

PLANNING BOARD

Town of Waterboro

REGULAR MEETING

FEBRUARY 23, 1995

Meeting was called to order by Vice Chairman, Roland Denby at 7:18 p.m.

I ROLL CALL:

Present were Roland Denby, Everett Whitten, Judi Carll and Dwayne Woodsome.

II MINUTES OF PREVIOUS MEETINGS:

Everett Whitten moved and Judi Carll seconded a motion to accept February 8, 1995 minutes. Vote was 4-0-0 in favor.

III COMMUNICATION AND BILLS:

1. Letter from U S Dept. of the Interior Re: Maine Cranberry Company
2. Copy of the Annual Report for publication in the Town Report

IV REPORT OF OFFICERS:

Treasurer reported \$16,590.07 in the Planning Board account.

V APPOINTMENTS:

7:15 p.m. Patrick Chevalier Map 50 Lot 4 AR Zone

7:15 p.m. Patrick Chevalier Map 50 Lot 4 AR Zone

Mr. Chevalier has a corner lot in Mountain View subdivision off Hamilton Road. The proposed addition of a breezeway and a garage would be approximately 20 ft. from the right-of-way. The Board has had several such requests in the past on similar corner lots for the addition of garages. A copy of the subdivision was reviewed. The addition would go no closer to the front lot line abutting Circle Drive than the existing structure. Section 2.08 allows the Planning Board to depart from the required setbacks at a minimum.

It was noted that the rear parcel could be developed further. The members noted to Mr. Chevalier that the measurement of a setback was from the drip edge. Members asked if there was to be living space on the second story of the garage. Mr. Chevalier noted possibly a workshop in the future no additional living space. There would be no plumbing in the garage only electricity. Would there be a problem with the septic system? No addition of bedrooms so the septic system would not need to be updated.

Dwayne Woodsome asked if there would be a problem without exact measurements for setbacks to be met? Tim Nelson noted that if the Planning Board gave Mr. Chevalier a dimension he would be able to meet it.

Judi Carll moved and Everett Whitten seconded a motion to allow the addition requested by Mr. Chevalier not to go closer than 20 ft. to Hilltop Lane under Section 2.08 and 4.02. Vote was 3-0-0 in favor.

VI OLD BUSINESS:

Mr. Koller Map 45 Lot 1327 R Zone

A Conditional Use Permit was issued for this lot in 1993, Tim Greateon acted on behalf of the owners. Mr. Koller is now asking the Board to grant a 35 ft. front yard setback instead of the previous approval of 40 ft. All other setbacks can be maintained. 100 ft. from the normal high water mark 35 ft. sideline setbacks. Mr. Koller's plans indicate that due to the roof line he cannot maintain the 40 ft. setback for the garage. The members of the Board reviewed previous minutes and felt that there was adequate relief by the previously issued Conditional Use Permit. Perhaps Mr. Koller could choose a different style home. If Mr. Koller chose the Board could deny his request and he could go to the Zoning Board of Appeals to request a variance. Mr. Koller has received his approval from Saco River Corridor Commission. Mr. Koller noted to those present that there were currently no homes on either side of his lot.

Mr. Koller would like an approval rather than request a variance.

Dwayne Woodsome moved and Judi Carll seconded a motion to re-approve the Conditional Use dated February 25, 1993 utilizing a 40 ft. front yard setback, 100 ft. water setback and 35 side line setbacks. Vote was 3-0-0 in favor.

VII NEW BUSINESS:

Dwayne Morin reviewed the required changes to section 7.01 and Article 14 to satisfy DEP (see attached letter) for adoption at June Town Meeting. Dwayne Morin read the changes. If okay with the board members Dwayne will forward to the State.

Everett Whitten moved and Dwayne Woodsome seconded a motion to approve Dwayne Morin's request. Vote was 3-0-0 in favor.

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE HOUSE STATION 17 AUGUSTA, MAINE 04333

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF WATERBORO) MANDATORY SHORELAND ZONING ACT
YORK COUNTY) 38 M.R.S.A., SECTION 438-A (3)
SHORELAND ZONING ORDINANCE) ORDINANCE APPROVAL WITH
FILE #9-94) CONDITIONS

Pursuant to the provisions of 38 M.R.S.A., Section 435-449, and 06-096 CMR, Chapter 1000, State of Maine Guidelines for Municipal Shoreland Zoning Ordinances, effective March 24, 1990, and amended July 14, 1992, and August 7, 1994, the Department of Environmental Protection has considered the Zoning Ordinance for the Municipality of Waterboro, as amended by the municipal legislative body on June 4, 1994, and FINDS THE FOLLOWING FACTS:

1. The Mandatory Shoreland Zoning Act (Act) requires the Town of Waterboro to establish zoning controls in areas within 250 feet of the normal high water line of great ponds, and rivers; within 250 feet of the upland edge of freshwater wetlands; and within 75 feet of the normal high water line of streams. Such zoning standards must be consistent with or no less restrictive than those in the State of Maine Guidelines for Municipal Shoreland Zoning Ordinances, (Guidelines), as adopted by the Board of Environmental Protection (Board).
2. The Act specifies that before a locally adopted shoreland zoning ordinance, or amendments to that ordinance, is effective, it must be approved by the Commissioner of the Department of Environmental Protection (Commissioner). The Commissioner may approve, approve with conditions, or disapprove a locally adopted ordinance. If disapproved, or approved with conditions, such action must be preceded by notice to the municipality.
3. The Department's review of the Waterboro ordinance has revealed the following significant deficiencies:
 - A. Article 3 of the Waterboro ordinance fails to establish a Shoreland Overlay District, or the shoreland subdistricts, as described in Article 7 of the ordinance.
 - B. The ordinance does not include a provision stating that whenever conflicting or inconsistent provisions within the ordinance, or with other ordinances, regulation, or statute exist, the more restrictive shall control. Since the zoning maps identify overlapping zoning and shoreland districts, with potentially conflicting uses and standards, this provision must be included in the ordinance.

TOWN OF WATERBORO
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SHORELAND ZONING ORDINANCE
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2 MANDATORY SHORELAND ZONING ACT
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) CONDITIONS

- C. The ordinance establishes a 150 foot shore frontage standard for lots along great ponds, rivers, and streams. The Guidelines specify a 200 foot standard for these areas.
 - D. The ordinance fails to establish a minimum waterbody shoreline or wetland setback standard for roads, driveways, parking areas, and campsites within commercial campgrounds. The guideline standard is 100 feet from great ponds, and 75 feet from other waterbodies and wetlands.
 - E. The ordinance fails to prohibit new mineral extraction operations within Resource Protection Districts adjacent to moderate and high value freshwater wetlands. Department records indicate there are four such wetlands in Waterboro.
 - F. Article 14 of the ordinance defines "Shoreland", in part, as "areas within 500 feet of any lake , river, or stream". This definition is inconsistent with the Act and Article 7 of the Waterboro ordinance which describe shoreland, in part, as areas within 250 feet of great ponds, rivers, and freshwater wetlands, and within 100 feet of streams.
 - G. Article 14 defines "Waterbody", as a permanent or intermittent lake, river or stream capable of floating a canoe, boat, or raft at some time during the year. This is inconsistent with the Guidelines and the shoreland standards contained in Article 7.
4. In a letter dated August 16, 1994, the Town of Waterboro was notified by the Commissioner of the above deficiencies, and the proposed conditional approval of the locally adopted ordinance.

Based on the above Findings of Fact, the Department makes the following CONCLUSIONS:

- 1. The shoreland zoning provisions of the Waterboro zoning Ordinance, as amended on June 4, 1994, are substantially consistent with the requirements of the Mandatory Shoreland Zoning Act, 38 MRSA, Section 438-A, with the exception of the Deficiencies identified in Finding #3 above. These deficiencies can be adequately addressed by the Department approving the Waterboro ordinance with conditions adopting Guidelines standards to supplement the deficient provisions of the Waterboro ordinance.

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THEREFORE, the Department APPROVES the Zoning Ordinance for the Town of Waterboro, as amended on June 4, 1994, SUBJECT TO THE ATTACHED CONDITIONS:

1. All areas with 250 feet of the normal high water line of great ponds, and rivers; and areas within 250 feet of the upland edge of freshwater wetlands; and within 75 feet of the normal high water line of streams, as defined in the Waterboro Zoning Ordinance, and identified on the Waterboro Shoreland Zoning Map, dated July, 1994, and incorporated as part of that ordinance, shall be designated as shoreland under the provisions of the Waterboro Zoning Ordinance.
2. Land use activities in areas identified on the shoreland zoning map as Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall be administered and enforced according to the performance standards, and permitting requirements described in Table 1, Land Uses in the Shoreland Zone, contained in Article 7, and the underlying zoning districts and performance standards of the Waterboro ordinance. Where the shoreland districting, standards, and permitting requirements are more restrictive than the provisions applicable to the underlying zoning districts, the more restrictive land use provisions and standards shall apply.
3. New lots adjacent to great ponds, rivers, and streams shall have a minimum shore frontage of 200 feet, exclusive of areas located within the Village District, as identified on the Waterboro Zoning Map.
4. New roads, driveways, parking areas, and campsites within commercial campgrounds in designated shoreland areas shall set back a minimum of 100 feet from the normal high water line of great ponds, and 75 feet from rivers, streams, tributary streams, and the upland edge of freshwater wetlands.
5. New mineral extraction operations are prohibited in Resource Protection Districts adjacent to moderate and high value freshwater wetlands.
6. The term "Waterbody" as applied in designated shoreland areas shall include all great ponds, rivers and streams.

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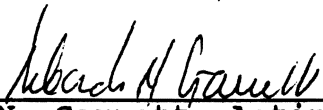
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) CONDITIONS

The above conditions shall be binding on the Town of Waterboro, and shall be administered and enforced as part of the municipal zoning ordinance. Should the municipality amend its ordinance to address the issues identified by these conditions, and receive approval by the Department of Environmental Protection, the above conditions shall be repealed.

DONE AND DATED AT AUGUSTA, MAINE, THIS 28th DAY OF SEPTEMBER, 1994

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY:



Deborah N. Garrett, Acting Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

SHORELAND ZONING REVISIONS

Section 7.01 Development on Shorelands

- Add the following paragraph: *(satisfies DEP condition #3)*

Minimum Shoreland Frontage

New lots adjacent to great ponds, rivers, and streams shall have a minimum shore frontage of 200 feet, exclusive of areas located within the Village District, as identified on the Waterboro Zoning Map.

- Add the following paragraph: *(satisfies DEP condition #5)*

8. Mineral Exploration and Extraction

New mineral extraction operations are prohibited in the Resource Protection Districts adjacent to moderate and high value freshwater wetlands as determined by the Department of Environmental Protection.

- Add the following section: *(satisfies DEP condition #4)*

14. Roads and Driveways

New roads, driveways, parking areas, and campsites within commercial campgrounds in designated shoreland areas shall set back a minimum of 100 feet from the normal high water line of great ponds, and 75 feet from river, stream, tributary streams, and the upland edge of freshwater wetlands unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the Planning Board may reduce the road and/or driveway setback requirement to no less than 50 feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

This section shall not apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located near to the shoreline due to an operational necessity.

ARTICLE 14 Definitions

Section 14.02 Words and Terms Defined *(satisfies DEP condition #1 & #6)*

DELETE

- **WATERBODY:** A permanent or intermittent lake, river, or stream capable of floating a canoe, boat or raft at some time during the year.
- **SHORELAND:** As defined in this ordinance--all land within five hundred (500) feet of the normal high water mark of any lake, river, or stream and all land beyond the five hundred (500) foot setback line that lies within the one hundred (100) year flood plain of any waterbody up to a maximum distance back from the waterbody of one thousand (1000) feet.

ADD

- **WATERBODY:** Any great ponds, rivers, or streams.
- **GREAT POND:** Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this ordinance, where the artificially formed or increased inland body of water is completely surrounded by the land held by a single owner.
- **SHORELAND:** The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond, river, or saltwater body; within 250 feet of the upland edge of a coastal or freshwater wetland; or within one hundred (100) feet of the normal high-water line of a stream.

- Add the following section: *(satisfies DEP condition #2)*

ARTICLE 13 LEGAL STATUS

Section 13.09 Conflicting or Inconsistent Provisions

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute, the more restrictive provision shall control.

ADD TO:

Section 7.01: *(satisfies DEP condition #1 & #2)*

Districts and Official Shoreland Zoning Map

The areas to which this section of the ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map which is made part of the ordinance:

1. Resource Protection
2. Limited Residential
3. Limited Commercial
4. Stream Protection

AMEND: *(satisfies DEP condition #1 & #2 and comment #3A)*

Section 3.01 General - For the purpose of this ordinance, the Town of Waterboro is divided into the following five (5) zoning districts; a Village district (V); a Residential district (R); an Agriculture-Residential district (AR); a Forest-Agriculture district (FA); and a Conservation district (C). In addition to these districts, the Town of Waterboro also has two (2) overlay districts; the Shoreland Overlay Districts divided into four(4) subdistricts: Resource protection, Limited Residential, Limited Commercial and Stream Protection as described in section 7.01; and the Well-Head Protection Districts divided into three (3) subdistricts: District #1, District #2 and District #3 described in section 7.06.

Recreational Vehicle Temporary Living

Add the following:

7.03.1 Recreational Vehicles

A recreational vehicle shall not be occupied in the Town of Waterboro outside a campground designated to accommodate such vehicles which complies with all provisions of this ordinance.; except as herein specifically permitted.

A. It shall be permissible for a homeowner to allow one (1) recreational vehicle to camp or park in his/her yard adjacent to his/her home for a period not to exceed ninety (90) days in any calendar year in every zoning district in the Town of Waterboro except the shoreland overlay district. However, such a vehicle is to be used only for sleeping purposes during the ninety day period, providing the homeowner shall have granted permission to the recreational vehicle occupants to use the homeowner's sanitary facilities and the location of the vehicle meets all sideline, rear and frontyard setbacks. The Code Enforcement Officer shall require written proof of permission from the homeowner that the vehicle can be parked in the homeowner's yard, the date of arrival of vehicle, duration of visit and date of departure.

B. It shall be permissible for a landowner to allow one(1) recreational vehicle to be parked on vacant land for a period not to exceed ninety(90) days in any calendar year provided the Planning Board has approved such temporary living quarters. In applying for the request, the applicant shall provide the Planning Board with the following information:

- Existence of adequate sanitary facilities or provisions for disposal of wastewater as permitted under the State of Maine Plumbing Code;
- Adequate provisions for the disposal of solid waste;
- Existence of adequate water supply;
- Landowner permission, date of arrival, duration of visit and date of departure;
- Location of placement is not in the shoreland overlay zoning districts;
and
- Location meets all rear, sideline and front setbacks of the zoning district.

C. A recreational vehicle may be stored in the Town of Waterboro regardless of the provisions of this ordinance, provided that it shall not be used for living or sleeping purposes during such time it is stored and provided it shall not be deemed a nuisance.

D. The Code Enforcement Officer shall, if deemed to be a nuisance and/or health hazard, order the immediate compliance of the recreational vehicle with the applicable ordinance(s) or law(s). If the situation is not brought into compliance within seven days, then the Code Enforcement Officer can order the immediate removal of the recreational vehicle.

Delete the following from section 7.03:

Recreational vehicles may not be used as permanent residences in the Town of Waterboro. They may be stored when not in use in any parking space authorized or required to be created by this ordinance. They may be used as intended in any campground designated to accommodate such vehicles which complies with all of the provisions of this ordinance. In addition, persons utilizing recreational vehicles who are known to and guests of residents of the town may temporarily park on any portion of their host's lot area and utilize their recreational vehicle for temporary living quarters for a period not to exceed fifteen (15) days provided that the minimum setback requirements of the zoning district are observed and that the occupants of the recreational vehicle utilize the sanitary facilities located in their host's residence.

Dwayne had prepared an addition to Section 7.03 Recreational Vehicles as requested by the Board members at the last meeting.(see attached) Members were concerned that the usage of a recreational vehicle beside a house would not be enforceable. Possibly a fee should be involved, possibly a form to be made for the Code Enforcement Officer if he finds one during inspections he could address it with the camper.

On vacant land - approval would be granted by the Planning Board for temporary living quarters with a copy to go to the Fire Department.

Send to Karen Lovell for review.

Everett Whitten moved and Dwayne Woodsome seconded a motion to forward the changes to Town's attorney for legal comments. Vote was 3-0-0 in favor.

Public Hearing was discussed and Sharon will book appointments starting at 7:30 from March 26th through June to allow a hearing to be scheduled prior to the start of a regular Planning Board Meeting. Roland Denby asked if once the zoning map was changed if we would be in compliance with the state laws and the Comprehensive Plan? Dwayne Morin noted that this would complete the process.

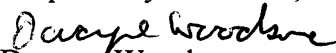
Roland Denby and Dwayne Woodsome went to counsel meeting. It appears that there will be an article to change the fiscal year and Town Meeting back to March at June Town Meeting.

Sharon to add to the annual report for the Town Report that elections were held and the current officers were re-elected as previous. Also add that in May and June a Planning Board representative attended subdivision instruction presented by SMRPC at Massabesic High School.

VIII ADJOURNMENT:

It was moved and seconded to adjourn at 8:38 p.m. All in favor.

Respectfully submitted,


Dwayne Woodsome
Secretary/Treasurer

