

**TOWN OF LOVELL
PLANNING BOARD
MINUTES OF THE REGULAR MEETING
OCTOBER 3, 2007**

Members Present: Chairman Ed Ryan, Paul Bois, Steve Korth, Bill McCormick, Farwell Sawin and Lovell CEO Ron McAllister.

Members Absent: John Donnelly and Walter Grzyb.

Guest: Maine Forester Paul Larrivee, Maine Forest Service (“MFS”) Southern Region Enforcement Coordinator

The meeting was called to order at 7:32 PM.

Minutes of the September 5, 2007 regular meeting of the Board were unavailable due to the absence of Walter Grzyb, Recording Secretary of the Board.

ITEM 3. OLD BUSINESS

STATE SUPERVISION OF TIMBER HARVESTING

Forester Larrivee was invited to attend this Board meeting as a part of the Board’s due diligence process relating to a change proposed by J.T. Lockman of the Southern Maine Regional Planning Commission (“SMRPC”), in connection with his consulting role to help the Board adopt and assimilate changes that are required to be made to the Lovell Zoning Ordinance in order for it to comply with the State’s new Shoreland Zoning Guidelines.

The proposed change, which is not a part of, nor mandated by, the Shoreland Zoning Guidelines, has to do with Section 8.20 *Timber Harvesting* of the Lovell Zoning Ordinance. The recommendation is that such ordinance be redrafted to conform in its entirety to the *Forest Regeneration and Clearcutting Standards of the MFS (Chapter 20)* and *The Erosion and Sediment Control Handbook for Maine Timber Harvesting Operations, Best Management Practices, 1999* of the Maine Department of Conservation.

A lengthy discussion with Forester Larrivee re the function of his department in enforcing the relevant Maine statutes, education of landowners, supervision of logging operations, etc. followed. Based on that discussion, it appears that the primary benefit to be derived from the adoption of the State legislated standards vs. developing a unique, stricter Town of Lovell Ordinance would be the greater effectiveness and efficiency of education and enforcement of the State standard. The MFS’ charge and focus is on the State statute only. It is not, nor can it be expected to be, an expert on the specific standards of each Maine town. As a result MFS would be of little service to any town with its own unique Timber Harvesting ordinance that needs assistance in a specific situation. Similarly, the Maine Attorney General’s office role is to see that Maine’s Laws are complied with and defended against challenge. There is an accumulated body of precedent-setting case law that enables it to carry out its responsibilities with an efficiency and effectiveness that could not be duplicated by any Town trying to handle the legalities of its stand alone ordinances.

In other words, the State of Maine is responsible to argue, defend and /or prosecute under its own laws and has the proper resources to do so. The alternative is for each town to enforce and defend its own set of standards, which could be at substantial local cost and which could have an extremely uncertain outcome, given that the local standards may be more stringent than those promulgated at the State level.

Forester Larrivee also mentioned recent developments where the MFS now has official enforcement jurisdiction over the potential impact that timber harvesting could have on the water quality of area water bodies and the increasing complexity of new legislation, most recently, the MFS Rule –*Chapter 23 Timber Harvesting Standards to Substantially Eliminate Liquidation Harvesting*. Two examples of the State being aggressive in its regulation of this industry and which also results in less need for individual towns to have their own stricter rules.

Chairman Ryan asked Forester Larrivee if he would comment on what he believes is the downside to Lovell of conforming to the State standards. The only item that the Forester mentioned was that, as Lovell’s ordinance is currently written, the Town would be relinquishing local control over Category 3 Clearcuts (76 to 250 acres). He reviewed with the Board the State requirements for this category clearcut and concluded that the fact that the Forest Service must actually go to the site before a stick of wood is touched, provides sufficient controls, and adequate time and notification that would mitigate against anything detrimental happening without the Town’s knowledge and agreement.

There being no further questions, Forester Larrivee was thanked for taking the time to meet with the Board on this very important matter and for his unbiased, informative and candid presentation.

ITEM 6. OLD BUSINESS

MATT WOGAN, RECONSTRUCTION AT SEVERANCE

Chairman Ryan informed the Board that Mr. Woggan of Severance Lodge requested that this item on the Board’s agenda, be removed. It appears that there are disagreements among the parties involved in the reconstruction of the condominium building that was involuntarily converted by fire.

There was some discussion among the Board regarding Section 5.2.C.3 of the existing Lovell Zoning Ordinance under which a building permit must be obtained within one year of the date of the involuntary conversion. It was also noted by the Board that under the proposed ordinance changes, the time within which a building permit must be obtained could be as long as eighteen months.

ITEM 4. OLD BUSINESS

ORDINANCE REVISIONS

As a result of the input received from the public at the hearing held on August 1, 2007 regarding the proposed changes to the Lovell Zoning Ordinance, principally to comply with new State mandated Shoreland Zoning Guidelines, there were a number of changes

that the Board deemed appropriate. These had been forwarded to the SMRPC and will be incorporated into the next draft of the Zoning Ordinance. Chairman Ryan prepared a written summary of the changes and distributed them to the Board for discussion and approval at the next regular meeting of the Board on November 7, 2007.

On the assumption that all, or at least some of these changes will be approved, the Board agreed that there will be a Public Hearing on these changes at the regular meeting of the Board on December 5, 2007. Although the scope of the Public Hearing would not be restricted in any way, it is anticipated that the limited subject matter would not necessitate that a member of SMRPC be in attendance.

NON-AGENDA ITEM

ROSENBERG PROPERTY – 169 STEARNS ROAD

Although the applicant has not filed official documents with the Board, Chairman Ryan and Town CEO McAllister did visit the site and review the project with the potential applicant.

The applicant would like to replace the foundation under a structure which is currently non-conforming in that it is located within the 50' set back of the mean of the high water mark of Kezar Lake. There is a drilled well 36' behind the house and there are 3 large pine trees between the house and the well. There is a septic system to the left of the building that is well in compliance of the 100' required set back.

The existing Lovell ordinance (Section 5.2.C.1.b.) states, in part, that “ The placing of a foundation below a lawfully existing non-conforming structure shall not constitute an expansion of the structure provided that: 1. the structure and new foundation are placed such that the set back requirement is met to the greatest practical extent as determined by the Planning Board...” In this instance, based on calculations and measurements taken by Chairman Ryan and the CEO, the non-conforming structure could be moved back 30' to a location within 6' from the wellhead. This move would require the removal of the three pine trees which, in the view of the Board, was of less importance than minimizing the non-conformity and which would not have a permanent detrimental impact on the overall quality of the site.

Although a motion was made and seconded to approve the application on the condition that the structure be moved back the 30', no formal vote was taken pending the receipt of a formal application and plot plan showing, at a minimum, the location of the non-conforming structure, the drilled well, and the septic system, etc., as well as the mean high water mark and all of the set back requirements.

There being no further business, a motion to adjourn was made, seconded and approved by the Board at 9: 15 PM.

Respectfully submitted by
Bill McCormick

