Officer. If it warrants the Board's attention, then coming to three meetings is not unreasonable.

Mr. Fellows said if it is that simple then the Planning Board could make a decision in one meeting, too. Ms. Bunker agreed.

Ms. Bunker will finalize and bring in the new Conditional Use Checklist at the next meeting on Sept. 13, 2012.

Route 9 Future Development Update and Discussion

Mr. Fellows said that Ms. Bunker and he met with Roger Therriault, Town Attorney, and got a different perspective on potential or actual violations of this ordinance.

Ms. Bunker said she had talked with John Maloney from AVCOG about this before speaking with Mr. Therriault. They discussed the definition of home occupation and how it applies to non residential uses on Route 9 and ROSI. There may be a way to look at Route 9 differently or to change the overlay. It is possible to do that but not without changing the Comprehensive Plan. Based on the last several meetings and the last Council workshop, the intent is not to make further changes to the Comprehensive Plan since this issue was discussed just a few years ago.

Ms. Bunker said the problem with the Route 9 corridor is there are always going to be mixed feelings on whether there should be commercial uses there. Many other towns have struggled with growth versus rural areas, with high traffic roads that are not necessarily commercial. It is complicated to sort out.

Mr. Fellows said what is allowed now is agricultural use which is clearly defined, recreational use, and home occupations. It is when we get to home occupation that we are not very clear. It is determining what an accessory is that is difficult. Our next step is to set up a workshop with AVCOG before we make any recommendation to Council.

Ms. Bunker said Roger Therriault indicated that signage was allowed for other things that are not home occupation, such as a nursery school which is a permitted use. If it falls under home occupation but it is not a permitted use, then you cannot have exterior signs. Our current definition for home occupations is a bit unsatisfactory. In terms of the known violations or potential violations for Route 9, the home occupations or occupations that were there before the ordinance was adopted kind of covers everything that we know about. Only one property had a violation notice sent out and apparently that one was determined to precede this ordinance, so that was allowed. Any other potential violations seem to fall under home occupations. There are no pending violations out now.

Ms. Bunker said because this has created so much discussion that a public forum is needed to explain to the public and to confirm that we are sticking with the Comprehensive Plan and that we are very limited in what we can do in terms of the ordinance.

Mr. Fellows said this is not a public hearing but I will allow the four people in the audience to speak briefly.

David Bowie said if there are no violations now, then it seems to mean that anyone can have a home occupation.

Mr. Fellows said I don't think that is what Ms. Bunker meant. Ms. Bunker said the town has not sent any violation letters. There are no violations right now. I'm not a Code Enforcement Officer and we have not had anyone officially look at violations. The regular Code Enforcement Officer is out on medical leave right now and we have a temporary Code Enforcement Officer. We're doing the best we can right now.

Larry Fillmore said I have a FOAA request for the letters that were sent to all of the businesses on Route 9 for the last 10 years. I received a call from the Code Enforcement Officer yesterday that told me that it would take him a couple of days to get this together and it would cost me between \$50 and \$75.

Mr. Fellows said you did not ask for the last 10 years.

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

Mr. Fillmore said that tells me that there were letters that were sent out, that there were violations, whether or not you call it recent, there were letters sent out that said you were in violation of our ordinances and codes. I'm in the process of gathering those for you. I will be more than happy to share them with you. To make a statement that there are none out there and it's going to cost me \$50 to \$75, I've got to question that.

Mrs. Durisko said Edward is here a couple of hours three days a week trying to measure setbacks and meet the needs of building permits, and initial requests only. The request was put on his desk and he is not familiar with the office or how Mike issues violations. I was not aware he was doing this and I would have asked him to hold off until Steve was here because he is not familiar with the situation. Edward simply gave you an estimate based on the number of files he would have to research in order to fulfill your request. The files may contain many other records and correspondence so an assumption that everything in the file is a violation would be inaccurate. He was trying to give an estimate for a request that would take more than one hour of his time to fulfill.

Mr. Fellows said there are similar violations all over town. It is a bigger problem than Route 9.

Roger Cote said I know that there are businesses on Route 9 that received letters this year saying they were operating illegally. Councilor Bickford went to bat for three of them. To say there are no violations is ludicrous.

Ms. Bunker said that was the information they were given from the Town Manager.

Mr. Fellows said we had planned to meet with AVCOG to get a definition of home occupations. It is possible that we sent out letters of code violations a long time ago.

Ms. Bunker said she would invite John Maloney from AVCOG for the September 13 meeting. He can also explain defining the impact of a home occupation on surrounding properties.

Mr. Fellows said after that we can set up a public forum to present the discussion we've had for the last few months. Ms. Bunker said she would like to offer an opportunity for people to express their concerns and what their values and key issues are.

Mr. Cote said people's thoughts on Route 9 have changed since the Comprehensive Plan was written because the economy has changed.

Bylaws Development

Mr. Fellows said when the Charter was written the Planning Board was given the right to write its own rules. He said that Ms. Bunker had given him bylaws from several towns and he presented a draft of bylaws for the Planning Board.

Ms. Bunker reviewed the bylaws draft. She mentioned the following points:

- the waiver of rules needs to be reconsidered
- under "Responsibilities of the Planning Board": remove the first two bullets and clarify the third bullet because the Comprehensive Plan is not an ordinance

Mr. Bowie pointed out the danger of adding too much detail to the bylaws is that if State law changes or the Charter has changes then you have to change the bylaws, but frequently that does not happen so the bylaws are in conflict with State law or the Charter. Bylaws cover who is responsible for the minutes and when they are published and things like that. You can say the Planning Board is responsible for all duties defined by the State of Maine and the Charter, that way you don't have to get so detailed.

Mr. Fellows said the purpose of doing this was to get talking about it.

Ms. Bunker said under Responsibilities of Membership:

- some items are repetitive

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- conversations about cases out of meetings are illegal and needs to be stated clearly
- meeting occurrence needs to be clarified
- agendas are prepared by the Code Enforcement Officer

The Board agreed to continue this discussion at later meetings.

6. OTHER BUSINESS

7. ADJOURNMENT

ACTION TAKEN: Mrs. Paradis seconded by Mr. Nezol moved to adjourn at 8:59 PM. Vote 3-0. Carried.

Respectfully submitted,

Jody Durisko
Administrative Assistant