



Town of Casco  
Planning Board Minutes  
March 9, 2020

**Planning Board Members Present:**

Lynne Potter (Chair) Jim Macklin, Stan Buchanan, Gene Connolly and Jim Macklin

**Public Present:**

Alex Sirios (CEO), James Seymour (Town Planner) Courtney O'Donnell (Town Manager) Mary Tremblay (CEO Admin. Assistant), Harry Monahan, David Bank and Grant Plummer (Selectman).

1. Call the Meeting to Order

**Chairman Lynne Potter calls the meeting to order at 7:00 p.m.**

2. Review and Approval of the February 10, 2020 Minutes

**Stan Buchanan moved to approved the February 10, 2020 Meeting Minutes as written**

**Jim Macklin, Vice Chairman seconded**

**No discussion**

**The Board voted 4 in favor 0 opposed, 0 abstentions**

3. Sebago Technics has submitted additional information regarding an application for Contract Zoning on behalf of Hancock Leasing, LLC for property know as Map 43, Lot 23-B and Map 43, Lot 24-C. the property is commonly known as 4 Edes Falls Road with a portion of property formerly owned by Spurwink located on Meadow Road. The Property is located in a Village Zone.

Chairman Lynne Potter stated the Sebago Technics on behalf of Hancock Leasing has not submitted enough information or any information for this agenda item at this time

**Chairman Lynne Potter moved to table this item until a future date**

**Stan Buchanan seconded the motion**

**No discussion**

**The Board voted 4 in favor 0 opposed, 0 abstentions**

4. David Banks, RE/Max by the Bay has submitted additional information and revised Plan regarding an Application on behalf of Natalie Sanborn to permit an amendment to an approved subdivision known as Quaker Ridge Estates for property known as Map5, Lot 58-3 commonly known as 11 Rollinghill Road and is located in a Residential Zone

Chairman Lynne Potter opened the discussion by welcoming David Banks from Re/Max By the Bay.

David Banks stated he received Jim Seymour's memo regarding conditions on the plan. He stated that he would like to identify the items that need to be done and clarify them. He noted on the survey the land the Monahan's own were to be joined together and that has been done and the deed has been prepare

by Allen Wolff . He stated the survey identification of notes subdividing the property without Planning Board approval for any additional subdivision of the property has been noted.

Jim Seymour stated going through the application he did pick up on some things he would like to see more for the plan production then the whole conception idea of deeding the lots together. He noted he would like to refer it back to Alex regarding his conversation with Natalie (Towns Attorney)

Alex stated the goal was to see the back lots merged as one and they provided a deed their attorney felt satisfied that met the requirement. Alex noted he checked with the Towns Attorney, Natalie Burns who had a conversation with the Monahan's attorney about the deed that was put together. Alex noted that Natalie was not necessarily convinced that the deed satisfies the requirements of the Town. Alex stated that their attorney Allen Wolff was going to provide her with a statue that would show that the deed did meet the requirements however, the towns attorney, Natalie Burns never received anything. Alex noted that Natalie did have some other thoughts that Jim and Alex had discussed.

Jim Seymour stated in lieu of combining the deeds into one due to some un-clarity about the owner being able to deed themselves lots, Natalie suggested the town may continue with the condition making it more contingent by making it subject to new dwelling units or building permits. He noted late this afternoon they prepared a note that would be on plan along with some other technical aspects of the plan that Jim would like to see revised before it is signed and recorded. He stated that does not mean the Board cannot take this under consideration or possibly vote on it. Jim proceeded to move on to the technical review. **1.** Some kind of agreement with the current road owners on Rollinghill Drive, Jim noted he did not know if there is some private road agreement, homeowner's agreement or who is responsible for the maintenance of the road. **2.** Clarity on the plan. The plan refers to Rollinghill Drive as a Right of Way looking at the deeds it says it is an easement. Jim noted this is a legal issue that should be clarified. **3.** Notes need to be clear referencing the actual Town of Casco street standards. **4.** Generally, we do not like waiving standards due to the fact that this action was dully commenced by a Board action prior. **5.** The plan was not stamped by a licensed State of Maine land surveyor. It is not dated to include the latest revisions, missing Property Line data for L-8 and L-9 on the plan, pins need to be added to access easement/ right of way limits, the right of way/easement limits need to be specially identified on the plan. He noted something should be added to the plan to help understand the deeded lot areas and total lot areas (square footage) for land owned by Susan Monahan Lots 58-5 and 58-3. The terminus of the road should meet the emergency turnaround provisions by the Fire Department for public safety.

Jim S. stated given the fact that the family has been trying to close on this and if everyone was in agreement with Note 4 on the Plan (Read by Jim) and the conditions that have been laid out, the board could approve with those conditions, however, the Board would not sign the plan until Alex and I have made sure the conditions have been met and applied to the plan.

Lynne asked that if they wanted to do any construction, (dwelling unit) they would have to come back before the Board.

Jim S. stated yes.

Lynne stated she certainly understands the issues that the Sanborns are under.

Harry Monahan stated he will consult with his attorney, Alan Wolff on the specifics of the requests. He noted his feelings on this really do not matter because his hands are tied. He stated he bought it from

the Sanborns in good faith and he stopped development because he bought all the land for privacy. He understands it really does not matter because no changes can be made unless he comes back before the board.

Lynne noted they are not only thinking of today but tomorrow and what may happen if the time comes and that property sells and what happens after that point.

Lynne asked if there were any further questions.

The Board had no questions.

Lynne called for a motion

**Jim Macklin moved to accept the application with tentative approval with Alex's and Jim Seymour's verification of the recommended changes, Reference the review of March 2<sup>nd</sup>, 2020 and the March 9<sup>th</sup> 2020 review recommendations dealing with Note 4.**

**Stan seconded the motion**

**The Planning Board voted 4 in favor, 0 opposed, 0 abstentions.**

5. Public Hearing on proposed Ordinance changes.

Alex stated the process of this would be for the Board to review motion on the changes and the Selectboard will be doing the same. The goal is to have a public meeting in April based off of both Boards opinions.

Lynne stated she did review and made notes that she would like to include on the list.

**#1 Timber Harvesting Standards (page 141) Change to option 1; repeal of the current language. This change is reflected in the updated version of the zoning ordinance based on discussion at the joint meeting**

Alex stated he suggests accepting. The state will do it for the town. As the Code Officer he does not have the technical background to make those decisions. Leave to the experts.

Jim Seymour asked if Alex gets notified of timber harvesting

Alex stated yes we do.

Stan asked how you will know when it is happening.

Alex replied through the State if it is happening legally, if not someone normally complains it's going on and it is looked into.

Jim Seymour stated the ultimate goal is to get this voted on so it can go to the Aprils Public Hearing at which time you will hear public comment.

**Lynne moved to let the State take over.**

**Stan seconded the motion**

**The Board voted 4 in favor, 0 opposed, 0 abstentions**

## **#2 Setbacks for Stream Protection zone change from 130 feet to 75 feet.**

Alex noted the ordinance is written now for zoned streams a 130 setback which is more restrictive than the State. The State requires 75 feet. This would require updating the Shoreland Zoning map, which would be done in time for the Warrant for Town Meeting if approved. Most towns' people seemed to be in favor of this.

Stan asked Alex if he felt the Selectboard seemed to be in agreement.

Alex noted they seemed to be in favor with the state.

Jim Seymour added this helps streamline, so there is not so many different setbacks and everyone is in compliance. He noted it would be in compliance with the other regulatory plumbing and subsurface wastewater; this is also controlled by the State. This helps us to be in compliance with other agencies as well. He added not being all the same leaves the town in a gray area.

Jim M asked no fear of down the road of people asking for less setbacks now from 130 to 75 and 75 down to 30 which happens now?

Alex noted that it would need to go to the Zoning Board of Appeals for a variance and show hardships and the State (DEP) would need to be involved if less than 75 feet request.

**Jim M moved to reduce set back requirement**

**Gene seconded the motion**

**The Board voted 4 in favor, 0 opposed, 0 abstentions**

## **#3 Freshwater Wetland definition (pg. 13) This will impact whether or not the town will regulate all 10+ acres of wetlands including forested wetlands, or only 10+ acres non-forested wetlands**

Alex stated the town is more strict than State on this item. The town is considering the forested wetlands as part of or just wetlands with its own definition. This is more strict than State with what is regulated by the significance of wetland. He added this does not change setbacks of those wetlands.

Courtney O'Donnell, Town Manager added as a note, Mike Morse stated at their meeting that forested wetlands are not required to be regulated under State minimum requirements.

Lynne stated personally she thinks that the town should go with the State recommendations.

Stan stated he still has some concerns that the state is not taking into consideration the significance of the forested wetlands.

Jim Seymour stated they would still have to apply for permits and just can't blindly disturb these wetlands; they still need to meet the requirements.

**Lynne moved to go with the current State recommendations.**

**Jim M seconded the motion**

**The Board vote 4 in favor, 0 opposed, 0 abstentions**

**#4 Stream definition (pg. 31) we should not be administratively altering the map which would alter language of the definition.**

Alex stated the concern Mike Morse and Jim Seymour had noted is the town should not be altering the map based on the applicant's answers on the applications.

Courtney O'Donnell added maps require town meeting approval and to take it on administratively based on applications that come through and change it takes away the purpose of the town meeting vote. She noted to change these maps as applications come through, would be a mess as far as tracking so by taking it out, it is no longer on the table. A map could be altered but by the proper process.

Jim Seymour stated in streams and wetlands there are different definitions in the ordinance. He did not see any harm in taking it out. There is a process for remapping if somebody doesn't have a stream there is a way to get that changed.

**Lynne moved to eliminate the last sentence.**

**Jim seconded**

**The Board voted 4 favor, 0 opposed, 0 abstentions**

**#5 Individual private campsites(pg. 136) – Retain current language as is, or add a provision to cause the ordinance to require double the lot area required when located on a site with another use. The current requirement should meet State requirements.**

Alex stated law requires 40,000 sq. ft. minimum lot size for a private campsite, our ordinance currently is a minimum of 80,000 on the water. If they have a house the ordinance is worded so that it would allow them to have a private campsite with the house. He noted the discussion with the State is; do you want to double it to make it a required 160,000 sq. ft. to have both or keep it as is. He stated it can be left as is it doesn't need to be changed.

Stan asked is this of some importance; is this a huge problem that is happening?

Alex stated yes, but they are not legal there are people who just do it but regardless. If the board chooses to make it double that makes it basically impossible, there are very few lots in the shoreland zoning in Casco that are more than 80,000 sq. ft. and certainly less that are 160,000 sq. ft.

Stan noted if it is out of control affecting the environment that's one thing, but if it is just a few individuals that could be addressed by Alex that's another.

Lynne stated if you get into the shoreland zone and you have a house and a camper you have additional parking, the ground getting worn down and land issues then there is more runoff.

Stan asked how the septic is handled with both.

Alex stated the camper is treated as a bedroom, so the septic would have to be capable to handle that or a written sewage disposal plan.

Stan stated it is one of those issues they might want to leave alone and handle them on a case by case basis for the ones that are now not complying with our standards rather than go change something and bring it into the public purview.

Grant Plumber (selectman) stated prior to Alex they have run into to this a few times, there are more and more of them are coming. Most were campers but one of the big issues was the septic, people were tying them into the existing septic for the home. He noted they need better language and better ways to manage this for Alex.

Lynne asked what Grant Plumber was leaning towards

Grant Plumber stated it gives Alex all the tools he needs to do the job properly and the enforcement. He added he thinks Mr. Morse has a long history in DEP and if the recommendation is coming from him to fix this then he stands with him.

Alex stated he feels just changing the lot size alone is not going to have much significance on this. He noted if the board would like this can be tabled, have Mike Morse work on language prior to amending. He noted it needs more work than just changing the lot size.

Jim Seymour stated one way or another it needs to be looked at and tightened up.

Courtney O'Donnell (Town Manager) noted to keep in mind if this is the route you would like to go it would need another public meeting prior to the town meeting. She stated the turnaround could be done quickly.

**Lynne made a motion to have it sent to Mike and Alex to be reviewed and then to the Selectboard when available.**

**Discussion: Stan noted to make sure of enforcement**

**Gene seconded**

**The board voted 4 in favor, 0 opposed, 0 abstentions**

**Items not required for compliance with Shoreland zoning requirements but recommended housekeeping for review:**

- A. Campground (Pg. 6) – Move Standards out of the definition section, and into Article 5 Performance Standards**

Lynne motioned to move standards out of the definition section

Jim seconded

The Board voted 4 in favor, 0 opposed, 0 abstentions

- B. Mineral Extraction (pg. 19) Mike Morse recommends clarifying this definition**

Lynne stated after reading the sentence should the word “another” read as allowed or approved?

Alex noted yes, that is what they had added last year and Mike Morse will be updating it.

Lynne moved to accept the recommendation to clarify and include “allowed” or “approved”  
Jim seconded

The Board voted 4-0 in favor, 0 opposed, 0 abstentions

- C. Net Residential Density (pg. 21) Current language is potentially problematic as the definition might only apply to subdivisions or similar development. Determine whether to change the definition ( such as proposed) to correct the potential problem

Alex stated this is set up only to apply to subdivisions and planned residential development. So this change will add “for all” development which means it would have to meet all the requirements of Net Residential Density. He explained this subtracts non-usable or buildable land from your total buildable lot.

Jim Seymour asked if this would apply to residential only not commercial

Alex noted it could apply to all development by the way it reads.

Jim Seymour added it looks as if it reads to residential dwelling units, it is typically used in residential.

Alex stated he would need to talk to Mike about it.

Stan asked if that includes Condos.

Alex stated yes.

Stan asked if it will make it more restrictive/

Alex stated no it would not change that, this already applies to apartments and residential subdivisions

Alex asked the Board if they would want to add “for all residential development” or feel it is fine as is. He noted this is not one that needs to be changed.

Jim M stated he does not see any value in changing it now.

Stan stated no change, it is getting to complicated as it is now

Jim Seymour added the only thing he would ask is in that section should we direct them to the Performance Standard. He stated the performance standards actually lay out the requirements for the net residential area

Alex noted we could just add ref 215; 5.19 to the above

**Gene moved to add Ref 215; 5.19 to clarify the standard definition only and striking the red.**

**Lynne seconded**

**The Board voted 3-1, 0 opposed, Stan abstained**

- D. Piers, docks, wharves, etc. (pg. 134) – Address houseboats or wait for another round of changes at a later date: If included, it would likely require additional proposed language not included or presented at the joint meeting

Alex stated at the joint meeting there was discussion about adding some language to the ordinance to regulate houseboats. He added this is not something they need to do this year to bring into compliance with the State however, it was brought up. He noted it would be a motion to see some language added to regulate or a motion to pass to next year or another year.

Lynne noted since they are working on this they should probably include it if they can. She stated she knows it can be a complex situation with a lot of moving parts. She would like to see the Board move on finish this so it is done and put to bed.

Stan asked if the town has any houseboats.

Alex noted he was not aware of any.

Jim Seymour asked Alex for some generic language so he has some protective measures if he feels it's a concern or priority. People are finding loopholes in this.

Alex stated the language will be emailed and a hard copy given before the Selectboard meeting the 24<sup>th</sup>. He noted he would encourage the Planning Board to go to the meeting as well or watch the taping of it.

**Lynne moved**

**Jim M seconded**

**The board voted 4 in favor, 0 opposed, 0 abstentions**

- E. Section 215- 9.12 (pg. 137) – Remove the bond requirement for driveways from this section and specify that bonds are required for roads only. This is already done for practical reasons, it's a good idea to update the ordinance to reflect that;

Alex stated a bond is required in the Shoreland Zone for roads and driveways. This change would remove the bond requirement for a driveway and leave as a road, which is common for everything else in town.

**Jim M moved to make the changes**

**Stan seconded**

**The Board voted 4 in favor, 0 opposed, 0 abstentions**

- F. Administrative Appeals (pg. 162) – from “de novo to “appellate”. This is HIGHLY recommended by staff and our legal counsel.

Alex stated the Towns Attorney Natalie Burns has said the town needs to put this in. He noted this is one that he suggests the Board votes for. He stated they have run into questions on this because the ordinance is pretty vague so it was mentioned by Natalie about 6 months ago or so to update the Shoreland Zoning ordinance it needs to be corrected.

**Stan moved to accept the change from “de novo” to appellate”**

**Lynne seconded**

**The Board voted 4 in favor, 0 opposed, 0 abstentions**

Alex noted that the next two sections really don't need a decision. He stated this is for the resource protection; there is a section that says "other important wildlife habitat or other significant areas". Mike Morse thought this is pretty vague. It was suggested the town check with legal counsel to see what their thought was whether to have it in the ordinance, issues or liability. Alex noted Natalie's opinion was most cases currently in Casco where there is property in resource protection; people are not asking to put more property in resource protection, most times people are asking for it to be removed. Because of that Natalie did not have any concern with this. He stated a lot of towns do not have this at all because it is one of the most restrictive zones there is. He stated there has been a request from a town's person coming to the Planning Board requesting the town remove properties from Resource Protection and put them back into limited residential. He stated this is a discussion for the Planning Board as to whether it is an issue the board feels should be taken up at this point of time, down the road or whether the board would like the land owner to come in and give his side of things. This would not make this year's Town Meeting

- G. Section 215-9.40 (f) other important wildlife habitat (pg. 163) – Staff will check with legal counsel about this because it is too vague. We expect to have some guidance for the Planning Board meeting in March.
- H. Section 215-9.40 – (l) Other significant areas...(pg. 165) – Staff will check with legal counsel about this. Same as above

Stan noted it may be something to kick down the road.

Alex stated this is a big issue and may be best to separate it from a giant amendment to the ordinance.

Jim Seymour added when that time comes you may want to have map comparing locations because it will affect so many people with shorefront property.

Alex asked if the Planning Board would like to address Mr. Webster's request (letter in packet) as part of the motion and let him know that the Planning Board at this time is not interested in undertaking this at this time, but maybe at a later date.

**Stan moved to table this item at this time**  
**Jim M seconded the motion**  
**The Board voted 4 in favor, 0 opposed, 0 abstentions**

Alex stated the last motion would be to set a public hearing for all of the Land Use Amendments for the April meeting. That will include the Commercial Zone Amendment and the Non-Conforming Structures Amendment

Jim Seymour added the suggested date would be April 13<sup>th</sup>

Stan moved to set the Public Hearing for the Land Use Amendments for April 13<sup>th</sup>.  
Jim M seconded  
Board voted 4 in favor, 0 opposed, 0 abstentions

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Lynne added nowhere in the ordinance changes has there been any discussion about wind turbines or solar arrays and would like to know if that is something to think about or discuss later.

Alex noted yes, there have been some discussions on that, but correct nothing in the ordinance. He stated he could talk to Mike Morse about that and what other towns are doing.

Jim Seymour stated it has fallen under basically a central service utility application. They still have to go through planning boards for approvals because of their disturbance of the soils.

Lynne stated on page 32 definitions on structures, how about things like hot tubs, dog houses, sheds etc.

Jim Seymour noted those fall under accessory use or structures that would cover those things.

Lynne stated would that cover a hot tub as well.

Alex noted that would be treated like a pool which is an accessory structure.

#### 6. Other

No other business.

Gene moved to adjourn

Stan seconded the motion

The Board voted 4-0

Meeting adjourned at 9:00pm

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Lynne Potter, Chairman

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Respectfully Submitted by:  
Mary Tremblay, CEO Admin. Assistant