

**TOWN OF LYMAN
PLANNING BOARD MEETING MINUTES
November 17, 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: Chairman Roderick Tetu called the meeting to order at 7:00 p.m., noting attendance of, Donald Herson, Joseph Wagner, Cecile Dupuis, and Paul Boucher. Kelly Demers was 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.

Review draft of revised 2021 by-laws. Mr. Herson stated that the Board voted at the last meeting to approve the by-laws. Mr. Herson stated that he did make a minor change to one of the attachments. He added a statement to the draft opening remarks for public hearing. The sentence, "Thank you in advance for your cooperation." was added to the end of the opening remarks. Mr. Tetu made the motion to sign as written. Mr. Wagner seconded. The motion passed with all in favor. Mr. Tetu signed the by-laws.

NEW BUSINESS

MAIL

A public notice was mailed to the Board. Hissong quarry held a public informational meeting on 11/17/21 at 5. p.m. as a requirement of DEP. The notice is a notice of intent to file an application for a variance from DEP for the quarry to excavate below the water table at 98 Old Kennebunk Road in Lyman. Mrs. Dupuis asked if this was publicized on the town's webpage? This was not a meeting sponsored by the town and was not publicized by the town. This was a meeting required by DEP as a public information meeting prior to Hissong filing their application.

MINUTES

Mr. Herson made the motion to approve the November 3, 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 stated that he wrote up a 4-page memo to state what he thinks are the priorities for reviewing the Land Use Ordinance. A copy of the memo is attached and made part of the minutes.

Mr. Herson discussed the idea of bringing ordinance changes to a referendum vote in November as opposed to annual town meeting in June to get more votes.

Mr. Herson stated he found a proposed protocol for ordinance review that was drafted in August of 2012. He doesn't know if this was adopted at the time. There is a reference to Title 30A, and he doesn't know if that reference is still valid.

Mr. Wagner asked if we could find out if this was signed and still operational? Ms. McKenna will check with the Town Clerk.

Mrs. Dupuis stated that in the draft protocol there is reference to non-zoning ordinances. She is curious if there are any. For example, there is dog barking ordinance, and a traffic and parking ordinance. Mrs. Dupuis asked if these are posted on the town's webpage, so people know about them.

Mr. Tetu states that in his opinion if we are going to work on zoning, we should invite the ordinance review committee and work together.

Mrs. Dupuis points out some formatting errors in the zoning ordinances. Her shoreland zoning ordinance table of contents is not complete. Ms. McKenna will get her a complete table of contents. Also in the shoreland zone on page 3, it states the ordinance is amended through June of 2018. When we adopt changes, we forget to fix that.

Mrs. Dupuis states in the Zoning Ordinance on page 2, table of contents under section 1.8 is where contract zoning is found but not listed. She feels like contract zoning doesn't belong under section 1.8 Amendment Procedure but should have its own category. She added that section 1.8 is formatted differently and incorrectly. Mr. Wagner states that formatting and editorial corrections doesn't require town meeting vote. Mrs. Dupuis made the motion to renumber Article 1, contract zone to section 1.9. Mr. Wagner seconded. The motion passed with all in favor.

Mrs. Dupuis stated that in the Land Use Table it lists Bed and Breakfast 1 and 2. There is no definition for a 1 and 2 in the definitions.

Mrs. Dupuis states that on page 14 section 4.2.2 it states to provide areas for medium density residential growth. That term is not defined. Ms. McKenna states that she feels this is explaining what the residential zone is, the area with three acre lots as opposed to five acre lots providing medium density residential growth.

Mrs. Dupuis states that Business Contractor 1 and 2 seem to be listed backwards in the land use table. Mr. Wagner states that it does look like those should be reversed.

Mrs. Dupuis states that in section 4.4.1 for the Commercial/ Residential District it states, as recommended in the 2004 Comprehensive Plan. Shouldn't that say the 2019 Comprehensive Plan? Ms. McKenna thinks the 2004 Comprehensive plan was the justification for the adoption of the Commercial district and probably that reference should stay. Mr. Herson reviewed the 2019 Comprehensive plan and states that there is no reference to developing the commercial district and thinks the reference to the 2004 plan should stay.

Mr. Wagner suggests that we should start by looking at section 6.3.1. Mr. Herson states that Mr. Demers in the last meeting has an issue with the word lot vs. the word site.

The Board discussed the definition of principal structure. Then reviewed the definition of accessory structure. The residential zone allows 1 principal structure, and 1 accessory structure per lot with a maximum lot coverage of 15%. Mrs. Dupuis discussed lot coverage parameters. If you go by the number of acres and you have a 50-acre lot, you could have a shopping mall.

There was discussion about the number of accessory structures allowed per lot. The way the ordinance reads, in the residential zone, a person can have a house, and a detached garage. Then they would not be allowed to have a shed, or a pool house. If someone has three acres, they ought to be able to have more than one accessory structure. Mr. Wagner suggested that maybe it should say, 1 principal structure and accessory structures, plural, as limited by lot coverage.

Mr. Hernon suggests looking at other ordinances and see how they deal with multiple structures.

SET NEXT AGENDA

The next meeting will be on December 1. Mr. Tetu suggests that if there are no appointments the Board will continue in workshop to work in section 6.3.1. The workshop will be televised.

ADJOURNMENT

Mr. Tetu made the motion to adjourn at 8:20 p.m. Mr. Wagner seconded. The motion passed with all in favor.

APPROVED DATE 12-1-2021

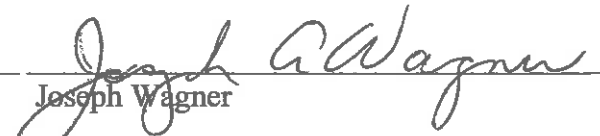


Don Hernon, Vice Chairman

Kelly Demers



Cecile Dupuis



Joseph Wagner

The Protocol for Ordinance Review by the Ordinance Review Committee, Board of Selectmen and Planning Board.

PURPOSE

This protocol describes the methods to be used by the Town of Lyman Ordinance Review Committee, Board of Selectmen and Planning Board in conducting review of proposed and existing Town Ordinances.

BOARD OF SELECTMEN

The Board of Selectmen may request the ORC to review a new Ordinance or an existing Town Ordinance due to citizen initiatives, town meetings, changes in state mandates and the growth and needs of the town.

The Board of Selectmen reviews each Ordinance using the following:

- Officers Manual
- Maine Municipal Association (MMA)
- Town of Lyman Comprehensive Plan
- Town of Lyman Ordinances/Regulations
- State Mandates
- Home Rule

PLANNING BOARD (PB)

The PB conducts its business in accordance with Maine Revised Statutes Title 30A, the Town of Lyman Zoning Ordinance, Planning Board Standards adopted by the Board for reviewing Subdivisions, and Roberts Rules of Order.

The PB By-Laws specify the Membership, Powers and Duties, Meetings, Agendas, and Executive Sessions conducted by the Board.

Major functions of the PB include:

- Implementation of the Town of Lyman Zoning Ordinances and Subdivision Regulations
- Issuance/denial of Conditional Use Permits as described in the Zoning Ordinances and Subdivision Regulations
- Coordination with the Town of Lyman Code Enforcement Officer
- Review of proposed and changes to existing Zoning Ordinances from the Ordinance Review Committee

ORDINANCE REVIEW COMMITTEE (ORC)

The ORC By-Laws specify the Membership, Officers and their Duties, Powers and Duties, Meetings and Agendas.

Duties of the ORC:

- To review and write Ordinances and Ordinance Amendments to the current Town Zoning Ordinance, Shoreland Zoning Ordinance and Independent (stand-alone) Ordinances.
- The ORC members address each assignment using knowledge obtained from Maine State Laws, the Town of Lyman Comprehensive Plan, Town of Lyman Ordinances and Regulations as well as

other Local and State Ordinances.

The status of ORC's assignments are available by ORC updates presented at the Board of Selectmen Meetings and the ORC meeting agendas and minutes posted on the Town website.

PROTOCOL

1. The ORC, Selectmen and the PB shall interact as described in this protocol document, which shall be voted by the ORC and PB, and approved by the Board of Selectmen.
2. The Board of Selectmen shall provide written direction to the ORC to review a proposed or existing Ordinance for changes, and possible implementation for the Town of Lyman.
3. The ORC submits a copy of the proposed Ordinance or Ordinance Amendment to the Board of Selectmen and the Planning Board. The Planning Board will review and address a Zoning Ordinance/Amendment. The Board of Selectmen will review and address all other Proposed Ordinances/Amendments.
4. The Selectmen will schedule a workshop with the ORC to review the proposed Non-Zoning Ordinances if deemed necessary. The Planning Board will schedule a workshop with the ORC to review proposed Zoning Ordinances if deemed necessary.
5. The Selectmen and PB will consider the ORC recommendations, and take the following actions, as appropriate:
 - a. The Board of Selectmen will forward a letter to the ORC and Planning Board informing them of their action to enact or not on a proposed Non-Zoning Ordinance/Amendment.
 - b. The Planning Board will forward a letter to the ORC and the Board of Selectmen informing them of their action to enact or not on a proposed Zoning Ordinance/Amendment.
 - c. The ORC will receive a final copy of the Ordinance or Ordinance amendment prior to a public hearing.
 - d. A workshop among the ORC and Selectmen, ORC and PB or all three parties may occur prior to a public hearing if parties deem necessary.
 - e. If the Selectmen (Non-Zoning Ordinances) or PB (Zoning Ordinances) decide to present an Ordinance/Amendment for consideration to the Lyman citizens, a public hearing will occur according to the State of Maine Statute 30-A, as follows:
 1. 3002 – Requires 7 days' notice by posting for enactment or revision of ordinances by the legislative body (Board of Selectmen) of a municipality.
 2. 4352(9) – Regarding zoning ordinances and zoning maps, requires 13 days posting in the municipal office, and publishing twice in a newspaper that has local circulation in the municipality. Refer to the statute for details.
 3. For ordinances that can be enacted by the municipal officers (Selectmen):
 - 3008 (cable TV) – 7 days posted notice of meeting
 - 3009 (traffic regulation) - 7 days posted notice of meeting

4. General Assistance Ordinances – Although not specifically required by statute, a 7 day notice should be given before adopting general assistance ordinances.

RECOMMENDED

DATE: _____

ORDINANCE REVIEW COMMITTEE CHAIRPERSON

DATE: _____

PLANNING BOARD CHAIRPERSON

APPROVED

DATE: _____

BOARD OF SELECTMEN CHAIRPERSON

Revised as of August 14, 2012

Lyman Planning Board Process for Review of Zoning Ordinances

Purpose – To describe the Planning Board (PB) process for review of Lyman Zoning Ordinances (LZO) to determine necessary and desirable changes.

References:

1. Town of Lyman Zoning Ordinance and Shoreland Zoning Ordinance (hereafter referred to as the LZO);
2. Town of Lyman Street Acceptance, Design and Construction Standards Ordinance;
3. Planning Board Land Development and Subdivision Standards;
4. 2019 Lyman Comprehensive Plan (LCP)

Priorities for reviewing LZO

1. Known issues with LZO – conflicts, inconsistencies, wording that can be interpreted in more than one way
2. Changes recommended by Town officials, Boards, Committees, and public; some changes may be included in LCP strategies assigned to the PB for action
3. Changes developed by the PB during workshops held to review various sections of the LZO (e.g., Land Use Tables, Standards for Site Plan Review, General Town Wide Regulations, etc)
4. LCP strategies assigned to PB for action
Note that there are **20 strategies** in the LCP assigned to the PB (Economy - 5; Housing – 2; Land Use – 9; Municipal Government and Services – 3; Roads and Transportation – 1) so taking action on these topics is probably a long term project. **PB action on assigned LCP strategies will need to be prioritized.**

Known Issues

1. Section 6.3.1 Principal Building and Uses – review # of principal buildings and accessory buildings allowed in each zone. Also review the Article 12 Definitions of “Accessory Use or Structure” and “Principal Use”.
2. Section 8.3.6 Standards for Site Plan Review Application – what is the origin of the 16 standards and their wording? Note #9 “applicant shall provide a plan prepared by a Registered Landscape Architect...”; should “shall” be changed to “may”?
3. Article 5 Land Uses – currently Medical Marijuana Home Production and Medical Marijuana Production Facility are allowed/require a Site Plan review in all three Town Districts. Consider restricting these uses in some/all districts.
4. Is there a **process** for waiving a LZO requirement for a homeowner or an individual? Refer to letter from Eric & Midge Green (see below) as an example.

Changes recommended by Town officials, Boards, Committees, and public

1. ZBA email dated 9/12/21 re: LZO 6.3.1B Principal Building and Uses, General Purpose District – review current requirements of one principal structure and two accessory structures with possible expansion based on lot size.
2. Letter from Philip and Charleen Roy dated 3/22/20, requesting that zoning for the westerly side of Huff Road between South Waterboro Road and Johnston Lane be changed to 3 acres/300 feet road frontage. Refer to PB minutes of 10/6/21 which state that the PB voted to initiate a zoning change to to recommend that the west side of Huff Road from Chantel Lane to South Waterboro Road, measured 1000 feet from Huff Road, be changed from General Purpose District to Residential District. **A PB Public Hearing is needed on this recommended change before sending the recommendation to the Select Board for inclusion on a Town Meeting warrant.** Refer to LZO 1.8.1, Amendment Procedure.
3. Letter from Eric & Midge Green requesting that the zoning of their 9.55 acre lot (857 South Waterboro Road/Lot06-058) be approved to be divided.

2019 LCP Strategies assigned to PB

1. Economy- 5
 - a. Develop zoning amendments to allow for small business that are not considered home businesses to operate outside of commercial areas-
 - b. Tools such as contract zoning should be utilized to consider a commercial use that is not permitted in that zone – Ongoing on a case basis; Action has been taken by the PB on a case basis to recommend contract zones for businesses where the PB agrees that the request meets the requirements of LZO 1.8.3. **No further PB action required at this time**
 - c. Develop design standards for commercial development with emphasis on preserving the town’s rural and village character-
 - d. Amend commercial zoning to allow for connectivity of new developments in the commercial zone –
 - e. Develop ordinances to require the periodic inspection of businesses and commercial facilities for compliance with codes and statutes –
2. Housing - 2
 - a. Investigate zoning changes to create new areas of high-density development –
 - b. Review and recommend changes to the existing ordinance that will allow housing units with more than 6 dwelling units
3. Land Use – 9
 - a. Review Zoning Ordinances and Zoning Maps to ensure broad land use goals are being achieved, and make changes to those boundaries or land requirements that would be in the long-term best interests of the Town -

- b. Develop overlay district zoning rules that would include other small homes in addition to mobile homes –
 - c. Develop varying land use density patterns, which maintain the semi-rural character of the community by adopting lot requirements in specific areas of the residential zone that would allow for denser development –
 - d. Consider establishment of a low density and medium density rural zone. Low density lot sizes between 2-5 acres should be considered to protect rural areas. One acre lot sizes should be considered near existing development in suitable areas –
 - e. Cluster development rules should be revised to allow non-buildable land to count as open space required for the development. – **Refer to PB Land Development and Subdivision Standards Article 10.3.2 for calculation of net residential acreage.**
 - f. Establish ordinances that would preserve the historic character of the Goodwins Mills village area –
 - g. Revise zoning ordinances to provide for wider application of Site Plan Review, with appropriate performance standards for all non-residential uses. This approach would neither automatically deny nor automatically allow these lands uses to be created in those zones. Instead, approval would be conditional upon the proposed land use meeting appropriate “performance standards” (as specified in the Zoning Ordinance). The “Site Plan Approval” is not a use permitted by right, but only a use permitted after all performance standards are met. Proposed development complying with the performance standards shall be eligible to receive “Site Plan Approval”. This procedure is intended to prevent incompatible development and broaden the allowable uses for all zones - **Note that this concept may already be in effect for Medical Marijuana; refer to LZO 10.22.**
 - h. Performance standards should be used to assure that uses do not cause traffic or other public safety problems, or environmental degradation. **Isn't this covered in the LZO 8.3.6, Standards for Site Plan Review Applications?**
 - i. Extractive industries (e.g. mining and gravel pits) shall be conducted with proper regard for the environment and neighboring property owners. Any burden which such extractions place on municipal services or facilities (such as town roads) shall be recoverable from the operating firm. All permits shall require that the land be subsequently restored for some form of beneficial use to the Town. **Isn't this covered in LZO Article 11, Mineral Extraction and Earth Moving Activities?**
4. Municipal Government and Services - 3
- a. Establish a policy to require commercial and subdivision developers to provide for expansion of municipal services and facilities. **What “services and facilities” does this mean? PB Land Development and Subdivision Standards already require an automatic sprinkler system (8.1.8), proper roads (8.4.2), and water supply (8.6).**

- b. Install water supplies for rural fire fighting to meet the most current edition of NFPA Standard 1142. **Need to discuss with Fire Chief.**
 - c. Require future subdivisions to provide an adequate water source or install residential sprinklers. Provide adequate access and turn-around areas for emergency vehicles. **Should be covered by current PB Land Development and Subdivision Standards. Need to verify with Fire Chief.**
- 5. Roads and Transportation – 1
 - a. Review/revise regulations (e.g. Subdivision Regulations, Site Plan Review) to require bike and pedestrian friendly features are incorporated.