



Town of Eddington

906 Main Road Eddington, Maine 04428

PLANNING BOARD

May 12, 2015

6:00 pm

MINUTES

CALL TO ORDER: Susan Dunham-Shane called the meeting to order at 6:02 pm.

ROLL CALL: Members present were Susan Dunham-Shane, Gretchen Heldmann, Craig Knight, David McCluskey and Russell Smith. Tom Vanchieri has an excused absence.

Motion to make David a voting member for tonight. **By Gretchen/Craig 2nd Vote 3-0**

MINUTES: Motion to accept the minutes of the January 29, 2015 meeting with Gretchen's change to add an "n" to Heldman **By David/Craig 2nd. Vote 3-0 Gretchen abstained because she was not at this meeting.**

Table the minutes of the February 26, 2015.

Motion to accept the minutes of April 28, 2015 as written. **By Craig/Gretchen 2nd. Vote 3-0**

UNFINISHED BUSINESS: The Board continued their discussion regarding the State Shoreland Zone Changes. Gretchen explained to Susan that at the previous meeting they decided to start with our Ordinance and compare it to the changes made by MDEP. She said they will need to review the states comments because some items are optional. Gretchen said that there is no deadline to do this by. They will also need to update the Shoreland Zone Map. Susan said that the State repealed the Timber Harvesting Section of their Ordinance. Gretchen thinks we received the document from Stephenie at MDEP showing the changes because Charles Norburg had been working with her on Bradley's Ordinance. The Board discussed the following changes to the Shoreland Zoning Ordinance:

1. Applicability, #3, The information remains the same in this section, just the format of the paragraph is changed.
2. Effective Date, #4, change "March 25, 2008" to new "Date of Adoption". Keep the sentence "Adoption and approval of this Ordinance hereby rescinds and replaces the Eddington Shoreland Zoning Ordinance of March 19, 1991 and all subsequent amendments thereto." (It had been crossed out because it was not in the state ordinance.)
3. B. Repeal of Municipal Timber Harvesting Regulation, Remove this section; "The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A section 438-A(5), the following provisions of this Ordinance are repealed:
 - Section 14. Table of Land Uses, Column 3 (Forest management activities except for timber harvesting) and Column 4 (Timber harvesting);
 - Section 15(O) in its entirety; and

- Section 17. Definitions, add definitions of “forest management activities” and “residual basal area”.
- 4. Gretchen explained that, according to the online training she attended, they could either, a. repeal the local regulations, b. adopt the State’s Standards or c. retain the current standards. She will clarify with MDEP what the exact language needs to be in order for the state to take on harvesting in totality and not need to check with the municipality.
- 5. Districts and Zoning Map, #9, The state does not have the current map prepared by the Planning Board. They will just need to update the map with any new changes and forward it to the State.
- 6. Official Shoreland Zoning Map, 9. A. 2. add “/Recreational” to “Limited Residential”
- 7. Change “Non-conformance” to “Nonconformance” in 12. A, B and C and throughout the entire Ordinance where needed.
- 8. Expansions, 12. C. 1) remove “subparagraphs (a) and (b) below” and add “the subsections of Section 12(C)(1).”

Remove “(a) Legally existing non-conforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as all other applicable standards contained in this Ordinance are met.”

Remove “i. Expansion of any portion of a structure within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement.”

“12.1.(a) ii”, Change to “12.1.9” and after “water body” add “, tributary stream”.

Remove “iii. For structures located less than 75 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total floor area for all portions of those structures within that 75-foot distance is 1,000 square feet, and the maximum height of any portion of a structure that is within 75 feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is 20 feet or the height of the existing structure, whichever is greater.”

Add “(b) Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement.

- The Board will revisit the remainder of C. Nonconforming Structures, 1. Starting with c. “Notwithstanding Sections...”, page 7, through f. “The applicant must...”, page 8. Gretchen explained that the State prohibits expansion within 25’ of a nonconforming structure but they have added an optional exemption section. Gretchen explained that the exemption section needs to be reviewed as a whole and then they need to decide if they want to allow expansion with these rules. Susan is surprised that the state is now allowing expansion of a non-conforming structure. Susan also said that our Zoning Ordinance does not allow expansion of nonconforming lots or structures. Gretchen said the MDEP also recommends checking the Comprehensive Plan regarding any guidance on water resources.
- 9. “Change 12.(b)” to “(2) Foundations”, remove “enlarged” and replace with “expanded”; add “shoreline” before “setback”; remove “(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure, it shall not be considered to be an expansion of the structure.” And add “(3) below”
 - 10. Change Relocation from “(2)” to “(3)”; remove “(b)” before “Where feasible..”
 - 11. Reconstruction or Replacement will now be “(4)”; remove “with the purposes of this Ordinance” and add “Section 12(C)(3) above”. The Board will revisit the second paragraph, “If the reconstructed...” when they address footprint. 3rd paragraph, change “12(C)(2)” to “12(C)(3)”
 - 12. Change of Use of a Nonconforming Structure will now be “(5)”;
 - 13. D. Nonconforming Uses (1) Expansions, change “12(C)(1)(a)” to “12(C)(1)”; (3) Change of Use; add “including water dependent uses,” before “than the former use”; change “12(C)(4)” to “12(C)(5)”

14. E. (3) Contiguous Lots- Vacant or Partially Built; remove "on March 19, 1991 or thereafter" and add "at the time of or since adoption or amendment of this Ordinance,,"; second paragraph, change "prior to" to "on"
15. 13. A. and A.(1), Resource Protection District. Gretchen said they need clarification from the Shoreland Zone people before they make any decisions on these sections. After paragraph (4), add "NOTE: These areas usually consist of forested wetlands abutting water bodies and non-forested wetlands.,"; B. after "Limited Residential" add "/Recreational" in two places in this paragraph.
16. In Abbreviations: Remove "LR" and add "LRR" and "/Recreational"
17. Table 1. Land Uses in the Shoreland Zone; Gretchen said they changed the LR to LRR and removed Timber Harvesting on this Table, so after that the changes are for renumbering. David will increase the size of the chart and verify if anything was actually changed on it. They will not accept the changes to the Table until David double checks the changes.
18. Gretchen will be clarifying with MDEP the Resource Protection and Wetlands Sections.
19. The Board will revisit 15.A. Minimum Lot Standards.
20. Change "(2) Principal or accessory..." to the titled section "B. Principal and Accessory Structures" with the paragraph being numbered "(1)", Remove "classified GPA" twice in the paragraph.
21. Add; "NOTE: The Natural Resources Protection Act, 38 M.S.R.A. sections 480-A through 480-HH, requires the Department of Environmental Protection to designate areas of "significant wildlife habitat". Permitting under the Natural Resources Protection Act for activities adjacent to significant wildlife habitat areas may require greater setbacks. Contact your local Department of Environmental Protection office to see if additional permitting is required."
22. They will not adopt "Note: Refer to Section 17 for definitions of coastal wetland and tributary stream." which the State added.
23. The Board will revisit B. (2), pg 17
24. (3) Change "flood-plain" to "floodplain" (also anywhere else in the Ordinance) ; remove the sentence: "In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance," and remove "that ordinance and need not meet the elevation requirements of this paragraph" from the last sentence; Reword the last sentence to read: "Accessory structures may be placed in accordance with the standards of Floodplain Management Ordinance that is consistent with the April 2005 or later version under the National Flood Insurance Program."
25. (4) Remove "The total footprint area of all structures, parking lots and other", "within the shoreland zone", "lot or a", "of the lot" and "including land area previously developed". Add "Non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, patios, decks, retaining and access paths. Ledge and rock outcroppings are not counted as non-vegetated surfaces."
26. (5)(d) change "are" to "is".
27. After (5)(g)(v) add "NOTE: If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body, tributary stream or coastal wetland, a permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection."
28. C. Remove "Over" and add "Located"; C.(5), (7) and (8) remove "beyond" and add "or located below"
29. After C. (8) add: "NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the National Resources Protection Act, 38 M.R.S.A section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters."
30. D. Campgrounds, (2) remove "classified GPA or a river flowing to a great pond classified GPA". Also remove it from E. Individual Private Campsites (2).
31. F. Commercial and Industrial Uses. Remove "classified GPA", "rivers and", "classified GPA"
32. The Board will start at Page 21, F. (3) at the next meeting.

NEW BUSINESS: The Board discussed possible changes to the Bylaws of the Planning Board. Gretchen explained that because they have decided to change the Planning Board meetings back to Tuesday nights from Thursday and have them start at 6:00 instead of 6:30, they need to update their Bylaws. As she was going through them, she noticed a few other items that need their attention.

The following items were discussed regarding their Bylaws (They can discuss the changes tonight, email the red-lined version to Tom to be voted on at their next meeting.):

- 1) 1.4.1, change “five” to “a simple majority of affirmative votes.” After “written notice” add “(emails acceptable)”
- 2) 1.6.1, after “all members” add “present”
- 3) Election of Officers needs to be put on the Agenda for the next meeting per sections 2.4.1.2 and 2.4.1.3.
- 4) 4.2.1 change “Thursday” to “Tuesday” and “6:30 pm” to “6:00 pm”. They decided not to specify in the Bylaws that the first meeting each month will be a regular meeting and the second meeting each month will be a workshop.
- 5) 4.3.1 Remove “shall be conducted according to Robert’s Rules of Order” and add “will be conducted in an orderly fashion at the Chair’s direction and discretion, guided by Robert’s Rules of Order Newly Revised.”
- 6) 5.4.1 Remove “one week” and add “six days”.

The Board began their discussion to look at all of the Setbacks in the Addendum which was listed on the Agenda. Susan asked if they had received any communication from the Selectmen regarding the Addendum while she was gone. Gretchen clarified that they have had no direct communication from the Selectmen, they made a motion and vote. Susan asked if they have received any specific suggestions or direction from the Select Board. Gretchen answered no and said the actual motion was for the Planning Board to review the setbacks.

OTHER BUSINESS: They asked Russell about his listing on the Agenda for a Workshop on Tuesday, May 26, 6pm. He explained that when he spoke with Tom in the morning, they had spoken about having a workshop to focus on the Addendum on the 26th and that he wanted to attend it. The item under New Business to Look at all Setbacks in Addendum had been left on the Agenda in error from the previous Agenda.

STAFF REPORTS:

PLANNING BOARD COMMENTS: Susan read her letter in response to the letters that had been forwarded to the Planning Board from the Concerned Citizens Group. A copy of the letter will be attached to these minutes.

PUBLIC ACCESS: Theresa Woznik, 509 Riverside Drive, questioned the phrase “we the board” in Susan’s letter and wanted to know if she had consulted the Board for the letter. Susan said no, this was her letter that she wrote while she was in Ohio for a family emergency.

Frank Arisimeek, commented to Susan that it seems like she has an answer for everything. In regards to changing his land from 2 acre lots to 4 acre lots, he can no longer sell 2 acre lots. Susan explained that lot size changes in Rural Agricultural, were a result of the Comprehensive Plan. Frank said he asked to be part of the work on the Ordinance. When the Board worked on the Zoning Ordinance to bring it up to date to the Comprehensive Plan, they presented it to the residents and the residents voted to accept the changes. Susan tried to explain to Frank that when the Comprehensive Plan was accepted in the early 2000’s, the current members on the Board had nothing to do with it. Frank feels he has been treated unfairly because of the lot size change, apple orchard sign and being questioned on where he would plow the snow at his lot, when the school talked about parking buses on his lot.

Hilma Adams, 363 Main Road, said that it appears to her that Susan is very angry and she would

like the entire Board and especially Susan to open her mind and listen to the citizens, calm down and listen to them.

Bill Chapman, Chapman Lane, asked why they had to go to the extremes that they did, beyond the state, for the setbacks for the mineral extraction. Susan explained that his question was brought up many other times. She said they will be doing a workshop on May 26, 2015. Susan said that during the Selectmen review phase and Public Hearing, they found out that legally they could not make changes as they thought they could. This is why she had asked at the beginning of her letter if they had received any specifics regarding the addendum. She said that it would have been helpful if some of the other people that had written letters had come to them to discuss their concerns. Mr. Chapman then asked if Susan was on the Board when the Comprehensive Plan was developed and she answered no, that she was not. He further stated that lot sizes requirements for Rt. 178, river-side lots are 2 acre lots with 200' of frontage and 4 acre lots with 400' of frontage for lots across the road. Mr. Chapman asked what the criteria would be in regards to land conservation and why the 4 acre lots were not put on the river-side with the 2-acre lots across the road. Susan said she could not answer for the Comprehensive Committee. He said that a neighbor of his, who was on the Planning Board, completed a site plan application for multi-housing. The neighbor had talked to Mr. and Mrs. Chapman about this project. He later changed his plans because he could not get financing and he decided to sell house lots. Mr. Chapman said he did not know if the neighbor was required to come back around and talk to his neighbors, but he was on the Planning Board when the Comprehensive Plan was being done. He ended up putting a house right in front of Mr. Chapman's house without a building permit. (Mrs. Chapman called Russell who verified that.) The Code Enforcement Officer did nothing about this. Mr. Chapman decided to put a fence up. The Code Enforcement Officer told his workers that were building the fence that he was in violation and was going to be fined \$100.00 a day. Mrs. Chapman had called the CEO and asked if there was any ordinance for fences in the Town of Eddington and was told no there was not one. But the CEO failed to tell her that there was a State Fence Ordinance. The CEO called Mrs. Chapman a liar, which upset Mr. Chapman. Mr. Chapman came to the Office and confronted the CEO about this. His fence stayed, but there was still nothing done about his neighbor not having a permit to build a new house. Mr. Chapman stated that this was his experience with someone on the Planning Board and it was not good. He is not saying that all members are like that. Mr. Chapman continued that what is going on right now is terrible with the business people, residents and Planning Board all upset over a pile of rocks. The whole country is going to hell in a handbasket if some of you people don't wake up. They shouldn't even be here doing this, not even consider it. The town-fathers would turn over in their graves if they knew what was going on.

Joan Brooks, 369 Main Road, asked when they are going to be redoing the Compressive Plan because she keeps hearing comments that it has to be this or that because of the Plan. Gretchen asked Russell if the Town has any money to hire a consultant to work on the Comprehensive Plan. Joan thinks that is the problem that occurred before. They hired a consultant, he looked at Portland and just sort of adopted it. A consultant is not what they need, but need home-grown people working on it. Susan and Russell agreed that the prior consultant was very experienced in writing Comp Plans. Gretchen said that when the Comprehensive Plan was previously done, the consultant was with PVMCOG which was part of EMDC that is in Bangor, which would mean local people worked on it. Gretchen asked for an answer to her question about a consultant or at least a facilitator. Russell said it depends on how much it would be, but no, they do not have a lot of money. Joan asked how often a Comprehensive Plan should be updated. Gretchen said it was adopted in 2004 and it is up to the Town whether it is updated in 10, 15 or 20 years. Joan went on to say everyone should remember not to break the Queens Rule, meaning you avoid the appearance of wrong doing as well as wrong doing itself. And she thinks it would be wise to get some of this

settled without threatening neighbors.

Ralph McLeod, Holden, speaking on behalf of his family on Fox Lane said the one thing that concerned him about this was if the town or state came through and take part of your land through eminent domain, they are required to compensate you for it. If quarries go in they will devalue his son's home \$80,000 to \$100,000 and they have no plans to compensate them at all. They will cost the Town \$61,000 a year in lost revenue from the taxes on the houses up there. He said Mr. Wood went to him in the fall with figures showing a \$4.3 million loss in valuation of homes if a quarry went in. Dianna Hype, professor at Auburn University, put together a model that shows a quarry has the same rating as a landfill when it comes down to how it will affect the value of houses. These people are talking about this land and the value is being decreased. How about the people that actually live there. None of the people that want to start a quarry live there. He thinks that one thing the Planning Board should address is compensation rules, in case someone does something to decrease the value of someone else's land, they should be compensated. In all of the meetings that he has been too, with Hughes Bros, Inc, Frank Arisimeek and David Butterfield in attendance, nothing has been said about them taking care of the residents up there. A woman at the top of the hill put her house on the market, 3 people said they wanted to buy it, but when they went to the bank, the bank said next to a quarry they will not touch it. Mr. McLeod said that ethics and a code of conduct are important things the Town should do. Nicole McLeod said she felt she should speak now because one of the Selectmen is here, sitting behind her and saying that what Mr. McLeod is saying is a lie. Susan pointed out that currently there is not a large quarry application before this Board. Mr. McLeod asked what happens if the facilitation serves as a cover-up. He said he exposed the Chairman of the Selectmen as a liar. She had told a story in the fall of 2013 and then recanted that story. Susan stopped him from talking and said that she will not allow the meeting to continue with people accusing others of lying.

Hilma Adams, thanked Susan because she had calmed down. She said that she was born in Hall Quarry and values did not depreciate. Her extended family owned quarries. She is not going to say anyone is a liar, but she sells real estate, and until you get all the facts you do not know the facts. She further said that that is not why the Concerned Citizens have come. She said that they have come here because of the outlandish setbacks and she appreciates that they are going to do something about them.

Ray Wood Jr., Coffee Hill Way, wanted to remind the Board that they did a good job writing the addendum and when it was presented to the Town the town's people accepted it by a vote of about 139 to 52. He said that is 2.6 yes votes for 1 against. That is pretty substantial to say that the Town backs what they have done. He said you have a few citizens that didn't get the vote to go the way they wanted and are now here to complain. Mr. Wood thinks the Board should stick with what they have done because the people of the Town have spoken.

James McLeod, Fox Hill, said he is running some numbers and at the Public Hearing they had 26 people that wanted more than 1000' setback and several that wanted ½ to 1 mile set back. The other side had about 5 people that could vote on the issues and wanted less setbacks. He has noticed about 18 people in the concerned citizens group that might be registered voters. They haven't come close to the numbers of people that have been following this whole procedure and are in favor of the addendum. The Board came to the conclusion after hearing from so many people for higher setbacks and changed the setback to 1500' which the Town overwhelming voted for. He does not think that they should change the setback unless it is changed for more.

Frank Arisimeek said that they have requested proof from Ralph McLeod regarding land devaluing

which he has not provided. He said as far as the Town vote, it was less than 10% of the population of Eddington voting and they did not know what they were voting on.

Sandra Reed, 34 Horse Farm Lane said she agrees with Frank's comment about people not knowing what they are voting on because she needs laymen's terms for the Planning Board paperwork. She questioned why yes can't mean yes and no mean no. And in regards to people not being at the meetings, she did not think it was mandatory for her to be at every meeting. She said they are concerned and are coming together now as a community, for everybody's concerns, not just one person because it is devaluing their home. She asked why they couldn't remove stuff, mineral extraction, from their land. They have a horse farm, they have to remove that stuff, and it affects their business.

NEXT MEETING: The next meeting will be Tuesday, May 26, 2015 at 6:00 pm

ADJOURNMENT: Motion to adjourn at 8:29 pm. **By Gretchen/Craig 2nd. All in favor**

Respectfully Submitted,

Denise M. Knowles