

**TOWN OF LOVELL  
PLANNING BOARD  
MINUTES OF THE REGULAR MEETING  
And  
PUBLIC HEARING  
OCTOBER 5, 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** were: Walter Grzyb, Joel Hardman, Ron Masse, Bill McCormick, Kevin McDonald (from 7:16 pm), Chairman Ed Ryan and Dean Stearns.

Also present was Lovell CEO Ron McAllister, Jane and Peter Gleason and Stan Tupaj of Kezar Realty.

**APPROVAL OF THE MINUTES OF THE SEPTEMBER 7, 2011 REGULAR  
MEETING OF THE LOVELL PLANNING BOARD**

A motion was made by Mr. Hardman to approve the minutes of the September 7, 2011 regular meeting, which had been distributed to the Board previously. There being no questions or discussion, 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 – PUBLIC HEARING ON ARTICLE II PROPOSAL  
RE: SETBACKS**

Chairman Ryan opened the Public Hearing portion of the meeting by confirming that this hearing was advertised in local newspapers on three separate occasions and posted at the Town Office at least 10 days prior to the Meeting, in accordance with the Town Ordinance. He went on to explain that the issue here is the proposed change of the definition of “**Structural Setback**” in Article II of the Ordinance that was approved by the Board at its regular meeting on September 7, 2011.

Chairman Ryan noted that there were no members of the public that wished to be heard on this matter and that the Board members did not express any further comments, questions or concerns. As a result Chairman Ryan asked for a motion to close the Public Hearing portion of the meeting. Such a motion was made and unanimously approved by the Board through a show of hands.

This Ordinance amendment will be a warrant item for a vote of the residents at the next legally convened Town Meeting, which is expected to be the first Saturday in March 2012.

### ITEM #3 -- CONDITIONAL USE APPLICATION -- JEFF ROBERTS – BAIT SHOP

Chairman Ryan distributed the Application for Conditional Use Permit that had been filed by Mr. Jeffrey W. Roberts dated September 15, 2011, to sell live bait out of his residence and garage at 899 Main Street (Tax Map # U41, Lot #001) and then asked Mr. Roberts to explain his intentions in this Application to the Board.

Mr. Roberts stated that because there were no live bait sellers left in Lovell during the winter months, fishermen had to travel out of Town to buy live bait (shiners). Mr. Roberts contemplated that he would only sell this bait during the winter months of January, February and March and that he did not expect more than two or three customers per day on weekends and a couple during the week.

In response to questions of the Board, Mr. Roberts indicated that:

- his wholesale bait license enabled him to trap his own bait at any public access brook in Maine,
- all trapping is done from the shore,
- he would be the sole employee of this business,
- disposal of trapped bait that, for one reason or another, could not continue to meet the definition of "live bait", would be frozen and given to customers that were interested in that type of bait for "jigging",
- he would need a small sign to indicate that he was selling live bait.

Chairman Ryan indicated that this application would be treated as a Type 2 Home Occupation in a Medium Density Residential District. Such a designation requires a Conditional Use Permit, limits the generation of vehicle trips per day to a maximum of 20 and permits a sign up to a maximum of two square feet on each side.

Chairman Ryan noted for the Applicant that the Conditional Use Permit that was filed was deficient in a number of areas, most notably that a survey plan of the property and a copy of the deed need to be included. In addition he asked Mr. Roberts to review the Application Requirements with Lovell CEO McAllister to see that it is complete before the next Board meeting.

Chairman Ryan then explained to the Board that as a result of the recent changes to the Ordinance, the Board now has the discretion of having a Public Hearing on a Conditional Use Permit Application or not, depending on the subject matter, the impact on the surrounding community, etc. At this point, the Board has two alternatives, i.e. to hold a public hearing or to waive the public hearing and just have the Applicant notify the abutters within 200 feet of the subject property (estimated to be two or three property owners). In the latter instance, the completed application and the results of the notification process to the property owners within 200 feet would be brought back to the Board at the November 2, 2011 meeting for a final vote on the application.

A motion was made to accept the latter alternative, which was unanimously approved by

the Board through a show of hands.

#### **ITEM #7 -- OTHER -- NEW ORDINANCE BOOKS**

Chairman Ryan distributed the updated **Town Of Lovell, Town Ordinances**, with the Zoning Ordinance as amended through June 14, 2011, the date of the last properly convened Town Meeting where amendment were approved by the residents of Lovell.

It was noted that this updated publication can also be found on the Town's website <http://www.lovellmaine.us/documents>

#### **ITEM #7 -- OTHER -- PALMER LANE – LOT DIVISION ISSUE**

Chairman Ryan distributed a number of documents related to this matter to the Board as follows:

- Page 1 of the deed conveying lots 10 and 11 to Mr. & Mrs. Gleason and recorded by the Oxford West Dist. Registry on June 14, 1980.
- Undated letter from the Gleason Family signed by Jane Gleason to the Lovell Planning Board re the possibility of reverting the current single lot configuration back to the two original lots (10 and 11) as recorded on the Town tax map prior to 1986 and also as recorded on the deed to the property.
- Letter from John Bliss of Bliss Associates with an accompanying survey map of the property indicating Lot #10 to be 1.43 acres (62,420 sq. ft.) and Lot #11 2.12 acres (92,564 sq. ft.) , with each lot having 200 feet of frontage on Kezar Lake.

Spokesman for the Gleason Family, Peter Gleason, explained to the Board that the family has owned this property for almost forty years and that the two lots were purchased separately and were recorded initially as two lots. However, it appears that the lot of record has been the one combined lot. The family would like to revert it back to the two original lots to provide them with the option of being able to sell the Lot #11 property at some future date as a grandfathered legal non-conforming lot.

Since Chairman Ryan had met with members of the Gleason Family early in the summer, he had had a chance to do some basic research and shared the results of that research with the Board by citing the provisions of Article 5.2.D.4 of the Ordinance, of which the second paragraph states:

***Within the shoreland zone. If two or more contiguous lots are in common ownership of record at the time of or since adoption or amendment of this ordinance, if any of these lots do not individually meet the dimensional requirements of this ordinance or subsequent amendments, and if one or more of the lots are vacant or contain only an accessory structure, the lots shall be combined to the extent necessary to meet the dimensional standards.***

Chairman Ryan said that in his opinion this language seemed to be quite clear and has

been part of the Ordinance since the State of Maine promulgated shoreland restrictions over twenty years ago. He also felt that given the strength and tenure of this language, the Board had very little flexibility in the application of Article 5.2.D.4 to deviate from its intents and purposes, under these circumstances.

Additionally, Chairman Ryan drew the attention of the Board to Article 6.3 footnote B of the Ordinance that reads:

***“The maximum net residential density in a subdivision shall be 0.2 dwelling units per acre.”*** (i.e. 1 dwelling unit per five acres)

Chairman Ryan explained that “Westways-on-Kezar” is defined as a subdivision per the deed and that this provision has been in the Lovell Ordinance since at least 1998.

Chairman Ryan then asked the Board if anyone had an interpretation of the facts or the Ordinance that would permit the single lot of record to be reverted back to the original two lots that the Gleason’s purchased almost 40 years ago. After due discussion there did not appear to be a viable alternative at this time. However it was noted that the Board would have until its next meeting to review its findings, at which point a letter of the Board’s decision/recommendation, as requested by the Applicant, would be finalized and voted upon by the Board.

At the request of Mr. Gleason, Chairman Ryan explained the Lovell Appeal process in general but indicated that there were specific carve-outs and other processes that may be required under certain circumstances and that additional research would be necessary to determine the specific requirements under these circumstances.

The Board took no action in regards to the items included under Item #7 above.

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 8:12 pm.

Respectfully submitted,

William J. McCormick, Jr.  
Planning Board Recording Secretary

