

ACTON PLANNING BOARD PUBLIC HEARING/MEETING

March 17, 2011

ROLL CALL – Hearing began at 7:05 pm and adjourned at 8:49 pm

Members present were: Chip Venell – Chairman
 Thomas Cashin – Vice Chairman
 Keith Davis
 Yoli Gallagher
 Jessica Donnell – 1st Alternate
 Arthur Kelly – 2nd Alternate

Members absent were: David Jones

Also present were: Kenneth Paul, Code Enforcement Office, Gaven Maloney, Paul Poyant, Barbara Seckar, Virginia DeBoer, Colby Smith, Linda Grecco, Jeanne Achille

•**NEW BUSINESS** – Planning Board Proposed Zoning Ordinance Amendments to Sections 4-5.

UNFINISHED BUSINESS –

MINUTES – March 3, 2011 Tasbak, llc Public Hearing – New edits to be made, no approval.

ROLL CALL – Meeting began at 7:05 pm and adjourned at 8:25pm

Mr. Venell opened the public hearing by saying that anyone who has any questions to please speak up, come to the podium and to state their name. He continued by saying we are reviewing the proposed edits the current zoning ordinance, sections 5-6. He then handed the meeting over to Mr. Cashin and Mr. Paul.

Mr. Cashin informed the audience that sections 5 and 6 are primarily in compliance with State mandates with the newly implemented Shoreland Zoning Act. There are also some changes that were recommended to the Comp Plan by Southern Maine Regional Planning Commission and not mandated by the State; we felt they should be included. Mr. Cashin thanked Mr. Paul and Ms. Capristo for their hard work on this project. He also told the audience of the next public hearing covering all sections of the Proposed Zoning Ordinance is scheduled for March 31, 2011 at 7pm at the town hall.

Mr. Paul said starting with Article 5 and accessory buildings which we use to allow 450 square foot accessory building come within 10 feet of the property line and now expanding it up to 600 square feet. The strike out area talks about water setback which is talked about in other areas. The freestanding stairs is usually how you access the waterfront property down to the lake. We have added to this retaining walls, prior to this you could not put it within 100 feet. Now you are allowed to put them in with a terrace type system. There is a lot of criteria now before it may have been a lawn before, now you do some replanting and the need for erosion control you can get a couple of small retaining walls in.

Mr. Paul reminded everyone that the blue highlighting is State required mandates same as in the first sections. Anything that is not highlighted but underlined is additional requirements that the Town is imposing and not the State.

Agricultural is state language that has been added. Manure is also included although we don't have a lot of manure sewage. Individual private campsites, the State included Resource Protection areas on these. Mr. Paul said he had always interpreted as part of shoreland zoning and always been required. Reiterating it is 100 feet and some guidelines for it, the State is just showing how to measure for it. It is measured horizontally versus vertically up. The State clarifying it is only one in the Shoreland zone, it always has been with ours. We have found typos all through the ordinance which we have cleaned it up. The State is requiring 120 days now, we always had it as six (60) months that all requirements be met. Recreational vehicle use to be almost at the end of the ordinance, we taken and pulled it up ahead and put it right in with individual private campsites to include it with all the same types of use. No changes have been made, we only moved it. Campgrounds had a minor change from the State which includes wetland vegetation and that you cannot include that in calculation with your lot. We always had as a definition in the ordinance although never used it in a campground.

Number 5.6 Filling and grading nothing has changed except that we deleted from c. on as all of it is now in the Road Ordinance so it will be removed. The new 5.7 driveways and roads in the Shoreland Zone, the State had minor change to requirements but nothing significant. Also reconstruction, the Town has put in, although horizontal distance the State is just cleaning up what are the setbacks with that.

Mr. Paul continued by saying the State has added that in Resource Protection the Planning Board can now grant permits for roads in the area if there is no reasonable alternative. Most of this is just best management practices.

Section 5.8 Erosion and Sediment Control, the State just making sure we have it in the Shoreland and Resource Protection Control and mainly where we have those practices anyway.

Mineral Extraction, Section 5.9 you use to have to go through the Planning Board for exploratory work, now a permit can be provided by the Code Enforcement Officer which is less stringent.

Retaining the top soil on site, the Town always had that in the ordinance. The State just making sure it is in the ordinance.

Some typos...and State changes getting away from Special Extractive Use permit going back to a Conditional Use. The State has changed the language a bit, they have also changed the extraction operation from six (6) to twelve (12) months and that's consecutive months for 10,000 yards.

The State is requiring that stumps, boulders and similar material be removed or taken off site or buried on site, getting rid of the debris one way or another.

Verbiage on final grading or closure and final reclamation.

5.10 Ground water, no changes in there.

5.11 Good neighbor policy, the only thing added to that was clarifying proposed development not that this standard would apply to normal everyday living, pertains only to new development.

5.12 Home occupation, the State had a little bit of new verbiage but all of ours was in compliance in the ordinance. This was all struck out because it was already in the ordinance prior to in the Shoreland zoning.

Manufactured Housing Parks, the units just definition change and numbering as we brought it into this area of the ordinance. The size for Mobile home parts which has always been the ordinance and not allowed in the Shoreland zone. It used to say the roads leading into the parks standards; we just changed it to follow the Acton Road Ordinance standards.

5.14 Multi family dwelling units, there was some verbiage that got dropped off the end that for two family, you need twice the amount of acreage. So if you are Critical Rural, where you are required to have five acres, you need ten. We put a cap on it and put five acres and 350 feet of road frontage. That cap is for two family, for multi family of three units or more, the requirement for Shoreland frontage we pulled out because it is not a permitted use in that zone. No expense to the Town was added if sewer treatment was used.

5.15 Off-street parking, not much changes there. Mr. Paul continues to say most of the changes in these two sections were formatting, moving and cleaning.

Parking areas in the Shoreland district, almost all of this is State required verbiage. Most of it is just best management practices and tributary streams have also been moved into that verbiage.

Piers, docks and other shoreland construction, we added verbiage here that if you need a permit from the D.E.P. also one from the Town would be required.

Permitted floating structures we have removed and added now require Planning Board approval for those docks. Mr. Cashin said we have omitted that, Mr. Paul said proposed to remove.

New verbiage the State is requiring on temporary dock sizes. Most of those are exempt from permits as long as you in compliance with these ordinances here.

5.17 Sanitary provisions, the State has some new verbiage about septic systems. Most of it is the amount of vegetation that can be removed when installing these systems. We have added the exceptions and exemptions in for replacement systems within the Shoreland zone. Get the system in and we can protect the distance between the lake and the system where we won't be able to vegetate over the system.

Seasonal conversions, this has all been removed and just the verbiage that it complies with the State law. Mr. Paul said that maybe every eight (8) to ten (10) years the State tweaks it just a little bit. This just states that we will comply with the State when they make changes.

Sanitary provisions on a construction site within the Shoreland zone has always been in there, Resource Protection has just been added to it.

Signs and billboards, Mr. Paul states we have worked on this too much. The Planning Board is going to hopefully, complete working on this section maybe this year. We did look at the definitions and removed the definition of billboard. The D.E.P. has added some verbiage on signs and this would be in the Shoreland zone area. Most of it mimics what we already have in the ordinance; this would only be in the Shoreland zone. This area is being looked at by the Planning Board and will include the sign ordinance all together.

5.19 Timber harvesting, currently is a Conditional Use from the Planning Board for Shoreland and Resource Protection. It looks like it could possibly be reduced if you have a Forester working on the whole project and just get a permit from Code Enforcement which would alleviate the Conditional Use permit required in those areas.

Mr. Cashin asked if Mr. Venell understood 5.19, he continued by saying we are trying to encourage people to have a Forester. Mr. Venell asked if it says how much time the Forester has to put in. Does he have to be there all the time? Mr. Cashin replied no, just a management plan for all the districts which the cut is occurring. He continued by saying the land owner and the Town would benefit from a less stringent interpretation of what we had before. Mr. Venell said so a Forester would just present a plan to the CEO and would not need a Conditional Use permit. Mr. Cashin said this would be more transparent and yield a better result.

Mr. Paul said this verbiage would now allow removing vegetation in the No Cut zones that we used to have, now they are allowing in the No Cut zones special conditions such as the Forester, ground is frozen, the Cable Skidder taking it down to the 75 foot no cut area. So, the State has become less stringent in that area too. Most of it is just best management practices that the Board has been using quite a bit and just bring it up to the State level. Depth of the Slash two options, the State has Timber Harvesting Law that is in effect now and it is also in the first few sections. Mr. Paul thinks that after some 250 something municipalities/towns adopt it then we will switch to that one system. Most of this is about Timber Harvesting Roads and how to make them, where to go, best management practices and all required by the D.E.P. Mr. Venell asked if that was necessary to put in the ordinance. Mr. Paul replied there are a few notes that at the bottom of it which is a commentary that goes with the items above. There would be very little that could be removed. Mr. Cashin states that it gives them options with regard to the intensity of level of cut which allows the landowner or forester more leeway and how they want to manage the cut, we thought it would be a good idea to include. Mr. Paul stated we removed everything we had and use the State language.

Clearing or removal of vegetation it used to say for development, the State is leaning toward activities other than Timber Harvesting, basically that is the people with the camps who want to cutting down stuff so they can see and view or maintain a lack of vegetative buffer. Most of that is just State language. It talks about the percentage of vegetation to be remained and how much you can cut out of certain areas.

Water quality, that area is just being removed. We have some other areas that have come back to State language.

Sludge ordinance, the Town added some verbiage for storage of and permit approval set forward through that ordinance.

Growth ordinance exemption was struck out. Mr. Cashin said the reason for that was the section 5.23.4.e. We, the Comp Plan who was implementing zoning this proposed document for getting it in conjunction with the guidelines that were approved by the Town in the Comp Plan is what the gist of the process. When we came to the exemptions from the necessity of an applicant needing a Growth Permit which is a permit that you obtain from the CEO if you were going to build a new residence in Town. Mr. Paul agreed, with Mr. Cashin that the applicant must obtain a Growth Permit for new residence in Town. Mr. Cashin said there was a whole citation in there for subdivisions of ten (10) lots or greater, that was deed restricted for use by elderly residents as an exemption. Mr. Cashin said they pulled and pushed on this a number of times and what the committee ended up considering was that this was kind of a free permit, so to speak, for developers and in our mind it did not make a good demographic balance for the Town and the consensus was that. A small individual family, mother, father and children should follow the same procedure for obtaining a permit for a development. There is the point to be raised on this issue that deed restricted housing requires less services of the Town. They may not necessarily have children due to the deed restriction. When we considered this Mark Lowell and John Moore who recently passed on was a very important contributor in this process and pointed out that in the west and southwest ends there were numerous legal challenges in the provision of excluding of children in these kinds of settings. Mr. Cashin asked Mr. Davis if he had any experience with that. The legal challenges did not uphold the right of the situation would be, say grandparents for example. Through situations in a family that required the care of the parents have the grandchildren to care for the elderly parents and grandparents. As we all know, these situations happen all the time. We didn't think of this at the time. Mr. Venell said this doesn't address it, it just says the owner of the home has to be 55 or older. It says nothing about not letting kids live there. Mr. Cashin states we would not bring a court case on this, obviously. We just wanted to have it in there. Mr. Venell says if you want to take it out fine, but don't make up some bolony about it. Mr. Cashin said they are not making up anything, we are just saying that the provision of exclusion of children may or may not be of decision that overtime that could go to the courts. Mr. Davis spoke up and said that this would be part of the sub-division rules and not the Town Ordinance, then that gets challenged. Mr. Cashin said that they want equity in the obtaining of a building permit. That seems to supercede any presaposed difference in level in required services demographic. I apologize that one was so long. Mr. Paul spoke up and said he would say that this is one of those areas they

didn't agree on. Mr. Cashin said it was not "Tom" it was the committee. Mr. Paul agreed, the committee. Mr. Cashin said that was very rare. Mr. Paul said they weeded most of them out.

Mr. Paul said Commercial industrial. Just some State language brought in and most of this is going to apply to Shoreland and Resource Protection areas regarding water quality and how to manage the stone water run off including the essential services. Mr. Cashin said that 5.24 through 5.26 is almost all State language.

Administration - Article 6. A lot of typos and shuffling around through here. Some strike of some language that didn't make sense. This is requiring a soil survey of the property prior to issuing building permits, we have removed that.

Best Possible Location – Eric Johnson, 1560 West Shore Drive, Square Pond – Map 121 Lot 003

Code Officer, Ken Paul said Mr. Johnson is looking for a best possible location for a camp on Square Pond. The plan is to lift the cottage to put a foundation in by Pat Stevens. They would move it back 6 feet. The current setback is 20 feet and by moving it back it would be 26 feet. Mr. Davis made a motion to accept Mr. Paul's recommendation and Ms. Gallagher seconded. Unanimous Vote.

Minutes Approved: June 16, 2011 Gallagher/Cashin - Unanimous