

**TOWN OF LYMAN**  
**PLANNING BOARD MEETING MINUTES**

**June 16, 2021**

**CALL TO ORDER:** Chairman Roderick Tetu called the meeting to order at 7:00 p.m, noting attendance of Donald Hernon, Cecile Dupuis, Joseph Wagner, Paul Boucher, and Kelly Demers. Select Board Clerk Laurie Boscoe recorded the meeting for YouTube. Also attending was resident Vickie Gavel until 7:20 pm.

**APPOINTMENTS: None**

**MAIL:** None

**MINUTES**

Interim Clerk, Irene Single, will review the videos on YouTube in order to create written minutes of the May 19 and June 2, 2021, meeting minutes.

**NEW BUSINESS**

**Discussion of Mission Statement and By-Laws**

Mission Statement read by Mr. Wagner. Mr. Demers asked if Board should add in Subdivision Standards to be all inclusive in the wording however Mr. Tetu said they are standards and not ordinances and Mr. Wagner and Mr. Hernon said they are incorporated into the town zoning. Mr. Hernon moved that the Board approve the mission statement as written and submit it to the Board of Selectmen for review, seconded by Mr. Wagner, motion passed.

By-Laws: A discussion at the last meeting regarding bias prompted Mr. Hernon to add language to the Board's by-laws. Some years ago, he said, some of the Board members attended a course through MMA and were provided access to a humongous manual of over 400 pages and he used it as guidance for the wording. He consolidated the information under Table of Consanguinity, degrees of relationships, and provided a chart for the members. He added sections to Article 1 as follows:

1.3 Bias/Conflict of Interest: Board members are required to consider applications and make decisions impartially. Any perceived bias or conflict of interest must be avoided.

Types of bias/conflict of interest include:

- a. Financial interest in a project
- b. Blood/marital relationship to the applicant within the 6<sup>th</sup> degree (see attached chart).
- c. Bias based on Board member's state of mind which means that the Board member is so biased against the applicant that the Board member cannot make an impartial decision.

1.4 Bias – Burden of Proof/Board Procedure. The burden of proving bias is on the applicant. Any allegations of bias exhibited by a Board member must be accompanied by specific written examples of the alleged bias. The Board member shall be given adequate time to review the bias allegations and an opportunity to respond to the allegations. After reviewing the bias allegations and the Board member's response, the Board (without the Board member accused of bias) shall vote on the issue. The Board member subject to the bias allegations may choose to recuse him/herself from the discussion of the

applicant's project, and an alternate member may be designated by the Chair to be a full member for the consideration of the project.

1.5 Board member discussions/email or other correspondence. To avoid violations of the Freedom of Access Act (FOAA) and the constitutional right to due process, Board members should NOT have discussions with other Board members regarding an application or other substantive Board business outside an advertised Board meeting. Delivery of substantive information between meetings by email may be permissible as long as it is a one-way communication, and no discussion of the information occurs outside the meeting by email or otherwise.

Mr. Boucher said the proposed changes are a good thing, having something documented for everyone to follow. Mr. Hernon had also removed the word "Planning" for its redundancy and used only "Board" after the initial "Planning Board" comment on Article 1. Vicky Gavel of Kennebunk Pond Rd asked, "Was there an accusation of bias?" and Mr. Tetu responded "Yes," and Mrs. Dupuis stated it was against her. Mr. Demers said he thinks the accusations should be addressed and discussed in executive session as directed under Article 9.1.

Mr. Wagner said using the basis of financial interest or blood/marital relationship is one thing to identify bias however "state of mind" is an imprecise, ambiguous expression. Mr. Demers stated this gives the public an opportunity to discuss the perception so it can be investigated and believes the words should be left in there, right or wrong. Mr. Wagner said that it's hard to determine state of mind so perhaps using words "demonstrative behavior" or "negative comments" can be used as a sign of bias.

Mr. Hernon will work on new wording and bring it to the next meeting. The burden of proof will be on the applicant using affidavits and statements. There is a lot of information in the MMA manual about alternate members and he'll research that as well. Mrs. Dupuis brought up the issue of time limits that an applicant has to finalize projects and asked if an applicant would need to put a stop to their project if there's a charge brought against a Board member. Mr. Wagner said the project may have to be suspended. The defendant will need to prepare a rebuttal; maybe a month's time. Mr. Tetu said that once you start an application you have a certain time limit to finish it and Mrs. Dupuis said it may have to be tabled. Adding wording to the ordinance to address this may be a solution.

### **Question raised at town meeting re: dry hydrants that the town wants to add in town.**

Mr. Hernon said that someone at town meeting asked a question about developers being required to have water tanks in new subdivisions after the issue of adding dry hydrants around town came up. At the time Mr. Hernon responded that water tanks are required however after reviewing the ordinance later he realized a change had been made requiring homes to have sprinkler systems.

### **NEW BUSINESS**

The PB Clerk asked if the Board members could provide her with the payroll spread sheets they received from Patti McKenna so she can prepare payroll at the end of the month for their quarterly pay.

Clerk also asked if there were any Notices of Decision that still needed to be typed up. The most recent ones that had conditions are: Mapes, Orstead, ME Homestead, Green Acres. Some have conditions of approval to meet such as Fire Dept and DEP letters. The developers are responsible for providing those to the Code Enforcement Officer. Mr. Wagner said 7 Bhavani needed to hear from DEP by June 21.

Mr. Demers thanked Irene for returning from retirement to help them out. He asked if the interim CEO plans to visit the Board at one of their meetings and no one knew; will have to ask him. Mr. Hernon suggested that the Board work on clarifying more of the zoning ordinance during times they have no applicants, including the action of waiving certain requirements of the sixteen standards.

There is currently no Ordinance Review Committee and Laurie Boscoe said that CEO Patti McKenna had recommended establishing it again.

**SET NEXT AGENDA**

Discussion of revised By-Laws-July 7

**OLD BUSINESS**

Mr. Wagner asked where the Board stands after a discussion at the last meeting where real estate brokers asked if an old, approved subdivision that was never begun or completed would still be valid. Laurie Boscoe stated the Board of Selectmen will be discussing this at their upcoming Monday night meeting (June 21). Mr. Hernon said he couldn't find out how long an approved subdivision is good for and said a town lawyer should review it. Much has changed on town's ordinances over the years with many improvements.

**ADJOURNMENT**

Mr. Tetu made the motion to adjourn at 7:42 p.m. Mr. Boucher seconded. The motion passed with all in favor.

APPROVED DATE \_\_\_\_\_

_____ Chairman, Roderick Tetu	_____ Don Hernon, Vice Chairman
_____ Cecile Dupuis	_____ Joseph Wagner
_____ Paul Boucher	_____ Kelly Demers
_____ Michael Rancourt	