

Minutes  
Town of Waldoboro Planning Board  
Ordinance Revision Meeting  
May 25, 2011

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Roll Call

The meeting was called to order by chairman Chuck Campbell at 7:03 p.m in the meeting room at the Municipal Building. Other members present were Carlo Bianchi, Barbara Boardman, Ed Karkow, Jody Perry, and Abden Simmons. Code Enforcement Officer Misty Gorski was present. The audience included Robert L. Butler, Holly Haining and Andrew Zulieve.

1. Minutes of May 11, 2011

On motion of Bianchi/Perry, the Planning Board voted 5 – 0 – 1, Karkow abstaining, to approve the minutes of May 11 as distributed.

2. Citizen Comments on Items not on the Agenda - none

3. Ordinance Review

- 3.1 Methadone Clinic/Opioid Treatment Facility

Gorski reported results of her research on methadone clinics. Background checks of employees are required at both the State and Federal level. Outdoor dispensing of medication is not specifically prohibited, but Gorski thinks it is probably not allowed due to concern about client confidentiality. Karkow said the assumption is that dispensing will take place inside the building, as with a medical office.

Gorski said there are other medications used for opioid addiction besides methadone, and asked whether the Planning Board wants to refer in the Ordinance to other opioid treatment facilities, or let such uses be covered under “uses similar to uses requiring a Planning Board permit” in the Schedule of Uses matrix on pages 3-6 to 3-8 of the Land Use Ordinance. The consensus was to add the generic wording “methadone clinic/opioid treatment facility”. This requires an addition to Article 16 Definitions, “Opioid Treatment Facility: An opioid treatment facility is any treatment facility certified by the federal Substance Abuse and Mental Health Services Administration (SAMHSA) in conformance with 42 Code of Federal Regulations (C.F.R.), Part 8, to provide supervised assessment and MAT (Medication Assisted Treatment) for clients who are opioid addicted.”

There was discussion of the Federal and State requirement for a “diversion control plan” as part of the licensing process. This plan is intended to indicate how the facility will attempt to prevent abuse and demonstrate accountability to patients and the community. This is not really a land use issue. It is something the Selectmen might require as part of the local licensing process, if the Selectmen wish to require an annual local license and license fee, as has been suggested by some local residents. The license fee could compensate the Town for additional expenses, e.g. police, related to the presence of a methadone/opioid treatment facility. If a local permit were required, it could be revoked for cause, if there were problems with the operation of the clinic. There could be a correlation between the maximum size of the facility and the amount of the permit fee. Rockland set up an advisory board when it had a methadone clinic, so that issues could be discussed before they became a serious problem. The advisory board could have representatives from the Police Department, clinic staff, Selectmen, and the general public. All of these suggestions could be passed on to the Waldoboro Selectmen for their consideration.

Selectman Bob Butler spoke, summarizing the issues of concern to local residents, and asking the Planning Board to make a list of things beyond the Planning Board’s jurisdiction, that might be considered by the Selectmen. He summarized an e-mail sent today by Surran Pyne, who could not attend tonight’s meeting. (Copies of this e-mail were given to Planning Board members before the start of the meeting.) Pyne suggests that the Town require background checks in addition to the background checks required by the State, and that these be at the expense of the applicant. She suggests limiting the size of the building, requiring an annual license fee, limiting the number of methadone/opioid treatment clinics to one, and requiring both methadone/opioid clinics and medical marijuana dispensaries to be located in that part of the Route One Commercial A land use district that is south (west) of the intersection of Route 32, in order to minimize traffic congestion.

Andy Zulieve spoke of the concept of making Waldoboro a destination. He said that having a methadone/opioid clinic in town would be detrimental to bringing in other new businesses. Chairman Campbell told him that Waldoboro cannot legally prohibit methadone/opioid clinics, but can set restrictions on the number, size, and location of such clinics and require an alarm system, security cameras, etc. Zulieve suggested that the north side of Route 1 west of Route 32 is less developed and therefore a more suitable location for a methadone/opioid clinic.

Karkow said the proposed ordinance restrictions on a methadone/opioid clinic are such as to discourage a for-profit firm from locating such a clinic in Waldoboro.

Gorski said the best way to deal with such a clinic is to stay on friendly terms with its management and staff, perhaps through an advisory committee, so that we can talk with them constructively about problems.

Boardman asked how contract zoning, recommended by Pyne, would help the situation. Campbell said that in his opinion, contract zoning would not solve any issues people are concerned about. It is like spot zoning. If a facility is allowed in a land use district in which that use is not permitted, and the facility is later closed, the zoning reverts to what it was before. Gorski said that some towns have “conditional use permits”. There is no provision for these in the Waldoboro Land Use Ordinance.

VOTES: On motion of Simmons/Karkow, the Planning Board voted 6 – 0 to replace the words “methadone clinic” with “methadone clinic/opioid treatment facility” in the proposed Ordinance text, and to add a definition for “opioid treatment facility” in Article 16 Definitions in the Land Use Ordinance.

On motion of Simmons/Karkow, the Planning Board voted 6 – 0 to allow only one methadone clinic/opioid treatment facility in Waldoboro.

With regard to addressing other issues raised by Surran Pyne, Planning Board members did not favor requiring a separate background check in order to obtain a local permit. The Board was comfortable with relying on the parking requirement (4 spaces per 1,000 s.f. plus 3 additional spaces for each dispensing room) as effectively limiting the building size. Planning Board members did not want to limit the future location of a methadone clinic/opioid treatment facility to just the western (southern) part of Route 1 Commercial District A, (the part of Commercial A closer to Damariscotta), but preferred to allow the clinic to be located in Route One Commercial A District on either side of the central Route 1 Commercial B District.

The Planning Board declined to make a list of formal recommendations to the Select Board, preferring instead to suggest that the Selectmen consider requiring a local permit, renewable annually and revocable, with a permit fee perhaps proportional to the size of the facility or the anticipated number of clients, plus any other restrictions that would fall under licensing.

It is the understanding of the Planning Board that an extension of the moratorium to November will be on the ballot for town vote in June, regarding medical marijuana dispensaries, registered marijuana cultivation facilities, and methadone clinics. The Planning Board intends to propose new ordinance language regarding these facilities at its next ordinance revision meeting, for consideration by the Selectmen. The new language might be on the warrant for town vote in November, if recommended by the Selectmen.

#### 4. Agriculture in the Residential District

The June 2010 edition of the Land Use Ordinance is internally inconsistent about agriculture in the Residential District. The Planning Board seeks to address these inconsistencies. (See discussion on pages 3 and 4 of the April 13, 2011 Planning Board ordinance revision meeting.) In Article 3 F Purpose of Districts, the purpose of the Residential District is given as “to retain the rural character of Waldoboro and to protect residential property values by allowing **agriculture**, forestry, home occupations, and low density, single-family residential development.” The land use matrix in Article 3 G Schedule of Uses (p. 3-6) does not allow “**agriculture** and related uses” anywhere in the Residential District. The Residential District is located on both shores of the salt-water Medomak River, a prime area for shellfish harvesting. The first 250 feet, horizontal distance, back from the high water line is within the Shoreland Zone, an overlay on the land use district. Article 7 Shoreland Zoning Section 15 Agriculture has material about required setbacks from the water for new tilling of soil and livestock grazing in the Shoreland Zone (100 feet from the normal high water line) (p. 7-13 of the 2010 LUO). The setback language does not require creating or maintaining a naturally vegetated buffer to retard runoff. The clay substrate of most of the Residential District land on both sides of the Medomak allows surface runoff to flow directly into the water, carrying with it silt and pollutants.

Karkow suggested that the Ordinance could prohibit all agricultural activities in the Residential District, or limit agriculture to non-commercial uses. Growing vegetables or raising chickens for personal use should be allowed. There is a problem what to do about people who want a permit for a farm stand to sell surplus produce. If they make over \$2,000 per year, is it a commercial use? We want to avoid any large-scale commercial agricultural use (especially a large herd of hoofed animals) near the water, that could lead to closing the river to clamming.

Simmons, as chairman of the Shellfish Conservation Committee, is especially concerned about improving the water quality of the Medomak River by reducing pollution from runoff. He volunteered to work with Gorski on revising language about agriculture in the Shoreland Zone, increasing the effectiveness of buffer zones, and reducing the adverse impact of runoff containing animal manure, agricultural fertilizers, pesticides, etc.

5. Next Planning Board Meeting: Wednesday, June 8, 7:00 p.m.

Adjournment: The meeting was adjourned at 8:33 p.m.

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Charles Campbell, Chairman

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Carlo P. Bianchi

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Barbara Boardman

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Edward Karkow

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Jonathan Perry

Submitted by:

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Susan S. R. Alexander

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Abden Simmons

WALDOBORO PLANNING BOARD