

**TOWN OF LOVELL  
PLANNING BOARD  
MINUTES OF THE REGULAR MEETING  
DECEMBER 7, 2011**

Noting that a quorum of the Board was present, Chairman Ryan called the meeting to order at 7:00 pm.

**Members of the Planning Board present:** Joel Hardman, Ron Masse, Bill McCormick, Kevin McDonald, Chairman Ed Ryan and Dean Stearns.

**Member absent:** Walter Grzyb. Also absent was Lovell CEO Ron McAllister

Also present were Jeff Roberts, the Applicant for the Bait Shop Conditional Use Permit and Jon Bliss of Bliss and Associates, representing the Trautmans in connection with their Conditional Use Application.

**APPROVAL OF THE MINUTES OF THE NOVEMBER 2, 2011 REGULAR  
MEETING OF THE LOVELL PLANNING BOARD**

A motion was made by Mr. Hardman to approve the draft minutes of the November 2, 2011 regular meeting of the Board, which had been distributed to the Board previously, and as amended to properly reflect those members of the Board that were in attendance at the meeting. The motion was approved unanimously by a show of hands of those of the Board eligible to vote on this matter.

**ITEM #4 -- OLD BUSINESS -- TRAUTMAN MATTER – FINDINGS OF SITE  
REVIEW**

Chairman Ryan distributed the Minutes of the November 9, 2011 Special Meeting of the Board that was held in the form of a Site Review of the Trautman property at 413 West Lovell Road (Map U11, Lot 8). Such Minutes are attached hereto and included herein in their entirety by reference. Chairman Ryan summarized the result of the site visit as stated therein and concluded **“The consensus of the Board members present was that a relocation of the building away from the lake of [an additional] 20’ +/- is the most practical move to preserve the buffering provided by the stand of pines.”** He asked those members that were present at the site review whether the minutes accurately reflected the visit and whether there were any further questions regarding the site visit or the Minutes. There were none.

Chairman Ryan then asked the two Board Members that visited the site independent of the November 9 site review. Mr. McDonald was basically in agreement with the conclusion stated in the Minutes.

Mr. McCormick was of the opinion that the two very large pine trees that were approximately 22 and 45 feet, respectively behind the structure could be removed without

significant harm to the buffer area provided by the completely separate stand of very young pines and that the house could, from a practical perspective, be moved back more than 20 feet and possibly up to 45 feet without detriment.

Mr. McCormick also took exception to the comment made in the Minutes that the trees in question **“appeared to be in good health”** without an arborist opinion to that effect, and more importantly to the potential impact that the moving of earth, excavating, etc. in the area might have on the short/long term health of those trees. Mr. McCormick concurred with the statement in the November 9 minutes that Article XIII.34 of the Lovell Floodplain Management Ordinance had to be considered and suggested that the calculations required by that Article were somewhat deceiving because in determining whether a building had to be raised to be one foot higher than the 100 year flood high water mark, depended on whether or not the cost of the improvements equaled or exceeded 50% of the market value of the structure before the start of the improvements, which would be an extremely difficult number to come up with, since a building that might be prone to periodic flooding would have very little intrinsic value separate and distinct from the land upon which it is sited.

Mr. Bliss stated that he always advises a client that when work is to be done on the foundation of a non-conforming structure in the Shoreland Zone, the building should always be raised to the extent required by the Floodplain Ordinance. He also pointed out that this project does not have to be done and that the Applicant is evaluating all options regarding repairs, including those that could be undertaken outside of the Ordinance set back requirements, i.e. under Section 5.2.A.3. of the Ordinance. **“This Ordinance allows the normal upkeep and maintenance of non-conforming developments, uses and structures; repairs, renovations or modernizations....”** He also stated that should this project proceed without the elevation work dictated by Article XIII, he would obtain a letter from Mr. Tupaj of Kezar Realty attesting to the compliance with the fair value criteria of the Floodplain Management Ordinance.

After further discussion, Chairman Ryan reviewed with the Board the criteria that the Board should consider in determining whether the proposed **building relocation meets the set back to the greatest practical extent** as spelled out in the second paragraph of Section 5.2.C.2 of the Ordinance. Chairman Ryan then asked for a motion re the proposed 20 foot +/- in the November 9, 2011 Minutes. Such motion was made by Mr. Stearns. It was approved by a show of hands with 4 ayes and one no vote. Mr. McCormick cast the sole dissenting vote and stated that he was of the opinion that the Board had not dealt adequately with the Ordinance directive that it determine that the set back be **to the greatest practical extent**.

### **ITEM #3 -- CONDITIONAL USE PERMIT APPLICATION -- ROBERTS BAIT SHOP MATTER**

The Applicant, Jeff Roberts, indicated that he has now gathered the required documents that were missing from the initial Application. He said that CEO McAllister had a copy of the deed and that all of the abutters, of which there were 5, had been notified of his Application and of this evening's hearing. All of the green card registered mail receipts

had been received and were provided to Chairman Ryan.

Chairman Ryan polled the Board regarding the need to impose any special conditions. After some discussion, and noting the minimal impact that this Conditional Use would have on the surrounding area, none were deemed necessary at this time and a motion was made by Mr. Hardman to approve the Permit Application. The motion was unanimously approved by the Board through a show of hands.

#### **ITEM #4 -- OLD BUSINESS – GLEASON MATTER UPDATE**

Chairman Ryan referred to the letter that he had drafted on behalf of the Board and mailed to Ms. Gleason under date of November 2, 2011 concluding that her proposal to create two non-conforming lots out of her one conforming parcel is not permitted under the Ordinance.

He reported that he had received a call from Attorney Bull, representing Ms. Gleason in this matter, asking what basis the Board had for determining that it could pass judgment on the proposal of Ms. Gleason. This prompted a phone call by Chairman Ryan to Mr. J T Lockman of Southern Maine Regional Planning Commission, with whom he had consulted in drafting the Board's response to Ms. Gleason, who concurred with Attorney Bull that the Planning Board did not have jurisdiction in this matter and that the decision rests solely with Lovell CEO McAllister. As a result, Chairman Ryan sent a letter to Ms. Gleason, dated November 17, 2011, telling her to disregard the Board's November 2 letter and that the Board had turned the matter over to CEO McAllister.

Although it seems that this situation has raised more questions than were answered, the Board took no action regarding this matter.

There being no further business, Chairman Ryan called for a motion to adjourn, which was made by Mr. Stearns and unanimously approved by the Board at 7:47 pm.

Respectfully submitted,

William J. McCormick, Jr.  
Planning Board Recording Secretary

**LOVELL PLANNING BOARD  
SPECIAL MEETING  
SITE REVIEW OF TRAUTMAN PROPERTY  
413 WEST LOVELL ROAD (MAP U11, LOT 8)**

**NOVEMBER 9, 2011**

**Members of the Planning Board present:** Joel Hardman, Chairman Ed Ryan and Dean Stearns.

**Members Absent:** Walter Grzyb, Ron Masse, Bill McCormick and Kevin McDonald (Bill and Kevin were to visit the site independently).

Also present were: Lovell Code Enforcement Officer, Ron McAllister; Jon Bliss of Bliss and Associates, representing the property owners; Jason Westworth, general contractor; Stan Tupaj, interested Lovell resident.

This is a non-conforming structure since it does not meet the 100 foot setback requirement from the normal highwater line of Lake Kezar. The owners wish to place the house on a new foundation, and the Planning Board must determine the extent to which the building must be moved away from the water per section 5.2.C.1.e of the Zoning Ordinance.

**FINDING:**

The house sits within 20' of the normal high water line of the lake. The lot begins to slope upward 75' +/- behind the house away from the lake. Clearance to sidelines of the lot presents no problem if the house is moved back any distance. Clearance between the garage and the house is also no impediment.

A stand of large pines 16"-18" or more DBH begins about 25' +/- to the rear of the house. These trees appear to be in good health. Removal of one or two of those trees nearest to the house would still leave a good stand to buffer runoff from the slope into the lake.

Moving this house back would have no apparent effect on neighboring houses (view lines especially).

The consensus of the board members present was that a relocation of the building away from the lake of 20' +/- is the most practical move to preserve the buffering provided by the stand of pines. The views of the two board members who visited the site separately have not been determined.

The Floodplain Management Ordinance has provisions which may apply here: Article VI. G. 1 and Article XIII. 34 require that the house on a new foundation must be raised one foot or more above the 100 year flood level if the cost of the relocation exceeds 50% of the value of the structure before the work is done.

Respectfully submitted,

Edward Ryan  
Lovell Planning Board Chairman