

**TOWN OF WATERBORO**  
**PLANNING BOARD**  
**MEETING MINUTES**  
**April 15, 2015**  
**7:00 p.m.**

**Site Walk at Route 202/4, East Waterboro** – Near Old Alfred Road, Tax Map 4 Lot 37-4 at 6pm. Outcome to be discussed at the Planning Board meeting at 7pm. See below for further details. Attendees: Glenn Charette, Judi Carll, Kurt Clason, Dwayne Prescott, Katy Mann, Lee Nelson, Tim Fox, Alex Fox and Tammy Bellman.

**I. ROLL CALL**

Board Members

Present: Kurt Clason    Judi Carll    Dwayne Prescott    Lee Nelson    Katy Mann

Absent:

Others Present:    Dennis Abbott    Tim Fox    Alex Fox    Stephen Everett  
                          Ronald Roberge    Lee Allen    Donna Libby    Dianne Holden  
                          Travis Leteiller    Tom Ursia    Douglas Foglio    David Lowe  
                          Glenn Charette    Tammy Bellman

Kurt Clason called the meeting to order at 7:00pm.

Kurt noted the Site Walk that took place earlier.

**II. APPOINTMENTS**

- **Ronald Roberge** – Map 40 Lot 6; 65 Dean Drive, East Waterboro – Setback Reduction/Seasonal Conversion. Ron provided a Certified Plot Plan to Glenn Charette prior to this Planning Board meeting. The Planning Board reviewed the Certified Plot Plan. He needs a 14 foot reduction to the setback to include the overhang. Kurt Clason read Chapter 1000(4) that was provided by the CEO, which applies to Ron’s situation: setback from Ossipee Lake and the side setback reduction requested. Planning Board proposed to reduce to 15’, Ron needs to go to 14’. Judi Carll stated can’t go any closer to side setback based on Chapter 1000(4). Planning Board reviewed the proposed plan with the new information. Kurt has issues with: making the lot more non-conforming and/or moving the camp to meet the setback to the greatest practical extent. Glenn Charette provided not to allow the side setback to make it more non-conforming and can move the camp back up to 10 feet. Ron approached the Planning Board to explain what was being proposed and the topography of the parcel. Kurt Clason made the motion to deny encroaching on northern sideline no closer than 25 feet. Dwayne Prescott seconded. No discussion. Vote 5 – 0 passed. Regarding the second issue a complete new building can be accomplished or alteration of the existing building with a 30% expansion. Glenn stated that if the lot is empty then no reduction would be allowed and with the non-conformity already voted down there would be no further setback. Judi asked how big a building can be built. Does it have to be the same size? Glenn responded with yes if it is torn down. Ron added that if I don’t tear it down then the 30% expansion

can be done. Per Glenn – yes. Ron stated his initial intent was to demo and rebuild. If rules don't allow – will re-examine what going to do with that building – raise – foundation – remodel . . . Planning Board discussion with Ron Roberge regarding options. Kurt gathered thoughts from Board – feel can move back further back from the Lake and can still get changes requested. Glenn suggested seeing the amended site plan before making any decision. Dwayne Prescott made the recommendation to come with new plans and Ron not have to pay again. Kurt Clason made the motion to table the Roberge setback and return with new site plans. Judi Carll seconded. No discussion. Vote 5 – 0 to table.

➤ **Dollar General** – Map 13 Lot 68 **Site Plan Amendment** – Dwayne Prescott recused self. Lee Allen, Northeast Civil Solutions addressed the Planning Board – requesting approval for Site Plan Amendment. Revised Site Plan design was also, approved by Gorill-Palmer. The changes include: truck exit from the back of the building, the building is moved westerly 30 feet, ten foot fire lane on the north side of the property line, tractor trailers pull in and back into the loading area but pull out onto Chadbourne Ridge Road, widen the access with a ten foot shoulder, seeking 100% approval from Mr. Foglio, DEP has been contacted – a decision should be received within a couple of weeks. Doug Foglio spoke – yes he agrees – his only concern is the well; the original plan has it part of the access road, don't fill it in with sand, cant compact sand – fill with concrete, cut the well pipe casing down 6 feet below paved area, remove all the stones, fill with same and compact, the well is part of the Towns right-of-way, this way can travel over the old well, look at the May 13, 2015, plans follow the tracks around – now have two exit lanes, this plan allows no restrictions to deliveries, Doug met with Bill Bray – very acceptable design, moved the dumpster, Fire Department issues have also been addressed with this plan. Kurt commented that this intersection was a much better design. Noted: Fill the well with concrete and move the rocks. Doug will issue permits for two driveways. Kurt asked the Board if they feel another Public Hearing was called for and the response was a no. Glenn noted the following issues that needed to be addressed: HHE200 force main feed – this plan only for review not recording – don't know if this plan is identical to the prior plan, is the septic design different from the original plan, recommend not approving tonight – need actual construction plans. Lee stated that the construction plans will be provided when the approval is issued. Kurt agreed that time was needed to review. Glenn requested that a certified statement be added that this plan is identical to this plan. If approved tonight the plan in front of you is what is approved. Lee stated the septic design was the same and Travis addressed the forced main right side of the building is actually on the left side due to bathrooms being on left side of building. Doug added that in years past have run into the same problem – set conditions for approval for review by CEO, signs off and set time to return with list of conditions satisfied. Doug noted that he did not see where the septic design noted the H20 septic tank. The Planning Board consensus to approve as Doug suggested. Doug Foglio will have written approval by MDOT. Doug states some of the work being done is on their property we will encroach on their property will need deed for Town of Waterboro to be able to maintain the area. Would need to show three feet more from gravel area to be able to maintain as a deed to the Town. Kurt Clason made the motion to accept the amended Site Plan viewed tonight with the added following conditions:

1. Well removal and casing pipe cut down 6 feet filled with concrete, stones removed;
2. Receipt of DEP approval letter;
3. Receipt of MDOT approval letter;
4. Receipt of recorded revised Deed to the Town;

5. Conditional approval from CEO that the amended plan conforms with original plan;
6. Receipt of new HHE200.

Lee Nelson seconded. Kurt noted that this is a much better plan for both the Town and Dollar General. Lee added that the original conditions are still in place. Vote 4-0 with 1 abstention, approved.

### **III. MINUTES OF PREVIOUS MEETINGS**

- **April 1, 2015** – Judi Carll made the motion to accept the minutes as written from April 1, 2015. Dwayne Prescott seconded the motion. No discussion. Vote 4 – 0, 1 abstention (Clason), passed.

### **IV. REPORT OF OFFICERS**

### **V. OLD BUSINESS**

- **Timothy Fox** - Map 4 Lot 37 - 4 Kurt noted that the Site Walk was productive, the corner posts marked as requested. A portion of the site will be paved, the fire lanes will be gravel. Metal building – town has not design standard; the applicant noted that he will make it as appealing as possible. Wooden office bump out. Stephen Everett represented Tim Fox. Kurt requested to take the each item one at a time. Recorded copy of MDOT Driveway Permit Waiver Determination – copy provided in packet. Section 12.04 – 12.07 Performance Bond Waiver – Dwayne Prescott made the motion to grant the Performance Bond Waiver. Katy Man seconded. No discussion Voted 5 – 0 granted. Site Plan Review Ordinance Article I Section E-8 Topography Survey – Tom Ursia provided that it is acceptable with a post construction topography survey, it is helpful to the CEO and the contractor. An as built survey can be provided. The area will be cut and filled so the topo now will not be accurate after the construction. Kurt Clason made the motion to waive the topography survey on pre-existing conditions and asking for an as built survey for the developed area. Lee Nelson seconded. No discussion. Voted 5 – 0 approved. Site Plan Review Ordinance Article II Section A-15 Nitrate Study – Kurt commented that it is a shop bathroom which would be less than a house. Board consensus to waive. Judi Carll made the motion to waive the Nitrate Study. Dwayne Prescott seconded. No discussion. Voted 5 – 0 approved. State of Maine Licenses for the scope of business contained here in – Kurt reminded the applicant that he needs to provide all State Licensing information to the Town for the records. Schedule of construction – August, 2015 was the original completion date but Tim has training for the military now in August. There may be someone working on the property while he is gone. Tim stated he may need an extension. Kurt reminded him that the Building Permit is for one year. Glenn requested that a condition be made that the stockade fencing be maintained for the life of the property. The appearance of the fence needs to be maintained with the abutters on that side. Kurt Clason made the motion to approve the Map 4 Lot 37 – 4 used auto sales and repair application with the following conditions:
  1. Receipt of the MDOT registered driveway permit;
  2. Section 12.04 12.07 Performance Bond waived;
  3. Site Plan Review Ordinance Article I Section E-8 Topography Survey waived;
  4. Site Plan Review Ordinance Article II Section A-15 Nitrate Study waived;
  5. Privacy fence be maintained for the life of the property;
  6. Copy of State licenses received by the Town of Waterboro CEO.

Katy Man seconded. No discussion. Voted 5 – 0 approved.

- **Section 2.08** – Up-date by Glenn Charette, CEO – Kurt gave an overview of the steps taken thus far. The communication from Natalie Burns, Town Attorney was read:

**From:** Natalie L. Burns [<mailto:nburns@JBGH.com>]  
**Sent:** Wednesday, April 08, 2015 4:59 PM  
**To:** 'Glenn Charette, CEO, LPI'  
**Subject:** RE: other things

Glenn,

I have told the Town on a few occasions that Section 2.08 is in direct conflict with court cases that have held that the only way that a setback requirement can be changed is through the granting of a variance by a zoning board of appeals, in compliance with the requirements of 30-A M.R.S.A. Section 4353. I didn't say that I couldn't defend the Town, but I did say that the ordinance as it currently exists would almost certainly be found by a court to be invalid since it authorizes the Planning Board to reduce setbacks. In fact, I was recently involved in a case for the Town of Frye Island, which had a setback reduction provision invalidated on that basis.

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#### Glenn read the proposed Section 2.08 - **Section 2.08 Size Reductions or Increases**

- Except as provided by the express provision of this Ordinance or by the Town's Subdivision Regulations dealing with unique design or development types (see for example Sections 2.06, 8.02, 8.03), the provisions of this ordinance dealing with lot size, setback, frontage and side yard requirements; height limitations; parking and loading areas, sign and billboard size may not be changed. They are designed to achieve the purposes of this ordinance (see Section 1.02) and reflect differing location and physical characteristics affecting the land or water areas involved (see Section 1.04) **Variations may be granted only from dimensional requirements, including but not limited to lot size, lot frontage, structure height, lot coverage and set back requirements by submitting an application to the Zoning Board of Appeals. A variance granted may be only the minimum that will make possible the reasonable use of land or structure, although no more than 15% of the requirements. It is the responsibility of the property owner, or the representative of a property owner, to see that all setbacks meet the municipal and state requirements. Setbacks from wet lands or setbacks in shore land cannot be reduced by the Zoning Board of Appeals.**

Lots created before the enactment of the Waterboro Zoning Ordinance, **March 12, 1977**, that are **legal-non-conforming**, are required to have a Standard Boundary survey performed, before a building permit can be issued. **Notwithstanding any other provision of municipal or state law or regulation, any legal non-conforming lot of record, may be used to construct a primary use providing said lot meets requirements of MRSA 12/section 4807, which requires at least 20,000 square feet for a sub-surface waste disposal system.**

Dwayne Prescott seeing that this version is more restrictive; would like a response from the ZBA regarding transferring this to them. Kurt asked about the 15% and having gone to 10 and 20 feet setback reductions. Dennis Abbott asked what happened before the Board of Selectmen. My perspective this has gone through one zoning change can make it in a defined area – now back to ZBA hoping it is based on criteria. Glenn responded with the issue with most setbacks heard is in shoreland zones. Mike Morse, MDEP, told Glenn and Gary Lamb that MDEP was close to suing the Town of Waterboro. We don't have a shoreland map approved by the Town, no shoreland ordinance approval by the Town presently. Following DEP Shoreland 15% across the board. At some point Waterboro is going to have to comply with shoreland regulations. Dennis suggested to fix setbacks in all but the shoreland, make a percentage. Glenn spoke stating that the Shoreland Map has set

idle for five years. Sebago Technics has been contacted to complete the project to include GIS and map overlays. Judi suggested that maybe it is time for Section 2.08 to go away. Kurt stated that if the buyer knows it is non-conforming then the argument is done. Glenn emphasized the fact that the Planning Board needs to understand Section 2.08 inside and out before the Public Hearing. Kurt Clason directed Tamara Bellman to post the newly revised Section 2.08 to the website.

**VI. COMMUNICATION**

- Tom Ursia reminded the Planning Board of the important meeting of the 20/20 Economic Development Committee with the Board of Selectmen, Water District and the Planning Board regarding the infrastructure of the Town and the water district – wellhead district zones at the next meeting on Wednesday, April 22, 2015 at 5pm. Kurt noted that they are a private entity created by the State.
- Tom Ursia shared that on May 13, 2015 at the Fire Station and May 16, 2015 at the Grange there are public workshops with the 20/20 Committee. 20/20 Committee bringing closure to its work.
- Tom Ursia informed the Planning Board that his last official day is June 24, 2015.
- Tom Ursia will be sharing the grandfathered projects with any of the Planning Board that would like to be involved. Need to set sunset clauses with the subdivisions. Should consider additional types of zoning.

**VII. MISCELLANEOUS**

- Kurt Clason introduced Dennis Abbott as Liaison to the Planning Board from the Board of Selectmen.

**VIII. NEW BUSINESS**

**IX. ADJOURNMENT**

- Kurt Clason made the motion to adjourn at 8:45pm. Dwayne Prescott seconded the motion. No discussion. Vote 5-0 in favor.

Approved Date: \_\_\_\_\_

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