

**TOWN OF WATERBORO**  
**PLANNING BOARD**  
**MEETING MINUTES**  
**May 6, 2015**  
**7:00 p.m.**

**Public Hearing – 7pm** – Town of Waterboro Zoning Ordinance Article 2 Section 2.08 Size Decreases or Increases.

Attendance: Dwayne Prescott    Judi Carll    Katy Mann    Shawn Shoemaker  
                 Lee Jay Feldman    Lee Nelson    Glenn Charette    David Barker  
                 David Westcott    Tim Neill    Dennis Abbott    Brigit McCallum  
                 David Lowe    Tammy Bellman

Dwayne Prescott called the Public Hearing to order at 7:00pm. Dwayne Prescott made the motion to nominate Judi Carll Chairman pro-tem. Katy Mann seconded the motion. No discussion. Vote 4-0 passed.

Judi Carll gave an overview of the history of Section 2.08. The Zoning Board of Appeals (ZBA) is the only Board that can legally do variances. Dwayne noted the state Statute that has a guideline of up to 15% for side variance and the ZBA can work as they see fit.

Judi opened the Public Hearing to Public Comment:

Glenn Charette commented that the Planning Board is proposed to deleting Section 2.08 and make the verbiage appropriate. The Planning Board with tonight's discussion can accept as written or amend to change the current Section 2.08. The Board of Selectmen can delete Section 2.08.

Tim Neill stated this has been attempted several times to be changed. Waterboro is the only Town that does it this way. Last year's version has been made better, with Glenn's help, this time around.

Dwayne asked Shawn Shoemaker, Chair of ZBA to respond to the current proposal in front of the Planning Board. We could make or ask the Board of Selectmen to make 2.08 go away all together – what is best for the ZBA to address this issue?

Shawn Shoemaker responded. The proper verbiage and clarity is always a plus. Any setback reduction should be passed on to the ZBA. The Planning Board ended up with doing more and more than they should be doing.

Dwayne – Ask the Board of Selectmen to move Section 2.08 to the Zoning Board of Appeals.

Shawn recommends the move to the ZBA for the reductions.

Judi Carll read Natalie Burns email from April 8, 2015:

**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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Judi Carll closed the Public Hearing on Section 2.08 at 7:10pm.

## I. ROLL CALL

### Board Members

Present: Kurt Clason (arrived 7:35pm) Judi Carll Dwayne Prescott Lee Nelson  
Katy Mann

Absent:

Others Present: Ken Horne Tim Neill Shawn Shoemaker Dennis Abbott  
David Lowe Glenn Charette Tammy Bellman

Judi Carll called the meeting to order at 7:11pm.

Dwayne Prescott made the motion to move Old Business forward. Katy Mann seconded. No discussion. Vote 4 - 0.

## II. OLD BUSINESS

Dwayne Prescott made the motion to move 2.08 as it is written and amended to the Board of Selectmen for a decision. Katy Mann seconded. No discussion. Vote 4 - 0.

## III. APPOINTMENTS

- **Kenneth Horne, Sr.** – Map 2 Lot 1 (p/o) Auto Sales and Service. Ken Horne gave an overview. Waiting for the Town to sign off on the State Application. Have permit to renovate interior, waited for new CEO to be on board. Needs Certificate of Occupancy and application signed. I do want a recycler license, so that I can buy two vehicles repair them and sell them. I do not want a junkyard/salvage license. The property was in the right zone to be able to have a used auto sales and service. Done nothing but clean up the property. The Certificate of Occupancy is what I really need soon. Judi asked what he wants us to do. Ken responded with sign the Occupancy permit. Glenn Charette, CEO spoke. Lax paperwork with prior CEOs. Hearing tonight a request for a Conditional Use permit for the Auto Sales and

Service. The recycling permit was not requested at that time. Recycling is a different issue and I am not certain he can have a recycling operation in that zone. Auto Sales and Service is a Conditional Use and recycling operation is questionable. Roger Nagey and I visited Mr. Horne's location and found that he has removed 8-9 cars on the property to clean it up. As long as the vehicles are registered and licensed then he will be ok. The Planning Board tonight is hearing the sales and service conditional use. Dwayne had Ken clarify the difference between the recycling and salvage. Ken Horne responded with I am requesting a used car license; there is a section in that application that asks about recycling. I am not asking for a junkyard. I question how the CEO is interpreting this. Dwayne Prescott made the motion that we will look into granting the Auto Sales and Service license and do the Site Walk at 6pm. Lee Nelson seconded. Discussion: Shawn Shoemaker spoke regarding the letter that is requested. Stating that a letter from the Town is either a permitted conditional use in that facility which has to have a sales area, repair area, and tool area; the salvage license would limit him to two before he goes into the junkyard status. If limited to two salvage vehicles then you as Planning Board, should limit him to two vehicles. Either Conditional Use or Permitted use by the Town. Tim Neill do you need to hold a public hearing? Glenn – recycling not allowed as Conditional Use. Dwayne – abutter has a definite concern. Recycling and repairing are very close – Judi clarified that the zoning determines what is allowed in each zone or not allowed. Shawn suggested that Ken go to the State and get it in writing to determine if you can buy and repair two vehicles at a time before it is considered a salvage. You will need documentation to present to the Board. If not permitted by Zoning will not matter what the State says. Might be just a used car dealership. Judi Carll we will not violate Zoning Ordinance. Vote 4 – 0 passed for Site Walk. Do have a letter from Danny Theriault does not like because it looks like a junkyard – Ken got caught in large storm – I am a repair facility. This is why we are having a site walk. Dwayne there will be much more clarity on the 20<sup>th</sup>.

#### **IV. MINUTES OF PREVIOUS MEETINGS**

- *April 15, 2015* – Katy Mann made the motion to accept the minutes as written from April 15, 2015. Lee Nelson seconded the motion. No discussion. Vote 4 – 0.

#### **V. REPORT OF OFFICERS**

#### **VI. COMMUNICATION**

- Glenn Charette clarified the Dearborn Reclamation Bond. This Bond protects the Town so the property is reclaimed to its natural state until Dearborn closes. Renewed every year.

#### **VII. MISCELLANEOUS**

- Glenn Charette introduced Lee Jay Feldman as the Representative to the Planning Board from Southern Maine Regional Planning and Development.
- Dwayne Prescott suggested that a committee be formed for Design Standards and/or Design Guidelines. Shawn Shoemaker was recognized – design guidelines not standards – be careful of the wording. Shawn was volunteered for the Design Guidelines Standards Committee. Dwayne suggested to hold a workshop regarding design questions. Lee Jay suggested that both ways can work. Glenn can provide a

couple of different options. Performance Based Zoning with a workshop with the Planning Board and Code Enforcement Officer.

**VIII. NEW BUSINESS**

- Glenn Charette read the following Maine Revised Statutes Title 30-A 3752 and Section 3753.

**IX. ADJOURNMENT**

- Dwayne Prescott made the motion to adjourn at 7:47pm. Judi Carll seconded the motion. No discussion. Vote 5-0 in favor.

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

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