

**TOWN OF LOVELL
PLANNING BOARD
MINUTES OF THE REGULAR MEETING
August 5, 2009**

Members Present: Paul Bois, Joel Hardman, Bill McCormick, Bryan Molloy, Ed Ryan and Dean Stearns. Also present was Lovell CEO Ron McAllister.

Members Absent: Walter Grzyb

Other Attendees: Jim Rowe, Lovell property owner and resident.

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

**APPROVAL OF THE MINUTES OF THE July 1, 2009 REGULAR
MEETING**

A motion was made by Mr. Bois to accept the minutes of the July 1, 2009 Meeting that had previously been distributed to the Board. There being no discussion, the motion was approved unanimously by a show of hands.

ITEM #3 – CONDITIONAL USE APPLICATIONS: BULMER MATTER

Chairman Ryan explained that each Board member had received a package of material from Ms. Bulmer's attorney in this matter, Mr. Nicholas Bull of the firm of Thompson, Bull, Furey, Bass & MacColl, LLC, dated July 16, 2009. This distribution comprised the necessary documents for a Conditional Use Application and a Special Exception Application for Ms. Bulmer to construct a single-family residential structure on the lot that she owns adjacent to Cushman Pond that is deemed to be in a Resource Protection District (under Sections 9.9.G and 9.9.I of the Lovell Zoning Ordinance).

Chairman Ryan went on to explain that between the time of the distribution of the material to the Board and this Board Meeting, CEO McAllister had examined the physical site and, pursuant to the authority provided him in Section 4.4 of the Zoning Ordinance, had determined that the site did not meet the criteria for a Resource Protection District, and that the proposed location of the residence was otherwise in compliance with the Zoning Ordinance. As such, Ms. Bulmer was under no obligation to submit either the Conditional Use Application or the Special Exception Application and CEO McAllister therefore issued a Building Permit.

At the request of Attorney Bull, Chairman Ryan requested that the matter be tabled at this time. It was unclear to the Board as to why a matter over which it had no jurisdiction, would be tabled to a future meeting, at which time it would continue to have no jurisdiction. As a result, a motion was made by Mr. McCormick that, based on the representations of CEO McAllister regarding the physical properties of the site and the

Provisions of 4.4 of the Ordinance, the Planning Board does not have jurisdiction in this matter and the matter should therefore be removed from the Board's agenda for this meeting.

As an abutter to Ms. Bulmer's property, Mr. Rowe asked to be heard and stated his strong support for the Bulmer project.

Chairman Ryan then asked for a vote on the motion on the floor. The motion was approved unanimously through a show of hands.

ITEM #4 – OLD BUSINESS: RECREATIONAL RESOURCES; BOAT LAUNCH SITES

The discussion of this subject at the July 1, 2009 meeting culminated in a suggestion that Chairman Ryan consult with Lovell Town Attorney Buzz Pratt on the most efficient way of developing an inventory of Town-owned land abutting or providing access to water bodies or where public access is otherwise provided through easements, and, therefore by deduction, those bodies of water located in the Town of Lovell to which the public does not have access. Since access by easement, may not be physically obvious nor well documented in Town records, a review will be carried out by Chairman Ryan and Board Members Bois and Stearns at the Registry of Deeds in Fryeburg to determine whether, or the extent to which, there are water access easements.

Chairman Ryan said that he hoped to be able to report the results of these efforts to the Board at its regular meeting in October.

ITEM #6 – NEW BUSINESS: POSSIBLE REVISIONS TO SECTION 9.9.C & .D

Chairman Ryan explained that over the years, there has been an issue with the Application for Conditional Use Permits whereby the Applicant is required to meet all of the criteria in Section 9.9.G of the Ordinance and the Board is required to make written findings that one or more of these criteria have not been met when an Application is not approved. The issue has been that with all of these requirements, the Ordinance is silent on what constitutes adequate documentation of the assertions that are being made.

Chairman Ryan turned to JT Lockman of the Southern Maine Regional Planning Commission for guidance and to obtain examples of how other jurisdictions are handling this documentation standards issue. Upon review of this area of our Ordinance, JT felt that there were a number of decisions that the Board had to make before he could reasonably proceed. To that end he produced a document entitled *Proposed Zoning Ordinance Amendments – Conditional Use Application Submittals Draft 1, dated 6/22/09*, which, in effect, purports to be a master list of potential inclusionary standards, from which the Board is to decide which are to be the requirements of the Ordinance going forward and would therefore provide the basis for the Lockman work product.

Chairman Ryan asked that the Board review the Lockman document prior to the September Board meeting, since it will be an agenda item at the meeting.

ITEM #7 – OTHER. NON-AGENDA ITEMS

Mr. Molloy, inquired as to the status of the two private items that had been discussed at the July Board meeting relating to the possible expansion of a non-conforming use relating to the storage of boat trailers of a commercial enterprise in a residential zone and a possible violation of the provisions of the Ordinance dealing with the criteria for a Home Occupation of a neighbor that sells cut flowers without a Conditional Use Permit, with prohibited signage and in an unsafe location.

Apparently, nothing of consequence had happened since the last Board meeting to move either of these items towards some resolution. There was extended conversation regarding the current situations and how they came to be without passing through the review procedures of the Planning Board, who was consulted in the decision making process, and the seeming lack of consistent application of required procedures. For his part, Chairman Ryan cited the various sections of the Ordinance dealing with the responsibilities of the Town agencies involved and concluded that in both instances, the Code Enforcement Officer is instrumental in the determination of whether a given project does or does not have to appear before the Planning Board as a legislative requirement or otherwise.

At the minute, Chairman Ryan does not see a role for the Planning Board in either of these cases until such time as CEO McAllister determines the facts surrounding the expansion of the land used to store trailers since the adoption of the Ordinance on March 2, 1996 and takes a second look at, and has further discussion with Ms. Massey regarding her sale of flowers, the traffic being generated by the sale, her signage in and around town and the safety of the location of the stand.

CEO McAllister indicated that he would look into both matters and report back at the September Board meeting.

There was no formal action taken by the Board on the non-agenda items.

There being no further business, Chairman Ryan called for a motion to adjourn, which was made, seconded and unanimously approved at 8:41 pm.

Respectfully submitted,

Bill McCormick
Planning Board Recording Secretary