



MINUTES PLANNING BOARD JANUARY 28, 2016

Dan Nezol - Regular 2017
Karin Paradis - Regular 2018
James Lemieux - Associate 2018
Richard Long - Regular 2018
Scott T. Hall - Associate 2016
Curtis Lunt- Regular 2016
Don Fellows - Regular 2016

1. **CALL TO ORDER:** The Chairman, Mrs. Paradis called the meeting to order at 7:36 PM.
2. **ROLL CALL:** Regular members present were Karin Paradis, Dan Nezol, Donald Fellows, and Curtis Lunt. Associate members present were Scott Hall. Excused absences were Richard Long and James Lemieux. Also present was Dennis Douglass, Code Enforcement Officer; Amanda Bunker, Contracted Town Planner; Councilor Bickford; and 1 member in the audience.

3. **CHAIR'S REVIEW OF MEETING RULES:**

The Chairman waived the review of meeting rules since everybody present is well acquainted with them and granted voting privileges to Scott Hall.

4. **WRITTEN COMMUNICATIONS:**

Minutes of January 14, 2016

VOTE (2016-04) Mr. Lunt, seconded by Mr. Fellows moved to approve the minutes of January 14, 2016 as presented. **Order passed - Vote 5-0.**

5. **PUBLIC HEARINGS:** None.

6. **UNFINISHED BUSINESS:**

Accept Resignation of Richard Long

The Planning Board has received the official resignation of regular member Richard Long. The members all want to thank Richard for his service to the board and understand his decision to resign.

Mr. Lunt thought it would be a nice gesture of the board to send Mr. Long a letter of appreciation.

Recommendation to Promote Associate Member

The Planning Board with Mr. Hall's approval will submit a recommendation for Scott Hall to the Town Council to support his appointment as a regular member.

Recap of Lisbon Zoning Amendments Public Workshop

There was a very good discussion that confirmed that they need to spend more time and effort looking at the village and waterfront areas. She said overall the small areas they are looking at amending are good, there are a couple of small items to follow up on, and the majority of that could be ready for the next regular meeting of the Planning Board.

Medical Marijuana Ordinance Update

The Chairman, Mrs. Paradis granted Mr. Fellows permission to add this item to unfinished business.

Mr. Fellows said the Planning Board was supposed to update the Council on the Medical Marijuana Ordinances and he doesn't believe that is complete.

Mrs. Bunker said that she will draft a letter to Council outlining the Planning Boards decision on the Medical Marijuana Ordinances.

7. NEW BUSINESS:

Subdivision Review Application

Case #16-1 Applicants: Verne & Sally Ricker
Property Location: Mill Street, Lisbon, ME 04250
Tax Map: R5 Lot 38A
Intended Use: Create Fox Knoll Subdivision

The Chairman, Mrs. Paradis explained that Jay Raitt of Little River Land Surveying is representing Verne & Sally Ricker and invited Dennis Douglass to the podium to begin.

Mr. Douglass said they are here this evening to review the application and decide if it is complete and have any discussion regarding the application with Jay Raitt. The checklist for the application is included and in his opinion is complete, there are a couple of waivers that may be discussed tonight but overall it is a very thorough application and it is nice working with Jay because he knows our process now.

Mr. Fellows said he knows they have to decide if the application is complete but feels we need to decide if they are going to grant the waiver requests before it is decided that the application is complete.

The Chairman invited Jay Raitt to the podium to explain the waiver requests.

Mr. Raitt explained the following waiver requests:

- AC and AD are being requested because they don't feel traffic will be significantly impacted
- AF is being requested because they have a plan in the subdivision plan it was just not a formal plan designed by a professional engineer
- AI is being requested because the soil information is provided by the soils tested for the septic system it just was not the high intensity testing
- AJ is being requested because they don't feel that a hydrogeologic assessment is necessary on this lot but can do one.

Mr. Fellows asked if the board is deciding to grant the waivers.

Mr. Douglass said that would be decided at the next meeting the only thing required to accept the application itself is complete because the waiver request are in it.

Mrs. Bunker said she agrees with that but it would be nice to have some discussion surrounding the waivers.

VOTE (2016-05) Mr. Lunt, seconded by Mr. Hall moved to approve the Subdivision Review Application as complete. **Order passed - Vote 5-0.**

Mr. Fellows thought it would be nice for the applicant to have some feedback on the waiver requests and asked Mrs. Bunker to weigh in on them.

Mrs. Bunker said that most of the waivers seem legit but they would not be able to waive Stormwater requirements due to the Town's MS4 designation. The Planning Board would like to see the subdivision look more like a typical subdivision even if it required a waiver on the requirement to pave the road. To achieve a real subdivision look and feel it would require a slight reconfiguration of the end of the road. She mentioned that the common drive concept worked on the other side of the road but unless there were specific reasons the applicant didn't want to go with a road right of way they would rather see that.

It was noted that if the plans were amended to add a cul-de-sac it would change the road frontage and the challenge with that would be on lot 3.

Mr. Raitt said the reason it is shown as a common drive is that he was trying to work within the Access Management requirements by reducing the number of driveway openings while also avoiding the expense of the paving requirement for a town road. He said that this is a private road and it is never intended to become a public road therefore the expense of paving the road is an undue burden.

Mr. Fellows submitted the following email for Mr. Raitt and inclusion in the minutes as follows:

With regard to the new subdivision application on Ricker property, Dennis and I looked in some detail at the information on the town site regarding subdivisions and rear lots. It seems that some subdivision stipulations can easily be waived and more can be waived in the "Open Space" scenario. Our history with recent subdivisions with the Ricker situation was that we approved a subdivision of three lots and connected all of the lots with a driveway. That driveway may or may not have met some of the standards for subdivisions but, even so, when it came to building on the rear most lot of the subdivision, we chose to do a rear lot approval process. Dennis and I both now think that that was a less than desirable process and that had the subdivision met all requirements, the rear lot thing would not have been needed. It looks like that lot would have met the requirements had the road to it been more than a driveway.

The new application which we will hear on Thursday night, will attempt to divide into 5 parcels with a connector road. It appears that rather than meet the requirements of the subdivision roads, the applicant wishes to connect using lesser standards. It is true that the road standards may be easily waived to a degree in the Open Space subdivisions but the waiving process is not a given in other subdivisions and the requirements are more stringent.

As it is, we feel that using the rear lot method of dealing with this is not necessarily suitable to the intent of the subdivision ordinance, even though that process was used one time previously. As it is the driveway does appear to have sufficient right of way but frontage on the properties will not meet the 200 foot road frontage requirements on all the lots with this way of looking at things. In the Open Space scenario, that could be different.

Two other points:

- The Open Space subdivision plan is required in the RO1 and II zones but not in this LRR application. Although nothing prohibits using that criteria, the open space requirement is 50 percent. That does not appear to be a desirable fit here.*
- The overriding statute for subdivisions is MRSA Title 30-A, Sub-section 4401. The simple definition of a subdivision therein is that among other things it really "....means the division of a tract or parcel of land into 3 or more lots within any 5-year period...." That statute also says that a municipality may*

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

not adopt an ordinance that expands the definition of the subdivision except as provided in the sub-section, but the sub-section does say that this subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that : ".....(2) otherwise regulates land use activities." The conclusion that we draw from this is that by dividing the lots, the applicant will create a subdivision but that subdivision may not be buildable unless it meets the local code.

Don't know if this is what you wanted, as it does not appear to solve anything. However it does look like a launching point for some robust discussion. However, in our opinion, whatever the outcome, the completeness of the application already submitted is not affected by this discussion,

Also know, that since this e-mail does concern a specific case about to be considered. I will ensure that it is copied for members and for the record and make it public at the appropriate spot in our meeting.

VOTE (2016-06) Mr. Fellows, seconded by Mr. Lunt moved to schedule a site visit on February 6, 2016 at 10:00 a.m. **Order passed - Vote 5-0.**

VOTE (2016-07) Mr. Fellows, seconded by Mr. Lunt moved to schedule a public hearing on February 11, 2016 at 7:00 p.m. **Order passed - Vote 5-0.**

8. OTHER BUSINESS:

Property Maintenance Draft Ordinance

Dennis Douglass, Code Enforcement Officer said he has the latest draft of the Property Maintenance Draft Ordinance and isn't sure if that is what they are sending to Council because it still has yard sales in it.

Mr. Hall said there was a MMA workshop on the subject last week and is curious if there was any information presented there that would add or subtract from the current draft.

Mr. Douglass said he didn't have time to go through everything yet but what he got from the workshop was that the best approach is to handle this at the local level with an ordinance. The local ordinance would outline a very detailed process to go through so that if a decision were appealed to the court it wouldn't get thrown out because we missed a notice or something. Handling this locally is the simplest most cost effective approach.

Mr. Fellows mentioned he would like to add a reference to the State Statute and all a flow chart that was provided during the workshop.

The board wants to take the yard sale language out and handle as a separate ordinance.

Mrs. Bunker said that it could be used as a form or a working document but not necessarily incorporated into the ordinance.

The Chairman, Mrs. Paradis said it sounds like the board needs to schedule a workshop to work on this.

Mrs. Bunker said she didn't know if there was enough material to hold a workshop but perhaps they could make the changes and bring a new draft to the next meeting and schedule a public hearing.

9. CODE ENFORCEMENT OFFICIAL BUSINESS: None.

10. TOWN PLANNER OFFICIAL BUSINESS:

Route 196 Committee - Business Facade Program

Mrs. Bunker reported the letter of intent was approved for the business facade program. It is a CDBG Microenterprise Grant for \$150,000 grant with not local match is required because it is a 50% business

owner match. Tracey Steuber has put together the program criteria and documents for the business facade program.

Mr. Lunt asked what the plan is for the \$50,000.

Mrs. Bunker said option 1 is to use the \$50,000 downtown revitalization funds and our match for the streetscape project as planned if the funds go through. Option 2 is to use the funds straight up and work directly with public works and complete Davis Street sidewalk and sidewalk improvements on Union Street versus the streetscape work on route 196.

11. ADJOURN:

VOTE (2016-08) Mr. Fellows, seconded by Mr. Lunt moved to adjourn to workshop at 8:58 PM.
Order passed - Vote 5-0.

Jody Durisko, Administrative Assistant

Date Approved: _____