

Planning Board  
Southwest Harbor Planning Board  
May 20, 2010  
5:00 p.m. Southwest Harbor Town Office

Minutes of Meeting

I. Call to order/Roll call: The meeting was called to order at 5:00 p.m. Present: Code Officer, Donald Lagrange, Planning Board members: Lee Worcester, Bob Bosserman, Chris Rawls (5:15 p.m.); Ryan Donahue (5:24p.m.); Mike Magnani (5:36 P.M.).

II. Workshop – Land Use Ordinance until 6:00 p.m.

Suggestion for Section II A.9 removal was presented by CEO after review by the MMA. Bosserman said this was part of his appeal, contending that if there is a violation, no permit should be issued. CEO said MMA recommended the Town Attorney review that section of the ordinance. MMA also said that violations may not be recorded. Review and discussion of the process resulted in the Planning Board members requesting the CEO to ask the Town Attorney for an opinion. Worcester said there is a portion of the SWHLUO (Section II A.4) that belongs in the Subdivision Ordinance rather than the LUO. Bosserman said definitions should be reviewed to be sure the appropriate ones are in the appropriate ordinances. Worcester said the two ordinances should each be “stand alone” documents. Rawls asked if there should be compliance with the Comprehensive Plan, and Worcester said that is not so, as the LUO is the law, and the Comprehensive Plan is a guide for the direction of the Town in the future.

Rawls asked about more stringent protection of forested wetlands. Discussion included the fact that a great deal of the State has some variety of forested wetland, and that is not regulated unless it is 10 acres or more. CEO presented a drawing of the McEachern building located on Village Green Way, with a proposed new configuration for parking. He asked the Planning Board if they felt this was a significant enough change to go before their Board. Donahue said he saw no problem with the drawing presented and did not feel it was substantially changed. Worcester agreed. CEO asked if this was a change of use, as it has been a hardware store. The Board said this is a commercial district, and turning it into a professional office with retail is not a change of use. One parking spot is in the Town's easement, but will not cause problems for the Town. The Board agreed this was not a substantial change, and the CEO had the authority.

CEO passed out a statute from MMA on Harbor Zones. The restriction is that a structure on a pier may not be converted into a residence. Worcester questioned why residences could not be allowed on a pier, as long as the bulk of the use is marine related. CEO said being sure that the maritime activities are protected, may open the way, within reason, for additional uses of maritime zones. He said whether maritime or commercial related, it is possible to make changes. Workshop closed at 6:00 p.m.

6:00 p.m.

- III. Visitors to be heard not on the Agenda: there were no visitors
- IV. Approval of Minutes of April 15, 2010 and Workshop Summary of May 6, 2010: Moved Bosserman to address these at the next meeting. Seconded Worcester, vote 5 - 0

V. Application: Merle Cousins, 65 Long Pond Road, Map 13, Lot 3, Zone C; Purpose: Residence with Home Occupation. Worcester referred to the memo from CEO that this is an after the fact permit as applicant was unaware he needed to permit from the Town. Bosserman asked if this was a 10 x 10 space. Cousins said yes, with guns in lock safes, and scopes. He said he sells no ammunition. Magnani asked if there were any issues with ATF. Cousins said his recent audit with ATF precipitated the fact that he did not have a home occupation permit, and he has the federal license. Memo from CEO explained that the application is complete, and recommended that the Board move the application to be complete. It was Moved Magnani and Seconded Rawls, that the application for permit for home occupation is complete. Discussion: Bosserman asked about the signature line – CEO said it will be signed by the CEO and is not necessary for the applicant to sign. Vote: 5 – 0.

Compliance – the property has been inspected by the CEO and has one legal non-conforming structure, in addition to other buildings. CEO recommends that this application be moved to be in compliance. It was Moved Donahue and Seconded Magnani that the application for home occupation is in compliance. Vote 5 – 0.

Performance Standards – CEO has reviewed with recommendations that the Board state that:

- landscape and buffering: NA
- clearing of vegetation: NA
- driveway: existing – no change
- no disturbance of soil

- exterior lighting should be shielded as required in Section VI.E of the SWH LUO
- no fill or excavation required
- no requirement for fire protection per Section VI.G
- property is not in flood zone
- home occupation does not require ADD compliance
- no heavy equipment or industrial pollutants
- noise will not emanate from the location – no firing range on site: NA
- four parking spaces provided – 2 for residence and 2 for business with retail space of 100 ‘
- road standards: NA
- sewage standards: NA
- sign requirements enforced by CEO NA during this review
- soil standards: NA
- no changes in the site to change storm water runoff
- no streams on the property
- Items: s. t. & u: vibration, water quality, and water standards: NA

It was Moved Donahue and Seconded Rawls to accept the performance standards a – r, s, t, u as stated in the CEO memo. Vote in favor: 5 – 0

Other Standards of review: Based on the CEO memorandum, the Board determined that this application:

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
- (8) Will avoid problems associated with flood-plain development and use; and
- (9) Is in conformance with the provisions of Performance Standards, Section VI and Standards for Special Activities, Section VII of the Land Use Ordinance.

The CEO recommended the Board vote the application is in compliance as it meets the requirements of 1 – 9 above. It was Moved Bosserman and Seconded Donahue that the application is in compliance with all other standards of review and the application is approved. 5 – 0 in favor.

VI. Other Business: none. The Chairman asked, regarding suggestions for Ordinance changes, is the Board interested in taking sections to review and bring it back for full panel discussion, or would the Board like to review the Ordinance as a whole. Donahue does not have a great deal of time during the summer, and it would be difficult for him to work on this now. Bosserman suggested Donahue submit the items he has already found to be problematic. Worcester said the next scheduled meeting is June 3<sup>rd</sup>. The Board will meet at 5:30 p.m. that day. The Board should be ready by 1 August to hold public meetings if there are changes to be considered. Members will come to the next meeting with their preference of a section to be changed. Worcester suggested leaving the really big issues until the Comprehensive Plan has been to the voters. CEO asked about home occupations; existing right of ways as applies to change or expansion of uses; definition of uses, wondering if

the Board would prefer per lot area or per lot use. He said this should be clarified.

VII. Adjournment: The meeting was adjourned at 7:00 p.m.