

Town of Acton, Maine

Planning Board Meeting

MEETING MINUTES

DATE: November 17, 2016 (approved December 1, 2016)

ROLL CALL:

Members Present: Bob Smith - Chairman
Tom Cashin – Vice Chairman
Yoli Gallagher
Skip Scott
Leslie Berlan, Alternate
Lincoln Marston, Alternate

Members Absent: Gavin Maloney

Also present: Ken Paul, CEO, Brenda Charland, Recording Secretary; Virginia Deboer, Video Recorder

The Chairman convened the meeting at 7:00 p.m., declared a quorum and stated that Leslie Berlan would be the voting alternate.

Approval of Minutes: Moved by Tom Cashin, seconded by Skip Scott, to approve the Minutes of the Meeting of November 3, 2016 as written. The motion passed 5-0.

Old Business:

- **Acton Zoning Ordinance Section 1.4.11.2, Resource Protection Building Expansion Outside of Shoreland Zone:** The Chairman distributed a draft of the proposed addition to Section 1.4.11 of the Zoning Ordinance. He noted that the added section proposes allowing the expansion of existing structures that existed in Resource Protection District outside of the Shoreland Zone prior to September 29, 2011. Consensus of Planning Board Members was to table consideration of the proposal until the next meeting. In response to Yoli Gallagher's question, Ken Paul explained that prior to September 29, 2011, no Resource Protection Districts less than ten acres outside of the Shoreland Zone existed.
- **Acton Zoning Ordinance Section 2.7 Relative to Timber Harvesting:** Ken Paul is working with Steve Bodkin to set up a workshop to discuss Timber Harvesting in the Town.
- **Acton Zoning Ordinance Relative to Alternative Energy:** Ken Paul will contact Southern Maine Regional Planning for possible suggested templates or resources.
- **Pepin, Conditional Use Permit to Expand Mineral Extraction Operations, Map #207, Lot #005, H Road:** Ken Paul reminded Board Members that no application has been submitted for the Conditional Use. Tom Cashin noted that the letter from Attorney Leah Rachin's letter of November 3, 2016 claims that the Pepin's property was seriously devalued by the Zoning Ordinance change implemented in September, 2011. However, Mr. Cashin pointed out that the Resource Protection District on that site exceeds ten acres so it actually existed prior to the Ordinance Resource Protection Districts created in September 2011 so there was no change in the RP designation.

He also stated that the Attorney's claim on page three of the letter referencing Section 2.6.5 (c) of the Ordinance that addresses multiple uses is unfounded based on the fact that the section addresses multiple residential uses not commercial uses.

Regarding Section 5.9.2 (b), Mr. Cashin noted that the section specifically states "*Except in the Shoreland District and the Resource Protection District, the removal or transfer of less than ten thousand cubic yards (10,000 cy.) of material from or onto any lot in any twelve (12) month period*" with the emphasis on the words "any lot". He stated that, therefore, applying to extract gravel from each of the three districts is not valid.

Ken Paul expressed concern that the property owner can cut enough trees to allow for mining the gravel without exceeding the 40% limitation of timber removal.

Consensus of the Board Members was to table consideration of the Pepin proposal until an application is received.

New Business:

- **Best Practical Location Application, Bob Cibelli, 152 10th Street, Map 147, Lot 021:** Ken Paul stated that the property owner is applying to demolish the existing structure which is currently sixty feet from the high water edge and rebuild within the 30% allowance.

Moved by Tom Cashin, seconded by Yoli Gallagher, to approve the application with the condition that the structure is built no closer than seventy-five feet from the water and that all stormwater mitigation practices are implemented. The motion passed 5-0.

- **12th Street Acres Subdivision Modification:** Ken Paul explained that the original plan provided for a shared driveway between lots #3 and Lot #4 and that the property owner is applying to modify the plan to allow individual driveways on both lots. Bob Smith noted that during the site walk, neighbors expressed concern that water typically gathers in the road near where the driveways intersect, so a shared driveway would be preferable. The Chairman read a letter from the engineer representing the property owner, Pinkham and Greer, stating that "*because of the excessively drained cold soil underlying the site, these changes will cause no significant or measurable increase in the peak rate or volume of runoff leaving the site at the north corner of Lot #4.*" Tom Cashin expressed concern that the runoff would be a problem when the ground is frozen.

Consensus of the Board was that to invite the property owner to the next meeting to answer questions and that the minutes from the Public Hearing be available for review.

Adjournment: The Chairman adjourned the meeting at 8:11 p.m.

PROPOSED CHANGES TO SECTION 1.4.11 REGARDING EXPANSION TO A NON-CONFORMING STRUCTURE IN THE RESOURCE PROTECTION DISTRICT OUTSIDE OF THE SHORELAND ZONE

(~~Strikethrough~~ reflects proposed language omitted or changed; underline indicates proposed language added)

1.4.11 Non-Conforming Buildings or Structures –

1.4.11.1 Maintenance or Enlargement – A non-conforming structure may be repaired, replaced, maintained, or improved provided the repair, replacement, maintenance, or improvement does not increase the nonconformity of the structure by encroaching any further on any of the setbacks.

1.4.11.2 1 Expansion in Shoreland District or Resource Protection District within the Shoreland Zone

a) A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (b) and (c) below.

b) After January 1, 1989, if any portion of a structure in the Shoreland District is less than the required setback from the normal high water line of a water body or tributary stream or upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by more than thirty percent (30%) during the lifetime of the structure.

If a replacement structure conforms with the requirements of Section 1.4.11.3, and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by thirty percent (30%) in floor area or volume since that date.

c) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in subsection 1.4.11.4 below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 1.4.11.2.b above, 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 (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

d) No structure which is less than the required setback from the normal high water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream or wetland.

1.4.11.2 Expansion in Resource Protection District Outside of the Shoreland Zone

a) A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (b) and (c) below.

b) After September 29, 2011, if any portion of a structure in the Resource Protection District outside of the Shoreland Zone is less than the required setback from a tributary stream or upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by more than thirty percent (30%) during the lifetime of the structure.

If a replacement structure conforms with the requirements of Section 1.4.11.3, and is less than the required setback from a tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on September 29, 2011 had been expanded by thirty percent (30%) in floor area or volume since that date.

c) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in subsection 1.4.11.4 below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 1.4.11.2.b above, 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 (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

d) No structure which is less than the required setback from the a tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream or wetland.