



PLANNING BOARD MINUTES AUGUST 26, 2021

Christopher Huston- Regular 2022
Curtis Lunt- Regular 2022
Patrick Maloy - Associate 2024
William Kuhl - Regular 2023
Lisa Ward - Regular 2024
Shaun Carr - Regular 2024
Dan Leeman - Associate 2022

1. **CALL TO ORDER:** The Chairman, Mr. Kuhl called the meeting to order at 7:00 PM.
2. **ROLL CALL:** Regular members present were William Kuhl, Curtis Lunt, Shaun Carr and Chris Huston (Arriving at 7:13pm). Associate Members Dan Leeman and Patrick Maloy were present as well. Lisa Ward was excused. Also present were Diane Barnes, Town Manager; Nate LeClair, Lisbon Fire Chief and Don Fellows, Town Council Representative. There were 3 audience members.

3. REVIEW OF MEETING RULES:

The Chairman explained the meeting rules are located on the back of each agenda.

4. WRITTEN COMMUNICATIONS: Minutes of Augusta 12, 2021

The meeting minutes of August 12, 2021 were distributed to all the members. The Chairman asked if there were corrections or additions.

VOTE (2021-61) Mr Carr, seconded by Mr. Lunt moved to approve the Minutes of August 12, 2021.

Vote 4-0 Carried.

5. PUBLIC HEARING – None

6. UNFINISHED BUSINESS- None

7. NEW BUSINESS- Case #21-13 Proposed Build-Out of Marshall Field Subdivision Maine Affordable Properties, LLC Bartholomew and Emery Streets Map U-15A, Lots 68 & 69 and 80 thru 104

Tom Farmer, Landscaper and Architect from Yarmouth representing Maine Affordable Properties spoke about the project, stating the owner would like to build out Phase II of the development. The owner was told by the Realtor and current owner, Marshall Gross, that it's already been approved and has been taxed on Residential Lots.

Mr. Kuhl asked when it was originally approved. Mr. Farmer said he believed it was in 1988.

Mr. Lunt stated that there is no expiration date on an approval unless changes were made to the Sub-division regulations since that date, which he did not think they had. He made Mr. Farmer aware that they if they sell lots before the road is finished then the road would need to be bonded and if there is any deviation to the plans the Planning Board would need to know that.

Mr. Farmer stated they would contact the Water and Sewer Departments for any new regulations or codes they would need to meet. He said they would put together a new cost estimate and then do bonding based on that.

Mr. Kuhl wanted to make the Applicant aware that this area has a history of ground water issues. He asked Mr. Farmer what the timeframe would be for starting the project. Mr. Farmer said they would like to begin in the Fall.

Mr. Lunt said except for the exit out of the subdivision, he did not see any reason to not move forward once they submit a detailed and updated plan.

Jay Raitt, from Little River Land Surveying Inc. stated that this project, which was approved on October 5, 1988, was re-recorded and revised in 1990 where it specified the Planning Board had determined that sidewalks are not required on this submission plan.

8. OTHER BUSINESS – Rural Open Space II Zoning District Language Modification

David Bowie of Upland Road spoke about ROS II Zoning. He was present years ago when the Planning Board's desire was to try and control over-development in some of the Agricultural Areas. He said Lisbon no longer has a Dairy Farm and there were 6 or 8 of them when he was growing up. He said the market for Agriculture is not good right now. He said if the Bottma Farm closes down completely, it will impact about 800 acres in the Upland Road area.

Mr. Kuhl said that Mrs. Barnes reached out to AVCOG to get some assistance with the Ordinance language pertaining to the ROSII zone. See email response from Shelly Norton from AVCOG below.

Shelley Norton, from AVCOG writes: In looking at the 2007 plan updated 2011 and the revised 2019 Comprehensive Plan it looks like the "Land Use and Development Patterns" Strategies from the 2007/2011 plan were repeated in the 2019 plan. It sounds like some of these strategies were already accomplished, most specifically amending the zoning and subdivision ordinances to "*prohibit residential subdivisions in the Rural/ Open Space II Area.*" and "*to require new residential lots in the Rural/Open Space II Area to have a maximum lot area and frontage on a publicly maintained road/street,*" and to "*prohibit back lots in the Rural/ Open Space II Area.*" The more restrictive language from the 2007/2011 Comprehensive Plan (following) **was not included** in the 2019 Comprehensive Plan:

3. Rural/Open Space Area II. These areas are important to maintaining the agricultural base of Lisbon. For the planning period (2006-2016), these areas should be maintained primarily for production agriculture and residential uses that support those uses. Commercial uses related to the sale of agricultural products, outdoor recreation and activities that support continued farming are appropriate in this area. Permitted and conditional uses in the Rural Open Space II Area will further defined in the Zoning Ordinance. The subdivision of land for residential purposes would be prohibited. New residential development here will be located on lots with not less than 60,000 square feet or not more than 100,000 square feet. All lots must have frontage on a publically maintained road/street.

For the purposes of the Growth Management Law the Rural/Open Space Area II is a Rural Area.

Shelly Norton, from AVCOG writes: You would only need to make changes to the Comprehensive Plan if the zoning/subdivision ordinance changes you want to make are at odds with those strategies I've highlighted above (or other parts of the plan). Because you have a plan that was found consistent with the State's Growth Management Act in 2019 and that consistency is good for twelve years, the town should provide any changes to the Comprehensive Plan as an amendment to the state prior to adopting at town meeting. That is a fairly simple process where they just review the changes, sometimes it requires they send it to public comment, which would extend the timeline a bit, but it is still worth doing. I would recommend starting with reviewing the vision for that zoning district and ensuring that it is still the intent, determining what future development would be acceptable to people and what wouldn't be, and then write something we think accomplishes that intent to the extent that we can through zoning (as opposed to other farmland preservation practices). Once people are satisfied with the ordinance changes, I would update the Comprehensive Plan so that the vision is compatible as well as the goals and strategies with the ordinance changes the town has devised. It may be as simple as removing or providing vaguer strategies for the Comp Plan. Both the ordinance and Comprehensive Plan changes can be sent to the same town meeting, however, the Comprehensive Plan requires 30-day notice prior to the public hearing, which is typically more than most town's ordinances require. I think while the reasons for adopting these restrictions were well-meaning it seems like in practice they are more restrictive than what the majority of people involved desire. In this situation I wouldn't recommend giving conditional use permit authority to the

Planning Board as the solution without first identifying if there are other ways to reduce the problems, it may be that Planning Board action won't be necessary or we can reduce the number of instances that would require Planning Board review. In addition, the Planning Board will need a criteria for review of a conditional use permit so they can be fair to each applicant. If you are interested in having me working with the Planning Board on proposed Ordinance and Comp Plan changes let me know. In accordance with the technical assistance policy I could spend approximately two days on that work before we would need to charge the town. This might be straightforward enough that a contract and fee wouldn't be necessary, but I could get started and then I would have a better idea. Thanks.

Bill Kesaris of Upland Road spoke about him and his brother wanting to build rear lots. They are both waiting for the okay to proceed since they were told that they could be issued permits.

Mr. Kuhl said the Planning Board discussed back in February how they could make that happen and the challenges of following the Comprehensive Plan. Mr. Douglass was in the process of gathering information for them as well. Mr. Kuhl apologized to Mr. Kesaris for the delay and asked Mr. Raitt to put together a very specific request for a waiver or exception for this project and in the meantime the Planning Board will reach out to AVCOG for further guidance on how to fix this situation for possibly the next meeting.

Chief LeClair spoke about the need for more Fire Hydrants and possibly requiring new future developments to install them and creating an ordinance for maintenance on existing privately owned Hydrants.

- 9. CODE ENFORCEMENT OFFICER** - Mr. Kuhl asked Mrs. Barnes for an update on replacing the Code Enforcement Officer. Mrs. Barnes stated a new Code Enforcement Officer should be on board by the end of September.

10. ADJOURNMENT–

VOTE: (2021-62) Mr. Carr, seconded by Mr. Lunt moved to adjourn at 7:50 p.m.
Vote 5-0 Carried.

Respectfully Submitted: _____

Lisa B. Smith

Date Approved: September 9, 2021