

## **ACTON PLANNING BOARD PUBLIC HEARING/MEETING**

**March 3, 2011**

**ROLL CALL** – Hearing began at 8:05 pm and adjourned at 9:11 pm

Members present were:       Chip Venell – Chairman  
                                      Thomas Cashin – Vice Chairman  
                                      Yoli Gallagher  
                                      Jessica Donnell – 1<sup>st</sup> Alternate  
                                      Arthur Kelly – 2<sup>nd</sup> Alternate

Members absent were:       David Jones  
                                      Keith Davis

Also present were:       Joe Ruma, Paul Poyant, W&F, Ken Paul, CEO and Linda Capristo,  
                                      Recording Secretary

**NEW BUSINESS** – Planning Board/Comp Plan/CEO Proposed Zoning Ordinance Amendments to Sections 1 through 4.

**UNFINISHED BUSINESS** –

### **MINUTES**

**February 17, 2011** – Motion to accept by Tom Cashin, 2<sup>nd</sup> Art Kelly. Seconded - Unanimous. There was no further discussion.

Mr. Venell opened the meeting by stating it was a Public Hearing for the Town of Acton Zoning Ordinance Sections 1-4 recommendations from the Comprehension Plan Implementation Committee and the Code Enforcement Officer. Mr. Venell continued by asking if there were any questions to direct them to him and to state their name.

Mr. Paul told the audience that anything with strike outs is being removed. Anything underlined is being added and anything in blue is State required and approved at Town Meeting, June 2010. The Shoreland document (State of Maine D.E.P.) was adopted at Town Meeting June 8, 2010 and now being merged into the Town's Zoning Ordinance. Mr. Paul said that it is just being pulled out of the Shoreland book and being added to the Ordinance itself.

Mr. Cashin stated that the Comp Plan Committee is a sub-committee of the Planning Board had to continue with this work and that in March 2009 the State came out with new guidelines to Municipal Shoreland Zoning which had to be folded into the pre-existing work. The changes are

State mandated work and in a number of instances the committee chose to take some more protective measures and more safeguards beyond the States minimum standards.

Mr. Paul stated that under definitions they just expanded the Resource Protection areas. Aquifer Protection District was added and not a requirement. Mr. Cashin said there are maps up on the wall if anyone has questions as this text pertains to the maps.

Mr. Paul said under non-conformities there was a little bit of text added; talking about a variance being granted. Repair and maintenance as a non-conforming structure allows you to continue to maintain, replace, repair your non-conforming structure. A lot of the verbiage is the same throughout the document. Mr. Cashin reminds that the text in blue is State mandated. Mr. Paul continues with non-conforming use which is just expanded and including buildings, structures and the land whereof. The non-conforming lot which is being allowed to be used without a variance. Some communities require variances on non-conforming lots, this is clearing that up. The RP and Shoreland zones are all the D.E.P. and should probably highlight that as well. Absence of road frontage this is talking about the lot to be on an Acton A, B or C standard road and a variance related to it does not involve lot size with road frontage in that area, actually directs you to the Acton Board of Appeals for that. Non-conforming lots if you have two of them you always had to merge them automatically, this just clarifies the ownership of it. The new language the State is adding to that is if one of the lots is not non-conforming the two lots that are continuous one of which is non-conforming and the owner is the same person, the effective date of the ordinance and be recorded at the registry. Mr. Paul said basically if you can get a septic system on it and usable it is valid; it will be acceptable and valid as long as it has 100 feet of frontage and 20,000 square feet of land. That is an exemption for requiring those lots to be merged together. It's the same text if there is a building on it or not. Exemption is if the Ordinance is not going to work there and the focus on it is what the State did in the Shoreland and Resource Protection Districts and all required verbiage. It's a process through the Planning Board to allow the use if it has been discontinued as long it is less than one year and that use was maintained for five years. Expansion as long as it does not make the lot more non-conforming it's a permitted use.

Change of use, again all State required language as long as that use is not more adverse of an impact on it determined through the Planning Board then they can change the use. Mr. Kelly asked if Mr. Paul could give an example. Mr. Paul said the change of use, if you have a non-conforming use in the Shoreland Zone say an automotive repair garage or something like that in the Shoreland Zone and the automotive repair facility was not in use, you are not going to go back to an automotive repair. It would run through Planning Board to see if it was a landscape business or something then they could change from there. So if it was an automotive repair in a residential use that is no longer used, then you are not going to go back into an automotive repair. It would run through Planning Board for a landscape business to see if it could be switch from there. If someone wanted to go back to the automotive repair with new safety measures, not an eyesore or an environmental nightmare was cleaned up the Planning Board would

determine if it would be allowed. The transfer of ownership, you can change ownership in a non-conforming lot. A lot of the verbiage banks are looking for before they provide loans these days. They are getting leery on non-conforming structures. Just getting the non-conforming into the text to follow the State rules. Wastewater disposal just added a few words in there.

Section 1.4.11.2 Relocation, this is when you have a structure, non-conforming to close to the lake, usually is the issue. Looking to tearing it down and rebuilding it would go through the Planning Board. They have the authority for that utilizing the Best Possible Location method. This verbiage is all in the vegetation that would need to be replanted where the old structure was. A building permit must be pulled within an eighteen (18) month window with the Planning Board approval which right now there is no time limit on it. There is no sunset rule and a variance from the Zoning Board in the past only gave them a couple of years. This gives them eighteen (18) months to pull the permit and they are good to go.

Reconstruction and Replacement, the verbiage is pretty much the same as the first paragraph was. Basically, cleaning up the Best Possible Location. They added a section which is a fifty (50) % which if a building is damaged fifty (50) % it has to go through the Planning Board for Best Possible Location within one (1) year, fifty (50) % isn't much as most of the value is in the land. The change of use for non-conforming structure the State has required that tributary streams be added.

Expansion of the structures in the Shoreland District basically is just cleaning up the verbiage that it is ok to expand it as long as it is not more non-conforming. For instance, not getting any closer to the lake but can expand on the backside or go up and things like that. The State again is adding tributary stream to that and that the floor area and volume is calculated by not more than thirty (30)%. B gets into the foundation of the structure and things like that and the last part is language we have used in Acton for years and now that State has actually implemented into their document is how we measure these structures is on the backside of the structure on the upward slope or hillside.

Conflicts with other ordinances, the more restrictive ordinance will supersede. All verbiage we have used before but now the State has plugged it in. Municipal Clerk is going to be in charge of the Shoreland Zoning Map, the official map and the document. The Clerk will stamp and seal and we will have it displayed here. The effective date is the date the Commissioner is going to approve it and we will have the document back to us.

Timber Harvesting, the State law works two ways on this and they have put both options in. It is pretty complicated, once a certain amount has been reached in the three-hundred 300 Towns then it goes to option two. Mr. Venell asked how does that affect the Town right now, what's going to happen. Mr. Paul said when they reach a certain amount of Towns, they go to Option Two. We stay the way we are right now. Option Two is if at least 252 of the 336 municipalities. Mr. Paul said that as of last year they were under fifty 50 Counties adopted it but now it is required

ordinance verbiage that they are getting in so that if and when it does happens it will flip automatically.

Article Two Zoning Districts, we have been through a couple of times. Resource Protection is talking about the scale on the map, for the Shoreland Zone also. Changes to the Map, the whole process would go through Town Meeting, up to the Commissioner at D.E.P. to get approved and then it would get implemented. Locations of Districts, all this will be broken up into Districts on the Maps similar to what's on the wall right here.

Mr. Paul continued with Minimum Lot Standards, these are some definitions we have had in the past in Lot Area but now bringing out in bolder text and into the Ordinance. It is land above the high water line, land below the roads will not count as lot area itself.

The Land Use Chart itself we have added some numbers as reference to the top and will be eliminating the Zone Districts on the following pages and refer to the numbers for each zone. This will shrink the table down and hope to shrink down couple of dozen pages by the time we get to the end. Automotive repair garages there some additional information added that is now not required by the State that was not permitted in a couple areas is now allowed. Mr. Cashin said it is being made less stringent. Docks and wharfs section is just breaking down what is allowed and what is not. The next section is basically refers to tree activity regarding utility poles, fire prevention, emergency operations, septic systems being allowed, central services, parking facilities etc. The State has added several new definitions to the chart. Footnote number nine (9) was in several places throughout the document which has been removed and just added to the land use charge under residential allowing two dwellings on one lot.

Article 3 definitions, aggrieved party, aquaculture, basal area, updated basement definition are just a few that have been added or amended. Mr. Paul reminded everyone that this is State language that was added and in the blue pertains to the Shoreland and Resource Districts and required now by D.E.P. Mostly, the definitions have just cleaned up or added as the last time the document was amended by the State was back in 2000.

Mr. Paul then continued with Article 4, Zoning District Standards, 4.1 pointed out that the changes in 4.2. verbiage added from the D.E.P. and Maine Department of Inland Fisheries to include wetlands and habitats. The rest of Section 4 mostly was formatting and cleanup so that it is easier to read the requirements of each district.

Mr. Venell asked if there were any questions and the public hearing was closed at 9:11pm.