

**TOWN OF LOVELL  
PLANNING BOARD  
MINUTES OF THE REGULAR MEETING  
May 5, 2010**

**Members Present:** Joel Hardman, Ron Masse, Bill McCormick, Kevin McDonald, Ed Ryan and Dean Stearns.

Also present was Lovell CEO, Ron McAllister.

**Members Absent:** Walter Grzyb

Noting that a quorum of the Board was present, Chairman Ryan called the meeting to order at 7:02 pm.

It was noted that Mr. Paul Bois, Mr. Alden Brown, Mr. Lee Connery (Kezar Lake Marina), Ms. Sandra Masse, and Mr. Bryan Molloy were also in attendance.

**APPROVAL OF THE MINUTES OF THE APRIL 7, 2010 REGULAR MEETING**

A motion was made by Mr. Stearns to accept the minutes of the April 7, 2010 Meeting that had been distributed to the Board previously. There being no discussion the motion was approved unanimously by those of the Board eligible to vote on this matter. Mr. McCormick abstained because he did not attend the April 7, 2010 meeting.

Chairman Ryan opened the Public Hearing portion of this meeting:

**ITEM #3 – CONDITIONAL USE APPLICATION.  
MASSE BOAT TRAILER STORAGE – PUBLIC HEARING**

Chairman Ryan noted for the record that the Public Hearing of both Masse Applications were duly advertised as required by the Ordinance and that the required fees and reimbursement to the Board for the cost of advertising the Public Hearings had been paid by the Applicant.

Chairman Ryan also distributed to the Board (i) the Applicant's responses to the Standards Applicable to Conditional Uses under Section 9.9. G of the Ordinance and (ii) an undated sketch of a map purporting to show the approximate location and the size of the proposed trailer storage area at the intersection of West Lovell Road and Town Beach Road. It was noted that both of these documents were applicable to both Masse Applications

Chairman Ryan asked if Ms. Masse had any further comments to make to the Board and she responded that she did not.

At this point Mr. McCormick announced that he was recusing himself from participating in the hearing of both of the Masse Applications, because of the potential for a perception of the existence of a conflict of interest. Mr. McCormick did not leave the Board table because as Board Secretary he was responsible to monitor the verbatim recording process and equipment located on the Board Table.

Mr. Molloy presented his position that the trailer storage facility was a moving target and cited a number of aerial photographs variously dated going back to 2000/2001 showing the growth in the number of stored trailers over the period.

Mr. Connery responded that from the outset, he had been asked that the boat storage area be kept at the one acre level and that he has endeavored to do that although he did indicate that the actual number of trailers being stored did increase over the period.

There were also questions raised by Mr. Molloy regarding the required set backs from both West Lovell Road and the Town Beach Road.

Chairman Ryan reminded the Board and assembled guests that this Application was being heard by the Board as a new use and that the history of the parcel and its use is not germane to this Application at this time. He also went on to explain that all of the required set backs etc. are the purview of Town CEO McAllister.

Mr. Brown commented that he was primarily concerned about the safety of people using the Town Beach Road vis-e-vis the movement of trailers. He indicated that this summer the Town of Fryeburg was going to conduct swimming lessons for 66 children at the Narrows Town Beach for most of the summer. Mr. Ryan thanked Mr. Brown for his concern and for raising awareness of this potentially hazardous situation but indicated that this was really an issue for the Lovell Selectmen and possibly the Lovell Road commissioner.

After further questioning of the Applicant regarding the details of the trailer storage operation and there being no further questions, Chairman Ryan asked for a motion on this application. To expedite the process, Chairman Ryan passed out a draft motion for the approval of the application but was clear that this was intended to be a template for the Board to follow and that the Board could change any and all of the provisions/restrictions included therein, if they so desired. After due discussion regarding restrictions the following motion was made by Mr. Masse:

Approval is for a use accessory to the Marina. The use is to be limited to a portion of the Masse field adjacent to Town Beach Road and extending along that road 360 feet beginning at a point 30 feet from West Lovell Road and extending 120 feet into the field. The following conditions apply:

- The storage facility will be used only from the period of April through November of each year;
- Storage will be limited to empty boat trailers;

- Trailer parking and other activity shall be limited to daylight hours beginning at 8:00 am;
- Since this storage facility is purported to be in a floodplain, movement of trailers on to and from the field shall occur only on dry ground.

The validity of Mr. Masse making a motion to approve the Application submitted by his wife was called into question by Mr. Bois. Chairman Ryan explained that the Lovell Ordinances permitted any Board member to make a motion even though the Board member may not be permitted to vote on the motion because of being a non-voting alternate or, as in this instance, because of a conflict of interest.

The motion was approved by a 4 to 0 vote with Mr. Masse not voting.

**ITEM #3 – CONDITIONAL USE APPLICATION.  
MASSE CUT FLOWER STAND– PUBLIC HEARING**

Ms. Masse specified that the Flower Stand would be located approximately 225 feet from West Lovell Road and would provide ample room for patrons to pull completely off West Lovell Road and the Town Beach Road.

There being no further questions or discussion, Chairman Ryan called for a motion and again provided the Board with a draft motion including restrictions, if it was the pleasure of the Board to approve the motion. Chairman Ryan intended that such a document be a template for a motion and that the Board should feel free to accept, change or completely disregard the template.. Mr. Stearns made the following motion:

To approve the Application as a Type 2 Home Occupation for the sale of cut flowers from an enclosed stand to be located on the Masse Field adjacent to the Town Beach Road at approximately 225 feet distance from the West Lovell Road. Approval is conditioned on the operation of the business being limited to June through September each year and that sales be limited to daylight hours.

Mr. Molloy questioned the appropriateness of this Application being approved on the basis of it being deemed a Type 2 Home Occupation since Mrs. Masse does not live in the subject residence. Mrs. Masse explained that her daughter and son-in-law live in the house. Chairman Ryan explained that the Lovell Ordinance does not require that the **“Home”** being used has to be the residence of the Applicant. The finer points of the definition of a Home Occupation in the Ordinance were discussed at some length. At the conclusion, Chairman Ryan continued to believe that his interpretation that the Ordinance does not require that the **“Home”** in the Ordinance definition of **Home Occupation** actually be a residence in which any relevant party lives, let alone the person involved with the **“Occupation”** part of the title, to be correct. He then called for a vote of the Board on the motion before it which was approved by a vote of four to 0, with Mr. Masse not voting.

#### **ITEM #4 – OLD BUSINESS. SECTION 7.14 REVISIONS**

The Board reviewed the Draft 1, dated 04-09-10 entitled *Proposed Zoning Ordinance Amendments – Sign Requirements* prepared by Mr. JT Lockman of SMRPC based on comments made by the Planning Board at several earlier Board meetings where possible revisions to Section 7.14 were discussed.

A motion was made by Mr. Hardman to approve the Draft 1 as presented but with two changes:

- Section 7.14 A -- The numbering sequence was adjusted to eliminate two of the General Provisions having the same number.
- Section 7.14 A. 6. (re-numbered as A.7.) -- add *“or their designee”* at the end of the section after the word Selectmen.

The motion was approved unanimously by a show of hands.

#### **ITEM #4 – OLD BUSINESS. SECTION 9.9 REVISIONS**

The Board reviewed Draft 6, dated 4-27-10 entitled *Proposed Zoning Ordinance Amendments – Conditional Use Application Submittals* prepared by Mr. JT Lockman of SMRPC based on comments made by the Planning Board at several earlier Board meetings where possible revisions to Section 9.9 were discussed.

After due and extended discussion of the subject matter, Mr. Stearns made a motion to approve Draft 6 as presented and circulated to the Board, except for the following:

- Section 9.9 D Additional Application Submittals (Introductory Paragraph) should be replaced in its entirety by the following : *Where new construction or expansion of a use is proposed, submissions on each of the following items are required as part of the application. However, if the Board finds that strict compliance with this subsection would be excessive in light of the nature of the proposed structure or activity, or where there are special circumstances of a particular plan, the Board may waive submissions on any of these items upon written request of the applicant provided that such a waiver will not nullify the intent and purpose of the Zoning Ordinance.*
- Section 9.9.C.3 -- second line -- insert after employees, *months, days,*

The motion was approved unanimously by the Board through a show of hands.

Chairman Ryan reminded the Board that pursuant to the plan that was announced at the outset of the work to amend Section 9.9 of the Ordinance, the next step after Board approval was for Mr. JT Lockman of SMRPC to design a new application form to be the

official administrative tool to be used for Conditional Use Permit Applications. Chairman Ryan indicated that he would get the approved changes to JT as soon as practicable and that the Board would have the opportunity to review the new Form prior to its official adoption.

**ITEM #7 – OTHER. HARWOOD APPLICATION -- UPDATE**

Chairman Ryan inquired about the Board site visit on April 26, 2010 that had been arranged by Mr. Grzyb relating to dividing Lot #4 of the Farrington Pond Subdivision.

Mr. McCormick reported on the visit and handed out the minutes that he prepared regarding this site visit and asked that the report be accepted by the Board.

A motion was made by Mr. Stearns to accept Mr. McCormick's report, which was unanimously approved by the Board. The report is attached hereto and incorporated herein in its entirety.

**NON-AGENDA ITEMS**

**LAKE ACCESS --** At Chairman Ryan's request Mr. Stearns summarized the project and its current status for the new Board Members.

**SAFETY ISSUES --** Chairman Ryan indicated that through the Board's work on a number of issues recently, it had come to the fore that the current level of enforcement of some of our more ambiguous practices, could inadvertently have safety consequences and should be reviewed by the Board.

There being no further business, Chairman Ryan asked for and received a motion to adjourn, which was unanimously approved at 8:47 p.m.

Respectively submitted by,

William J. McCormick, Jr.  
Planning Board Recording Secretary

