

**TOWN OF LYMAN
PLANNING BOARD MEETING MINUTES
November 3, 2021**

Note: These are summary minutes. A recording of the meeting is on file at the Lyman Town Hall and are posted on the Town's webpage. Minutes are not verbatim and may be paraphrased for clarity. Minutes are drafts until approved by the Planning Board.

CALL TO ORDER: Vice-Chairman Donald Herson called the meeting to order at 7:00 p.m., noting attendance of, Joseph Wagner, Cecile Dupuis, and Kelly Demers. Roderick Tetu and Paul Boucher were not in attendance and notified the Board prior to the meeting. Also attending, Patti McKenna, Code Enforcement Officer

APPOINTMENTS:

7:00 PM START: There were no appointments for this evening's meeting.

Mr. Wagner made the motion to vote in Mr. Demers as a full voting member for this meeting. Mrs. Dupuis seconded. The motion passed with all in favor.

Review draft of revised 2021 by-laws. Mr. Herson asked if everyone has reviewed the changes and does anyone have any additional changes to propose? There were no additional changes proposed. Mr. Herson listed the attachments mentioned in the by-laws, adding that he does not have the public hearing opening remarks. Ms. McKenna will get those to him.

Mr. Wagner made the motion to approve the by-laws as amended. Mr. Demers seconded. The motion passed with all in favor. A copy of the by-laws will be attached to the minutes. Mr. Herson states that he will have the by-laws ready for the Chairman to sign at the next meeting. Once signed he will get a PDF to all Board members.

NEW BUSINESS

MAIL

The October issue of the Maine Town and Country publication was shared.

MINUTES

Mr. Wagner made the motion to approve the October 20, 2021 meeting minutes as written. Mrs. Dupuis seconded. The motion passed with all in favor.

OLD BUSINESS

The Board discussed amending the zoning ordinance. Mr. Herson reported that after the Board put out the solicitation for input to various Board's, he received one email from the Zoning Board chairman with input.

Mrs. Dupuis suggests that the Board looks at the land uses allowed. She feels they should be more specific, and the definitions aren't clear.

Ms. McKenna suggested that the Board starts with known conflicts in the ordinance. For example, we know there is a conflict with section 6.3.1. She then suggested that the Board focuses on the directives found in the Comprehensive Plan that the townspeople voted to adopt. For lack of the townspeople coming forward with any suggested changes, it would be a place to start.

Mr. Wagner suggested to see what other towns of comparable size have in their ordinance with respect to multiple buildings on one lot.

Mr. Hernon states the Board can draft a master list of known problems with the ordinance. He adds that he would like to see public input. He also suggests the Board goes over the Comprehensive Plan that was made available at this meeting and review the directives in it where the Planning Board is listed as the responsible party.

Mrs. Dupuis reminds the Board that Mr. Wagner had suggested that the Board seeks the documentation on the mapping changes in the zoning districts that was adopted in 2005. Ms. McKenna will research that.

Mr. Demers states that one conflict he noticed was that zoning refers to lots in some places and in other places, the word site is used. Those could be two different things. When the ordinance requires notification to abutters, it refers to a distance from the site. This could be conflicting when other areas of the ordinance refer to the lot.

Mrs. Dupuis asked for an update on where the town is in hiring a clerk. Mr. Hernon stated that they are reposting the job.

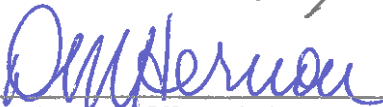
SET NEXT AGENDA

Vote on by-laws
Discuss review of zoning amendments
If there are no appointments, the Board will begin working on zoning amendments.

ADJOURNMENT

Mr. Wagner made the motion to adjourn at 7:36 p.m. Mrs. Dupuis seconded. The motion passed with all in favor.

APPROVED DATE 11/17/2021

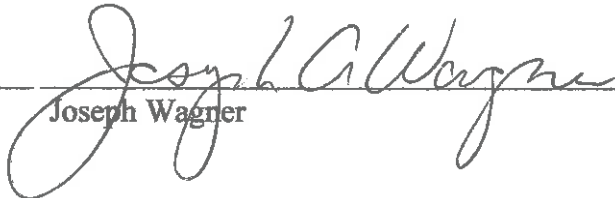


Don Hernon, Vice Chairman

Kelly Demers



Cecile Dupuis



Joseph Wagner

Article 1 - General Provisions

- 1.1** The Planning Board (hereafter referred to as The Board) will conduct its business in accordance with Maine Revised Statutes Title 30A; Town of Lyman Zoning Ordinance and Shoreland Zoning Ordinance (hereafter referred to as the LZOs); *Town of Lyman Street Acceptance, Design and Construction Standards Ordinance*; Planning Board Land Development and Subdivision Standards; the Town of Lyman Municipal Charter; and Roberts Rules of Order.
- 1.2** The Board members are expected to review State and Local regulations to become knowledgeable with the regulations, and with Board Policies and Procedures.
- 1.3** Conflict of Interest. The Board members are required to consider applications and make decisions impartially. Any conflict of interest must be avoided. It is expected that a Board member will recuse him/herself from consideration of an applicant's project if the Board member is aware of a conflict of interest.

Types of conflict of interest may include:

- a. Financial interest in a project.
 - b. Blood/Marital relationship to the applicant within the 6th degree (see Attachment 1, Table of Consanguinity from the Maine Municipal Association Planning Board Manual).
 - c. Board member bias as described in Section 1.4.
- 1.4** Bias. Bias may be indicated by a Board member's behavior or statements such that the Board member is perceived to be unable to make an impartial decision. Also, bias may be indicated by a personal or business relationship between the Board member and the applicant such that the Board member may be perceived as being unable to impartially judge the merits of the applicant's project.

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.

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, but no less than 24 hours, to review the bias allegations and an opportunity to respond to the allegations. The Board may vote to suspend action on the applicant's project until the alleged bias is adjudicated.

The Board should review allegations of bias in Executive Session as described in Section 9. 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 in open session.

- 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.

Article 2 - Membership

- 2.1 Appointments to The Board are to be made by the Municipal Officers after a recommendation from The Board in accordance with the Town of Lyman Municipal Charter.
- 2.2 Appointees must be residents of Lyman, 18 years of age or over and a legal resident of the State of Maine.
- 2.3 The Board will consist of five full members and two alternate members.
- 2.4 The term of each member is three years, unless otherwise specified by the Board of Selectmen.
- 2.5 When there is a permanent vacancy on The Board, the Chair shall request a motion to move the senior alternate to fill the vacancy and The Board shall vote on the same.
- 2.6 Any member of The Board may be removed for just cause in accordance with Title 30A M.R.S.A., Section 2601 and the Town of Lyman Municipal Charter. The term just cause shall include failure to attend three consecutive Board meetings without approval of the Chair.

Article 3 - Officers and their Duties

- 3.1 The officers of The Board shall consist of the Chair, Vice-Chair, and Secretary. The Chair and Vice-Chair are to be full members.
- 3.2 The Chair presides at all meetings and hearings of The Board. The Chair has the authority to appoint all committees and to call all work sessions and to preside over executive sessions.
- 3.3 The Vice-Chair acts for the Chair in the Chair's absence.

- 3.4 The Secretary is responsible for all minutes and records of The Board, notices of meetings and hearings, and correspondence of The Board.
- 3.5 The election of officers shall take place in July of each year or as soon as possible thereafter.
- 3.6 Nominations of officers shall be made from full voting members of The Board. The candidates receiving a majority vote are elected. The term of office is one year or until the successor takes office.
- 3.7 Vacancies of officers will be filled using normal election procedures.

Article 4 - Alternate Members

- 4.1 Alternate Board members are **allowed expected** to attend all meetings and workshops and may participate in all proceedings but may not vote on a project that is before the Board unless the Chair has designated an alternate to fill a full member's seat for that project. Alternate members may sign plans and use permits on a project when they have been designated by the Chair to fill the seat of a full member.

Article 5 - Planning Board Clerk

- 5.1 The Clerk provides administrative support to The Board, and, under the supervision of the Secretary, is responsible for all minutes and records of The Board, notices of meetings and hearings, and correspondence of The Board. The Clerk must keep records of all resolutions, votes, transactions, correspondence, findings and conclusions of The Board. All records are public information and may be inspected during normal business hours of the Clerk, with proper notice.
- 5.2 The Clerk shall maintain approved copies of the Board By-Laws, Mission Statement, and reports to the Board of Selectmen.

Article 6 - Powers and Duties of the Board

- 6.1 The Board shall perform such duties and exercise such powers as are provided in Municipal Ordinances and Planning Board Regulations and the laws of the State of Maine.
- 6.2 The Board may obtain goods and services it finds necessary to properly perform its function within the limits of appropriations made for that purpose.

Article 7 - Meetings

- 7.1 Regular meetings are to be held on the 1st and 3rd Wednesday of each month at a time specified by The Board. Meetings are held at the Town Office or another suitable meeting place. Special meetings may be called by the Chair, or upon request of a majority of The Board, or as requested by the Board of Selectmen, provided that notice thereof is given to

each Board member at least 24 hours in advance and that no business may be conducted other than as specified in said notice.

All meetings of The Board shall be held in accordance with the Maine Freedom of Access Act, Maine Revised Statute Title 1, Chapter 13, Public Records and Proceedings and the requirements of the LZO's

Notice of all Board meetings shall be given as required by law, and all such meetings shall be open to the public except as otherwise provided by law. Notice of meetings shall be posted at the Lyman Town Halls, and on the Town's **website all official Town digital media platforms**, at least one working day before the scheduled meeting.

Refer to Attachment 2 for sample Board Meeting Opening Remarks.

- 7.2 All meetings are open to the public with exception of an Executive Session. Normally, with the exception of a public hearing, the public is barred from addressing The Board or applicant during a meeting, unless The Board by a majority vote permits the public to speak.
- 7.3 A Board meeting cannot take place without a quorum present. A quorum will consist of three members without any of the three having a conflict of interest with any of the projects before the Board. The Board may conduct regular business but will not be able to hear anything having to do with the project with the conflict, unless another member arrives that has no conflict of interest.
- 7.4 In the event a quorum is not present for a Board meeting, workshop or site walk The Board shall reschedule with proper notice by the Clerk.
- 7.5 All comments addressed to The Board must be made through the Chair.
- 7.6 A majority vote of The Board is required to pass any motion. The Chair is a full voting member.
- 7.7 When a motion results in a tie vote the **Motion Fails**.
- 7.8 All project decisions made by The Board are based on the project meeting all Local, State and Federal Laws, Rules and Regulations.

Article 8 - Agendas

- 8.1 All agendas are set by The Board or the Chair.
- 8.2 Normal meeting agendas are to be posted in accordance with State statute. Special meetings and workshops will be noticed and posted as per section ~~5.1~~ **7.1** of this by-law.

- 8.3 New applications, when deemed complete and in accordance with the regulations by the Code Enforcement Officer and The Board, may be placed on the next available agenda as determined by The Board, subject to Board meeting and public hearing requirements.

Article 9 – Public Hearings

- 9.1 Public hearings of The Board shall be called as required by the LZOs or on such other occasions, as a majority of The Board may deem appropriate. Notice of all such hearings shall be given as required by law and the LZOs, and shall include the date, time and place of the hearing and a general description of the subject matter. Requirements include:
1. The Board must hold a public hearing within 45 days of Board determination that the application is complete.
 2. The Board must notify CEO, Select Board and ZBA at least **20 days** in advance of the public hearing.
 3. The Board must notify abutting property owners (see LZOs) by certified mail at least **10 days** in advance.
 4. The Board must publish notice in a “newspaper of general circulation” at least **10 days** in advance; e.g., Reporter and Portland Press Herald
 5. The Board must publish notice in Town Hall and on ~~Town website~~ **all official Town digital media platforms** at least **10 days** in advance.

Refer to LZOs for additional requirements for Board Contract Zones Public Hearings and LZO Amendment Public Hearings.

The Chair shall convene all hearings by describing the purpose of the hearing and the general procedures to be followed. The Board may receive any oral or documentary material but shall exclude irrelevant, immaterial or unduly repetitious material. Every party shall have the right to present its material in the order determined by the Chair and without interruption, provided, however, that the Chair may impose such reasonable time limits as may be necessary to ensure that all parties have an adequate opportunity to be heard.

Refer to Attachment 3 for sample The Board Public Hearing Opening Remarks.

Article 10 - Executive Sessions

- 10.1 Upon a majority vote of the Board members present, the Board may call an executive session to discuss a personnel issue with a Board member or to discuss pending or potential litigation with the Town Attorney. Within the executive session the Chair is responsible to ensure that only the matter at hand is discussed and that no official action be taken. No votes shall be taken in executive session.

Article 11 - Amendments

11.1 The By-Laws may be amended by a majority vote of The Board at a regularly scheduled meeting.

Article 12 - Severability

12.1 The invalidity of any section or provision of these By-Laws does not invalidate any other section or provision of these By-Laws.

ADOPTED BY VOTE OF THE PLANNING BOARD AT A REGULAR MEETING ON:

November 3, 2021

Rod Tetu Chair