



Town of Eddington

906 Main Road Eddington, Maine 04428

PLANNING BOARD
September 8, 2015
6:00 pm
MINUTES

CALL TO ORDER: Susan Dunham-Shane called the meeting to order at 6:00 pm.

ROLL CALL: Members present were Susan Dunham-Shane, Craig Knight, David McCluskey, David Peppard, David Johnson, Charles Norburg, CEO and Russell Smith. Gretchen Heldmann has an excused absence.

MINUTES: Motion to table all Minutes until they are provided to the Planning Board.

By David P/David M 2nd. Vote 3-0

Motion to make David J. a voting member for tonight's meeting.

By David M/David P 2nd. Vote 3-0

Susan said to let the record show that the Planning Board is lucky to have Ms. Knowles take their minutes because she is thorough to a fault and very seldom gets behind on producing her records in a timely manner and we need to thank her. Denise thanked her for her kind words.

UNFINISHED BUSINESS: The Board will continue working on the wording in the Wireless Ordinance and possibly Zoning Ordinance wording regarding Wireless Towers. At the last meeting they had reviewed the letters from Town Attorney Charles Gilbert and Verizon Representative Scott Anderson and agreed with Mr. Gilbert's view that all three points of 7.1.A are equal in deciding the location for a wireless tower. The Board members were to think about the wording changes needed address this in the two ordinances.

Susan read Gretchen's email about this subject because she is unable to attend the meeting. Her email read: I think keeping it simple is important. The tower ordinance should not have a zoning reference, so I think it should be removed entirely. As I stated before, I don't entirely agree with the attorney that we have to list towers in the zoning - for example, we don't list wind energy facilities. The implication is that there is no zone restriction so long as the other requirements are met. We also cannot come up with every new thing that might be a future thing to think about (we also don't list medical marijuana pharmacies, methadone clinics, or other new-ish things that communities tend to regulate, etc.)

David P asked if they had any sample ordinances. Susan said that the rewriting of this ordinance came about in 2009 at which time they had reviewed 6 other ordinances to come up with the wording for our Wireless Ordinance and this ordinance contained the Farming/Agricultural Zone. In 2012 when the Zoning Ordinance was redone with a consultant to bring it in line with the Comprehensive Plan the zoning was changed and Farming/Agricultural no longer existed. The issue now is that the line in the Ordinance states that wireless towers can only be permitted in the Farming/Agricultural Zone. At that time, most of the town was Farming/Agricultural because everything 500' back from major roads was zoned that zone. Susan said that they have two choices; they can set certain zones where wireless towers are allowed or as Gretchen suggested, because there are setback rules that govern the towers by their height and the zone they are in, don't specify certain zones. Susan

explained that it is up to the Board to decide if not specifying particular zones is appropriate. And if they do that they will need to think about the Commercial and Mixed Use Zones and whether the 1000' setback from any town, state highway or any subdivision will give enough setback in these zones. She further said that just changing Farming/Agricultural Zone to Rural Agricultural Zone will not serve the town well. Susan explained that when she responded to the letter from David and Carrie Johnson back in April, this is what she thanked him about because she had not realized that the changes in the ordinance had made something more difficult, it was never the intention. David P. is placement within any zone as long as it meets any required setbacks. Charles N. said that that would meet the original intent of the Ordinance. David M. and Craig K. also agree with David P. and remove all reference to zone. The current wording in the Wireless Ordinance is:

7.1. Planning Board Approval Standards

An application for approval by the Planning Board under Section 5.1(A) (Expansion) and Section 5.1(B) (New) must meet the following standards.

A.) Priority of Locations. New wireless telecommunications facilities must be located according to the priorities below. The applicant shall demonstrate that a facility of a higher priority cannot reasonably accommodate the applicant's proposed facility.

1.) Co-location on an existing wireless telecommunications facility or other existing structure in the following districts, as identified in the Town of Eddington Zoning Ordinance:

2.) New wireless telecommunications facilities may be permitted only in Agricultural/Farming Zone.

3.) No tower may be located within 1000' from any state, town or subdivision road.

Charles N. questioned if there should be restrictions in the Conservation Zone. David J. feels that going forward everything is going to be wireless and they want to be careful putting restrictions on it because it will leave the town out. Charles N. reference the District Use Chart and allowed uses in the Conservation area, such as Essential Services, portable sawmills, accessory uses and structures, etc. David J. thinks that wireless towers may be an essential service in the future. Charles N. said that because the conservation area is a low area, it may take care of itself regarding a possible location for a tower. David M questioned what the rules were regarding putting roads in the Conservation Zone. 605.5 states that the Conservation District is restricted to forestry uses and research.

The Board would like to improve the zone colors on the Zoning Map.

Motion that they craft a sentence under 7.1.A.2 that would exclude Conservation Zone for Wireless Telecommunication Towers.
By David M. Craig K 2nd.

Discussion: David P objects because like David J said they need to look to the future and everything will be wireless. David M. said they would run the risk of losing the Conservation District for advances in technology.

No further Discussion. Chair called for a vote:

Vote: 2 in favor/2 opposed-Chair in favor/ Passes 3 to 2

Motion that they change 7.1.A.2 to read: New wireless telecommunications facilities may be allowed in all zones with the exception of the Conservation District. **By David M/Craig K 2nd**
No Discussion. Chair called for a vote:

Vote: 2 In Favor/2 Opposed/Chairman votes in Favor/Final Vote: 3 In Favor/2 Opposed

Susan asked if they need to include the wireless tower reference in the Zoning Ordinance. The Board agreed that they do not need to reference it so nothing needs to be changed in the Zoning Ordinance. (Susan noted that the Zoning Ordinance talked about antennas and dishes, but there were no definitions, but there were definitions in the Wireless Ordinance.) Susan verified with Russell that they would now proceed to a Public Hearing. Charles questioned whether Russell had found out if they could have a joint public hearing and Russell confirmed that the Planning Board and Selectmen can have a joint Public Hearing. Russell has spoken with Scott of Verizon and he is waiting for them to go through the process.

David J. asked to revisit the question and make a friendly amendment. Russell said they can revisit the item. David J. said that the District Use Chart lists "Allowed with Planning Board Review". Susan explained that if this was a use not requiring review, that suggestion would work, but the Wireless Ordinance requires Planning Board review.

The next step would be to send this section of the ordinance to the Select Board with the revised wording for their next meeting on September 15, 2015 and then let them set the Public Hearing date. Russell confirmed that this section with the revised wording would be presented to the Selectmen on Tuesday night. Susan said it is always a good idea to have Planning Board members at the Selectmen meeting to help with the discussion of the proposed change. Russell agreed.

Motion that we table the continued Shoreland Zone Ordinance review to the next meeting.

By Craig K/David J 2nd. Vote 4-0

NEW BUSINESS: Susan read the letter received August 11, 2015 from Selectmen Lyford:

To Planning Board,

I would like to ask you to revisit the zoning that was placed on Bill Chapman's property. As you know, at our joint meeting, he was extremely upset. I know some members of the community are upset with the Planning Board and the Select Board and I know we won't be able to please everybody, but maybe something could be changed. At least we've made an effort.

Thank you, Peter Lyford.

Craig K said that the setbacks on topsoil excavation, also known as loam, has affected Mr. Chapman and others in town. He said that because it is not an ongoing operation it is restrictive. Susan pointed out the setback in the Mineral Extraction Addendum is not a Zoning rule. Susan read Gretchen's response from her email: With regards to the letter, it is not clear what he is asking for. Am I to interpret the letter to mean the recent adoption of the mineral extraction addendum to the zoning ordinance? That wasn't "zoning placed on his property" per se. There was not a new zone placed on any property. If he's referring back to when the new zoning was adopted and the different zones put in place back in 2012 (Mr. Chapman spoke at length about the old comp plan process, zoning ordinance change and different setbacks on one side of the river vs. the other), then the proper procedures must be followed for a zone change request on a property (recall Footman request among others). If he is referring to the MEA, there are procedures in place for requesting an amendment to the zoning ordinance - see section 108.1 Initiation - is Mr. Lyford asking this as an individual or as a municipal officer? I need some clarification in order to know how to proceed.

Russell clarified that Mr. Lyford's letter was signed by Peter Lyford, not Selectman Lyford. It was not discussed by the Select Board. Susan went back through the Planning Board minutes regarding Mr. Chapman. On April 28, 2015, Mr. Chapman talked about property rights taken away when they wrote the Mineral Extraction Addendum and he has 22 acres and they never looked at the zoning map.

He questioned 2-acre lots on the riverside and 4 acres on the land side. On May 12, 2015 he again brought up lot sizes on Riverside Drive. On June 25 he did not refer to zoning at all. Charles N. asked what he wanted and Susan said they may find out during Public Access. David P. asked if his lot is more restrictive than the land across the road in regards to loam removal. They referred to the zoning chart and Mr. Chapman is in Rural Residential, Rural Agricultural is across the road and loam removal restrictions are the same in both zones. Susan said Mr. Chapman has also talked about conservation and preservation of the river. Susan said that Mr. Chapman has 22 acres and he can do 4-acre lots if he wants. The minimum lot size is 2 acres. Craig K. said that when Mr. Chapman brought up the MEO it was at a Selectmen meeting he attended. David M. said the appropriate procedure would be for the Planning Board to write Mr. Lyford and ask for clarity regarding Section 108 and its requirements. David P. agrees to the letter and the need for something in writing, but said if someone here can speak to the issue to clarify it then they could do homework and await the letter. Susan asked Mrs. Chapman if she could speak to the subject. Mrs. Chapman said that it has nothing to do with 2-acre lots and 4-acre lots. He brought that up because he questioned why the 2-acre lots were put on the riverside rather than the 4-acre lots in regards to conservation. The problem is they were in the Agricultural Zone because they were 500' back from Rt. 178 and now they are not. She said they had a neighbor come to them that wanted to keep a horse on their land. When the neighbor got the paperwork to put a fence around the area, they would have had to go to every neighbor to find out where their well and septic were located and they felt that was too restrictive. Charles N. asked where these requirements came from and she said that the neighbor got an application from here to put a fence up this year. Mr. Chapman said that he would not go through all of that to put up a fence. Charlie N. said he thinks there has been a misunderstanding and asked Mrs. Chapman to talk to him after the meeting. Charles N. explained that the forms contain questions which may or may not apply to a particular activity and need to be answered that way. She further stated that the Mineral Extraction has changed the zoning. Susan explained that the MEO did not change the zoning uses. She would have to go back to the pre-2009 map to see if that was true with respect to the river side, because Shoreland zoning on the river would affect that. Mrs. Chapman said they were in all three zones. Susan said that like the wireless ordinance conversation that they had earlier, when the Zoning Ordinance was worked on in 2012, the Farming Agricultural zone was changed. When they were redoing the zones the consultant recommended stopping so much fracturing in the town and it made more sense to make it Rural Residential along the river because there were already so many homes and small lots there, and looking across the road there was more land that was more conducive to 4-acre lots. And at the same time that is why they put in open-cluster housing. If someone has 260' of frontage on Rt. 178 and they have 8 acres going back to the river and they want to sell the house by the road and build by the river, they had to have enough frontage in rural residential to keep 200' of frontage to keep it legal and be able to use that back land. If it had remained in Rural Agricultural, it would not have been possible. There is a process in the zoning Ordinance to change the zoning use of a piece of land. It was not done to hurt anyone but to make the best use of the land. David P agrees with David M. that they get something in writing from Peter or Mr. Chapman what their issue is and what they want changed. They want to get the letter and then explain how the fees will work on this process and who is responsible for them.

Motion that the Planning Board drafts a letter to Mr. Lyford asking for clarity and specifics regarding his letter to the Board dated 8/11/15 and cite Section 108.1.3 and 108.2 as a reference.

By David M/David P 2nd. Vote 4-0

David M. will draft a letter and present it at the next Planning Board meeting.

OTHER BUSINESS:

STAFF REPORTS: Charles N. has a letter for Tradewind's sign lighting that he would like to review with Sue after the meeting.

PLANNING BOARD COMMENTS:

PUBLIC ACCESS: Mr. McLeod thanked them for their diligent work.

ADJOURNMENT: David P will be absent at the next meeting. Motion to adjourn at 7:16 pm.
By David P/Craig K 2nd. All in favor

Respectfully Submitted,

Denise M. Knowles