

**Lebanon, Maine Planning Board
Minutes – Regular Meeting
Thursday December 1st, 2016**

Members Present

P. Philbrick - Chairman
S. Bright – Vice-Chairman
C. Lunderville
D. Harriman
J. Griffin – Clerk

Others Present

Ben Thompson – Lebanon Town Assessor
Dana Coull – Resident
Mike Beaulieu – Lebanon Code Enforcement
Officer
Betty Harris-Howard – Lebanon Appeals
Board Chairman
Deborah Wilson – Resident
Tim Ziadeh – Noble Political Science student

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 6:00 pm.

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

Grandfather Ordinance-

Draft copies of a proposed “grandfather ordinance” were distributed for review to members of the Planning Board, Ben Thompson-Hired Assessor, Mike Beaulieu-Lebanon Code Enforcement Officer and Betty Harris-Howard-Lebanon Appeals Board Chairman. After much research, P. Philbrick modeled the proposed ordinance after the Town of Acton ordinance. Much discussion took place. There are many variables to take in account concerning this matter. P. Philbrick stated one factor that determines if a lot can be built upon is the sub-waste water system. Land owners may not use a “holding tank” as their first option unless it is an emergency situation. Mike Beaulieu questioned do the land owners hire an engineer to determine if a sub-waste water system can be used or should the Town hire the engineer at the land owners expense? Another question and or concerns was change of use – if a property was previously used as a residence, can someone change the residence to a business? Ben Thompson added that an ordinance would be ideal to have in place prior to the zoning of small businesses.

Mike Beaulieu stated that construction of buildings and change of use are two different things. Life Safety Codes are non-negotiable with or without a “grandfather ordinance”. The Code Enforcement Officer as well as the Fire Chief can enforce all safety codes for they are mandatory. These include but are not limited to: pulse stations at every exit/entrance, fire extinguishers, strobe lights/horns on the outside of the building, and fire suppression which can include retardant between walls in commercial buildings.

Betty Harris-Howard questioned once the ordinance is created and if it was approved, would there be a certain time frame in which land owners would need to contact the Town for an appeal? Would the Town be required to contact all land owners of the newly adopted ordinance? Ben Thompson offered that the ordinance would affect non-conforming properties prior to 1973. You should be able to trace this through the deed(s). Betty Harris-Howard then asked if land owners could reapply by a certain time frame.

P. Philbrick asked if a land owner was told they could not build on the land, could they abandon the land and sue the Town? Ben Thompson gave an example: Paul bought land 20 years ago. He now wants to sell the land to supplement his retirement. Ben purchases the property. Ben goes to code enforcement to

obtain a builders permit and he is told that he cannot build on the property because it is a non-conforming lot.

Mike Beaulieu gave example of a septic failing on a non-conforming lot and it needs a bigger tank – the owner needs to go through the state. The Code Enforcement Officer does not have to accept what the owner presents and has the authority to request the owner to research other options. One such would be a “Jazz Seal” which has both an outer and inner casing in situations that either a well or septic does not make the setbacks required.

Betty Harris-Howard asked if non-conforming lots which are not located on waterfront be required to follow the Shoreland Zoning model of the 30% expansion rule over the original footprint? Can you sell a parcel of land as a non-buildable non-conforming lot at a lower tax rate?

P. Philbrick asked that the proposed ordinance be reviewed and for everyone to add any questions and/or comments they have for discussion at the next meeting.

Marijuana Moratorium update-

S. Bright presented ten possible ordinance samples for review. Betty Harris-Howard asked if these would “retract” the approval of the vote on November 8th, 2016. S. Bright explained that the Town does not have the right or the authority to ban the use of recreational marijuana growth or use. The Town does however have the authority to place restrictions and guidelines for establishments that deal with retail marijuana. The Town also has the authority to ban such establishments, if they so choose, an example of which would be a “social club”. Deborah Wilson asked if the Town could place a cap on the amount of businesses that can be established in Town. Could the Town prohibit such establishments from back roads, spreading through the Town? Could the Town enforce that all businesses/establishments be restricted from anywhere in town other than route 202? If towns do in fact have the authority to enforce such guidelines and restrictions, who chooses the criteria?

The Planning Board does not have the authority to make such decisions. This would be something to bring before the towns people. Mike Beaulieu stated that what is in the best interest of the Town right now is to create a(n) ordinance(s) prior to the May town vote. In regards to having a town meeting about a moratorium, that would have to be called by the Select Board.

Ben Thompson offered that a meeting cannot be called and a moratorium voted upon. A moratorium would need to be voted upon by secret ballot, not by a show of hands. This could be brought to legal council as a citizens initiative then brought before the Select Board.

Deborah Wilson offered information that several citizen initiative petitions will be presented to the Select Board the end of December or the beginning of January which would call for a special election to place before the May ballot. It was recommended to the Planning Board the moratorium is an urgent matter and to submit a petition at the same time.

A special meeting of the planning board will be held Monday 12/12/2016 at 6:00 pm following the Select Board meeting.

The clerk will contact the Select Boards secretary to invite the Select Board to this meeting. The clerk is also to ask if the Planning board can contact legal council directly and if so do they need Select Board permission in order to seek advice prior to the special meeting on December 12th.

Those present were asked to review the sample ordinances and to bring their questions and or input to the special meeting. Mike Beaulieu will research “Moose Chatter” an on-line network for Code Enforcement/Town Officials to see how other towns are handling this matter.

If the town reviews the moratorium and it does not pass, then creating an ordinance(s) needs to be completed as soon as possible.

Comprehensive Plan-Further discussion on the comprehensive plan is tabled at this time. This topic will remain on future agendas in the event that new information arises that needs to be addressed. Betty Harris-Howard mentioned that the Select Board should be approached in order to request funds to be allocated for this project. It was reiterated what has been mentioned during previous meetings, that

information to educate the residents as well as receive their input is key. The issue with securing a venue for meetings was mentioned. The gymnasium at the Lebanon Elementary School has been used for meetings and elections in the past. The Town and the School need to discuss the possibility of utilizing the area for at least two Saturday meetings. The possibility of holding information meetings needs to be brought before the Selectboard for input.

Other Business –

Woodland Estates The Planning Board reviewed the corrected Findings of Fact and Conclusions of Law Decision. P. Philbrick called for a motion to accept as written. The motion was made by C. Lunderville and seconded by D. Harriman. The vote was taken. The vote carried unanimously.

An Escrow Release form was presented to the Planning Board to sign. The form will be given to the Select Board to sign prior to the treasurer closing the account and issuing a check to Gay Ehler.

Minutes-

The minutes of the 10/18/2016 workshop were reviewed. Chairman Philbrick called for a motion to accept minutes as is. The motion was made by S. Bright and seconded by D. Harriman. The vote was taken. The vote carried unanimously.

The minutes of the 11/3/2016 meeting were reviewed. Chairman Philbrick called for a motion to accept minutes as written. The motion was made by C. Lunderville and seconded by D. Harriman. The vote was taken. The vote carried 3 in favor and 1 abstain.

Chairman Philbrick called for a motion to adjourn the meeting. The motion was made by S. Bright and seconded by C. Lunderville. The vote was taken and carried unanimously. The meeting was closed at 8:30 pm by Chairman Philbrick.

Minutes were reviewed 1/5/2017

Chairman Philbrick called for a motion to accept minutes as is.

The motion was made by S. Bright and seconded by D. Harriman.

The vote was taken. The vote carried unanimously.