

**Lebanon, Maine Planning Board
Minutes – Regular Meeting
Thursday February 2, 2017**

Members Present

P. Philbrick - Chairman
S. Bright – Vice-Chairman
C. Lunderville
D. Harriman
B. Thompson – Alternate
S. O’Brien - Alternate
J. Griffin – Clerk

Others Present

Dan Meehan – Fire/EMS Chief
Dana Coull –
Mike Beaulieu – Lebanon Code Enforcement
Officer
Betty Harris-Howard – Lebanon Appeals
Board Chairman
Deborah Wilson – Resident
Bobbie Stormann
Paul Nadeau - Selectman
Royce Heath – Selectman
Laura Bragg
Rodney Furbush
Mandy Furbush

Chairman Philbrick called for a motion to open the meeting. The motion was made by S. Bright and seconded by D. Harriman. The vote was taken and carried unanimously. Chairman Philbrick opened the meeting at 6:05 pm.

The planning board was notified that C. Lunderville was going to be late for tonight’s meeting.

S. O’Brien was made a voting member for tonight’s meeting by Chairman Philbrick.

There was a quorum of members present and there were no conflicts of interest with any of the posted agenda items.

Visitor cards were distributed to guests to fill out. Guests who had previously filled out visitor cards had this evenings date added to the card. Chairman Philbrick explained for new guests in order to address the board they must fill out a visitor card in order to be recognized. The Board must then take a vote whether or not the visitor may have permission to address the Board due to time constraints and/or bringing up a topic that is not on the agenda.

John Corliss- Mr. Corliss was not in attendance.

The Planning Board agreed to move to the next item on the agenda which was the Lot Size Ordinance.

Mike Beaulieu, Code Enforcement Officer requested to address the Board before discussing the Lot Size Ordinance. Chairman Philbrick asked the Board if they were in agreement to allow the Code Enforcement Officer to do so. The Board was in agreement. Mr. Beaulieu spoke concerning property on Sewell Shores owned by Rodney and Mandy Furbush. They have met with Mr. Beaulieu inquiring about building on the lot. Currently the property is a non-conforming lot which they would like to build on. This request falls under Shoreland Zoning in Resource Protection, an application would need to be submitted to the D.E.P.,

Department of Environmental Protection and if approved, they would have to appear before the Appeals Board.

Lot Size Ordinance- Much discussion took place on this topic. The proposed Lot Size Ordinance was read. It was asked if anyone had questions regarding this. Selectman Heath asked if the proposed Lot Size Ordinance has gone through legal to be reviewed. Vice-Chair Bright replied that it has been sent to legal for review, however, there was a revision made which still needs to be submitted. It was mentioned that the Lot Size Ordinance has gone before legal in the past to be reviewed, corrections were made and the ordinance was approved to be placed on the Town ballot. However, it was not included.

The Code Enforcement Officer asked if the Planning Board agreed to send the amended proposed Lot Size Ordinance to legal for review. Chairman Philbrick asked Ben Thompson, who not only is an alternate member for the Planning Board, but is also the Lebanon Town Assessing Agent, would the proposed Lot Size Ordinance alleviate the issues he is encountering with reassessing the waterfront properties in Town. Mr. Thompson answered that this would assist in alleviating a majority of the issues he is encountering, however he still has a concern with the wording within the Shoreland Zoning Ordinance. Vice-Chair Bright added that the Shoreland Zoning Ordinance should be amended to include wording in regards to “grandfathered” lots.

Code Enforcement Officer Mike Beaulieu stated that before considering lots to be “grandfathered” it needs to be researched as to which lots were deeded prior to August 7th, 1973 when the Lot Size Ordinance was enacted. Mr. Beaulieu had the deed for the Furbush property he presented to the board. This was dated 8 (eight) months prior to August/1973. This property is one of 10 (ten) lots of which 7 (seven) of these lots have buildings. The property in question is one of the 3 (three) lots remaining that have not been built on. Mr. Beaulieu questioned should these last (3) lots have the same opportunity as the previous (7) lots who have built on their properties? D. Harriman offered that he would like to see the land owners get their monies worth with permission from the State. Code Enforcement added that any new development would need to abide by the current ordinance which is in place at the time that the owner is requesting the application for a permit.

There is language in the deed that specifies certain criteria in which the parcel could be built on. Per S. O’Brien informed the Planning Board that any criteria in a deed is not to be upheld by the Town, but by the individual who placed the criteria in the deed when the property was sold. Therefore the lot is still non-conforming lot by Town standards which cannot be built on. All 10 (ten) of these lots are located in Shoreland Zoning. Selectman Heath asked Mike Beaulieu if there were time limitations. Mr. Beaulieu replied that there are not. If there were an existing building on a non-conforming lot which needed a new septic and or well, then the applicant would go before the State to have a design approved or have one issued to present to the Code Enforcement Officer who will present the information to the Planning Board and if not approved by the Planning Board, they would go before the Appeals Board. Mr. Beaulieu has advised the applicant to go before the Appeals Board.

Vice-Chairman S. Bright feels comfortable in sending the proposed Lot Size Ordinance to legal for review. B. Thompson feels that the Lot Size Ordinance wording should be in (2) two separate amendments. One for the Town Ordinances and one for the Shoreland Zoning Ordinance. However, the Shoreland Zoning Ordinance also needs to be reviewed and changes made to coincide and or support the Town ordinances.

C. Lunderville, S. O’Brien and D. Harriman agree with Vice-Chairman Bright that the proposed Lot Size Ordinance should go to legal for review at this time. Chairman Philbrick called for a motion to send the proposed Lot Size Ordinance to legal for review. The motion was made by D. Harriman and seconded by S. Bright. The vote was taken and carried unanimously. Vice-Chairman Bright also mentioned that the

wording for the warrant should also be reviewed by legal. Chairman Philbrick stated that creating the correct wording will be difficult

S. O'Brien D. Harriman agrees that the proposed Lot Size Ordinance should go to legal for review at this time.

Chairman Philbrick asked the Code Enforcement Officer how he feels about the proposed Lot Size Ordinance Amendment

C. Lunderville arrived at 6:20 pm.

Marijuana Moratorium update – Much discussion took place on this subject. Vice-Chairman Bright offered that as of January 30th, it was legal to recreationally smoke marijuana. There were amendments made which state that retail establishment approval will not be available until February of 2018. The State can still issue licensing within the original 9 month window however, actual product cannot be sold until February 2018.

This posed the question of: Do we still need a moratorium? C. Lunderville feels that yes, a moratorium should still be put in place in the event that there is a slight “gap” between the actual legalization of selling retail marijuana and the Town creating ordinances. Code Enforcement Officer Mike Beaulieu reiterated that once an ordinance has been approved, it can always be amended in the future.

Vice-Chairman Bright would like to hold the informational meeting and discuss with the residents the possible challenges that could arise with the opening of retail establishments with Town and hear what the residents feel, what their concerns are and what guidelines should establishments be held to. Some guidelines to discuss would be setbacks from property lines, allow establishments throughout town or just on the route 202 corridor, retail and cultivation only or allow social clubs.

Code Enforcement Officer Mike Beaulieu and Fire Chief Dan Meehan have been working on guidelines from the safety aspect and should have proposed guidelines for the next meeting to review. These will include but are not limited to, fire suppression, safety guidelines, monitored alarm systems so that the fire department will always be contacted no matter the time of day, how should fertilizer be stored/kept? Chief Meehan is also currently working with the State Fire Marshall in order to create these guidelines.

Deborah Wilson asked to address the Board. Vice-Chairman Bright made the motion to allow Ms. Wilson to address the Board, D. Harriman seconded the motion. Ms. Wilson asked for clarification on the allowable building square footage. Vice-Chairman Bright explained that cultivation, retail and social clubs have different requirements for the different uses. There are also additional guidelines for medicinal marijuana. Mr. Beaulieu offered that the State regulates caregivers. For this aspect fire suppression is not needed BUT security systems are.

Chairman Philbrick added that at this time there are so many questions that have not been answered from the State level as of yet which makes it difficult to create ordinances based on what we “think” may happen. A moratorium needs to be in place in order to work on ordinances for the November vote. If the ordinances do not pass, the moratorium can be extended until the May vote.

The question of can a moratorium continue to be extended indefinitely? Vice-Chairman Bright offered that the Town needs to be actively working on an ordinance and that it should only be extended if it is needed for continuing to work on the ordinances not to purposefully delay the creation of one.

Chairman Philbrick made a motion to continue to pursue a moratorium to be placed on the May Town ballot and to cancel the moratorium if an ordinance(s) are in place. Vice-Chairman Bright seconded the motion. A vote was taken and passed unanimously.

Vice-Chairman Bright explained that the proposed prohibition ordinances are for the retail aspect only and do not have anything to do with the recreational use. Vice-Chairman Bright would like to send the proposed prohibition ordinances to legal for review. The ordinances could be reviewed at the annual Town meeting to see what direction the residents are leaning towards this will help to amend the ordinances if needed to reflect the resident's preferences. Chairman Philbrick asked for a motion to place the prohibition ordinances on the ballot for the annual Town vote. The motion was made by Vice-Chairman Bright and seconded by C. Lunderville. The vote was taken. The vote carried unanimously.

Mike Beaulieu, Code Enforcement Officer asked if the Board could return to the Lot Size Ordinance discussion. Chairman Philbrick made the motion to return to the Lot Size Ordinance discussion. It was seconded by D. Harriman. The vote was taken and passed.

Lot Size Ordinance revisited- The Code Enforcement Officer mentioned that in the Shoreland Zoning Ordinance there are Special Exceptions. An attested copy of the original date the Shoreland Zoning Ordinance was accepted is needed as well as each amendment that has been made.

Bettie Harris-Howard asked if she may address the Board. Vice-Chairman Bright made the motion to allow Ms. Harris-Howard to address the Board. The motion was seconded by C. Lunderville. The vote was taken and passed. Ms. Harris-Howard asked if the "grandfather law" would pertain to water front property, non-waterfront property as well as property owned by the Town. Chairman Philbrick stated that section D.8 in Shoreland Zoning ordinance still needs to be followed through prior to the procedure of administering permits. Vice-Chairman Bright reiterated that there are two different Ordinances, the Shoreland Zoning Ordinance and the current Town Lot Size Ordinance. The Lot size ordinance should be created for all land within Town then the Waterfront property could be created.

Informational Meeting – Vice-Chair Bright will send the Informational Meeting information to the Planning Board Clerk to send to the Planning Board. The presentation needs to be presented in segments due to the amount of information that needs to be relayed to the residents. Vice-Chairman Bright is hoping to hold the informational meeting after the workshop both he and C. Lunderville will be attending titled "After the Haze" at the regular Planning Board meeting on Thursday March 2, 2017. He would also like to hold a second informational meeting towards the end of the month of March. Additional information could be relayed at the Annual Town Meeting in April.

All information for the Town vote ballot needs to be finalized and submitted by the end of March. Communication with Code Enforcement as well as the Fire Chief are needed. Code Enforcement added that there should be a full disclosure in the informational meeting in regards to possible revenue as well as additional costs that this means to the Town.

Ms. Wilson mentioned that getting as much information to the residents early will allow the residents to participate in the creation of the ordinances.

When to hold the first informational meeting was discussed. First choice would be Saturday, February 18th at 1:30 pm. Seconded choice would be Saturday, February 11th at 1:30 pm. The Planning Board Clerk will contact Mrs. Gilley, Principal of both the Hanson and Lebanon Elementary schools to inquire if the Lebanon Elementary Gym would be available on either of those dates for the informational meeting venue.

Vice-Chairman Bright would like to go through his presentation at the Special Meeting to be held Thursday, February 9th at 6:00 pm.

Other Business –

Reviewed list of office supplies with Chairman Philbrick to approve for submittal to the Select Board.

There has been no further contact with Matthew Amacio in regards to the full member seat that he applied for. At this time the seat is considered vacant again.

The Clerk will send Cassandra the “Planning Board Vote Tally – Plan Criteria Review” form.

The Code Enforcement Officer brought a typo to the attention of the planning board within the Shoreland Zoning ordinance. On the Land Uses in the Shoreland Zone table,

note 7 except when are(a) is zoned

The clerk will contact Mike Morse, the Assistant Shoreland Zoning Coordinator with the State of Maine Department of Environmental Protection, to inquire if a typo within the Shoreland Zoning Guide needs to be voted on by the residents since the entire document was voted upon by the residents or if the typo can be corrected without a Town vote.

The Clerk will notify the Town Office Clerk that Alternate member S. O’Brien will be accepting the full member seat on the Planning Board and that new appointment paperwork will need to be completed.

Chairman Philbrick will be addressing the Select Board at their next meeting on Monday to request approval to send the proposed Lot Size Ordinance as well as the proposed Marijuana Prohibition Ordinances to legal for review.

Minutes- No minutes were reviewed this evening.

Chairman Philbrick called for a motion to adjourn the meeting. The motion was made by S. Bright and seconded by D. Harriman. The vote was taken and carried unanimously. The meeting was closed at 8:28 pm by Chairman Philbrick.

Minutes were reviewed 3/23/2017.

Vice-Chairman Bright made the motion to accept minutes.

The motion was seconded by D. Harriman.

The vote was taken. The vote carried