



## TOWN OF MADAWASKA

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### **MADAWASKA PLANNING BOARD MINUTES**

**TUESDAY, June 10, 2014**

**AT 5:00 P.M.**

**Board of Select People's Chambers**

**Public Hearing**

**MEMBERS PRESENT:** Vincent Sirois; Chairperson, Tom Schneck, Gary Dufour, Vince Vanier, Jeffrey Albert

**OTHERS PRESENT:** Richard & Ann Cayer, Earl Pelletier, David Morin, Daniel J. Daigle, Don Gendreau, Vernon Levesque

**RECORDING SECRETARY:** Sarah Pelletier

**CODE ENFORCEMENT OFFICER:** Robert (aka, Bob) Ouellet

**ARTICLE 1: Call the Public Hearing to order and establish a quorum.**

A quorum was established. All Planning Board members are present. The Planning Board meeting was called to order at 5:20 p.m. There was misunderstanding over the Public hearing versus the Public Meeting hours and some members came in later.

**ARTICLE 2: Determine any Conflict of Interest or Bias.**

None of the Planning Board members have Conflict of Interest or Bias over the following Articles.

**ARTICLE 3: Discuss proposed amendments to the 1977 Madawaska Land Use and Development Code by the Planning Board.**

**Amend Section IV Administration; subsection D Building Permits as stated:**

**No building or other structure shall be erected, moved, added to or externally altered without a permit therefor, issued by the Code Enforcement Officer. No building permit shall be issued except in conformity with the provisions of this Code, except after written order from the Board of Appeals. The Code Enforcement Officer shall maintain a public record of all building permits. A permit for which no substantial work has been commenced within six months shall expire. If the building or part is not substantially completed within two years of the issuing of the permit, the permit shall lapse. It**

may be renewed upon application. The building permit shall not be required if the market value of the work is \$500.00 or less.

### **Proposed change is underlined**

No building or other structure shall be erected, moved, added to or externally enlarged without a permit therefor, issued by the Code Enforcement Officer. No building permit shall be issued except in conformity with the provisions of this Code, except after written order from the Board of Appeals. The Code Enforcement Officer shall maintain a public record of all building permits. A permit for which no substantial work has been commenced within six months shall expire. If the building or part is not substantially completed within two years of the issuing of the permit, the permit shall lapse. It may be renewed upon application. A building that requires renovation, repairs, or maintenance shall not require a building permit if the project cost of the work is \$ 15,000.00 or less.

Amend Section III Definitions:

### **Proposed to add the following definitions**

**Renovations:** Repairs and upkeep that do not change the existing footprint.

**Project Cost:** Project cost will be materials and labor necessary to complete the project. Local cost for materials and labor shall be used regardless of the source of material and labor.

This Article was presented and the Hearing was opened for public participation. Bick Cayer spoke up first; he has a couple of points he wishes to address to the Planning Board. The first point Bick Cayer made was that he is proposing to make another change to the recommended amendment from six months to one year expiration of a permit. He explained to the Board that in the past it took him all summer to obtain a permit and he finally got one in the fall. He wasn't able to do the project over winter and when springtime came, the permit had relapsed. He states that it's hard enough to get a permit and believes that permits should be valid for one year. Mr. Cayer's second issue pertains to wording in the Shoreland Zoning Ordinance. He believes that the Land Use Ordinance and the Shoreland Zoning Ordinance are conflicting. The Shoreland Zoning Ordinance states on page 34 that Permits expire after one year. Bick would like to see some consistency between the two Ordinances. Bick Cayer read Shoreland Zoning Ordinance Page 2, #7 *Conflicts with Other Ordinance* which states:

**“Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.”**

Mr. Cayer stressed the last statement of this paragraph. Chairperson Vince Vanier states that Mr. Cayer has a valid complaint but he feels the Planning Board has to focus on getting this Article passed. Mr. Cayer argues that even if this Article is passed, it will not be valid because the “more restrictive provision shall control.” Vince responds that it depends on where a person lives. He believes that the statement pertains to Shoreland Zoning and not the other Zones. Mr. Cayer disagrees; his understanding is that

the statement pertains to all Zones. He tells the Planning Board that, in the past, he got a permit in the Shoreland Zone but was fined with a violation by the six (6) month expiration of the Town Code. Shoreland zoning has a one year expiration for a permit and the Land-use ordinance has a six months expiration. So, Mr. Cayer claims that the Town placed a violation on him by means of the Town Ordinance. He's concerned that if one Ordinance was changed without changing all the Ordinances, then, *the more restrictive provision shall control*. He believes that if a change was made in one ordinance, it should be changed in another ordinance.

The Planning Board discussed the Shoreland Zoning Ordinance and questioned Code Enforcement Officer, Bob Ouellet on the Shoreland Zone ordinance. Bob Ouellet states that Madawaska adopted the minimum standard that was presented by the State. If the Town of Madawaska wishes to change something in the Shoreland Ordinance, then they could inform the state. Mr. Cayer interjects at this time and states that the value and amount of time a permit is valid are both items in the Shoreland Ordinance that the Town of Madawaska has added and are able to change without having to involve the State. The Planning Board disputes the idea that the strictest Ordinance is what is to be followed even if the strictest is the Shoreland Ordinance. Vince Vanier states that the Shoreland Ordinance only applies to Shoreland areas; it doesn't apply to all the areas. He also states that Mr. Cayer is taking the Shoreland Ordinance statement and he is applying it conversely to the other Ordinances.

Code Enforcement Officer, Bob Ouellet, addresses the Planning Board and reminds them that this is just a hearing on what the Planning Board has proposed in the last two and three meetings. The Planning Board can go forward with this Article or they can choose to stop now, address the Shoreland issue, bring the new proposed changes to public hearing, public meeting and then present it to the Select People.

The Planning Board and members of the audience discussed when and how this Article would get to the special town meeting and they discussed the importance of addressing the issue Mr. Cayer brought up with the Shoreland Ordinance being "in accord" with the Madawaska Land Use Ordinance. Gary Dufour wishes to address this Article first and then, at another time and town meeting, address the Shoreland Ordinance issue.

Mrs. Cayer states that the question has not been raised on how the Code Enforcement officer interprets these codes. If the Town Code is changed and not the Shoreland Ordinance, which Ordinance will Bob Ouellet follow? Will he go with the Town's Code or will he go with the strictest Ordinance? Some of the members of the audience and the Planning Board believe that the Shoreland Ordinance is for people that live on the lake, river or body of water. Mrs. Cayer reiterates that the Town Code is stating that if there is any other Ordinance out there, the Town has to go with the strictest Ordinance. The Planning Board insists that this pertains to the Shoreland Zone. Mrs. Cayer wants Bob Ouellet to answer this concern.

Code Enforcement Officer, Bob Ouellet, responds that a big part of the problem here is that we have a 1977 Code; it is not "up to speed" with the more modern Language used in the Shoreland Ordinance. There has always been somewhat of a conflict between the two when it comes to Building Permits.

When it comes to the interpretation of the Code, if someone is not satisfied with Bob's interpretation, then that is when the individual comes before the Board of Appeals.

Mrs. Cayer states that this doesn't answer her question. Mrs. Cayer questions that what if someone comes in for a permit for a project that is less than \$15,000.00 as opposed to \$500.00. How would that affect the Code Enforcement Officer? How would he answer?

Code Enforcement Officer, Bob Ouellet, responds that it would depend upon the Zone and Ordinance as being different. Bob repeats a previous concern about the "language." Bob continues by saying that there are a lot of rules in the Ordinances that are still not being enforced.

Chairperson Vincent Sirois presents to the Code Enforcement Officer what he considers is Mr. and Mrs. Cayer's concern. Vince understands that if this amendment was passed today and someone in Town was making under \$15,000.00 changes to their property without changing the footprint, they wouldn't need to come get a permit. If a person who lived by the lake was making similar changes over the value of \$500.00, they would need to come get a permit.

Mr. Cayer disagrees that this should occur and repeats the issue on making changes to both Ordinances.

Dave Morin, a member of the audience who happens to be a Town Selectperson, states that each Zone has its own rules and setbacks. One Zone's setbacks are not expected to follow another Zone's setbacks.

**Vince Vanier makes a motion to accept the change to section 4 as presented in the "Proposed Change" section. Tom Schneck seconds the motion.**

Gary Dufour reads the proposed change.

No building or other structure shall be erected, moved, added to or externally enlarged without a permit therefor, issued by the Code Enforcement Officer. No building permit shall be issued except in conformity with the provisions of this Code, except after written order from the Board of Appeals. The Code Enforcement Officer shall maintain a public record of all building permits. A permit for which no substantial work has been commenced within six months shall expire. If the building or part is not substantially completed within two years of the issuing of the permit, the permit shall lapse. It may be renewed upon application. A building that requires renovation, repairs, or maintenance shall not require a building permit if the project cost of the work is \$ 15,000.00 or less.

Vince Vanier requests to amend his motion from the said "*six month shall expire*" to "*one year shall expire.*"

**Vince is amending his motion. The motion is still on the floor with the exception of going from six months to one year with the permits. Tom Schneck seconds the motion and all are in Favor.**

Chairperson Vincent Sirois read the proposed changes of the definitions mentioned in the second half of Article 3.

Renovations: Repairs and upkeep that do not change the existing footprint.

Project Cost: Project cost will be materials and labor necessary to complete the project. Local cost for materials and labor shall be used regardless of the source of material and labor.

**Vince Vanier motions to accept the definitions as it is written. Tom Seconds the motion.**

Chairperson Vincent Sirois asks if there is more discussion. Vince Vanier mentions the project cost piece. If there is a dispute, the Planning Board agreed that somebody would go out and find three sources that will evaluate the cost of materials, labor and .....Gary Dufour states that the “permittee”, not the “permittor”, will be responsible to get an estimate and it will be their burden of proof that the project is under \$15,000.00. It will be at the Code Enforcement Officer’s discretion if he wishes to question the value of the project and may request to see the estimate.

Code Enforcement Officer, Bob Ouellet, comments that the only time they will come in to see him will be if the project is over \$15,000.00. Gary Dufour adds that a person would have to come in if his project cost was in question. Bob Ouellet gives a scenario that one neighbor is replacing his windows, siding and roof and is claiming the project cost to be over \$18,000.00. He needs a permit. His neighbor is also replacing his windows, siding and roof and is claiming the project cost is \$14,500.00 He doesn’t need a permit. Bob is concerned that there will be conflict between neighbors and he’s also concerned for the lack of a system to track the changes from project to project. Bob Ouellet addresses the Board telling them that the only time someone would come in for a permit would be if they enlarge by making a bigger deck, a new shed, or a new swimming pool. A person could make changes worth \$14,000.00 one year and the next year, make changes worth \$13,000.00. Without a Permit, these changes will not be tracked.

Bick Cayer is concerned of the ramifications if a person underestimates a project or decides to expand or change things in the middle of the project causing the project cost to exceed \$15,000.00. Mr. Cayer questions if a person goes in to get a permit at this point, would there be an after-the-fact permit or will there be a penalty? Mr. Cayer wants to be sure that there won’t be penalties involved. Mr. Cayer feels like if a person underestimated, he should be able to go see Bob and get an After-the- Fact Permit.

**Chairperson Vincent Sirois asks if all are in favor to Article 4. All are in Favor and the vote is unanimous.**

**Gary motions to adjourn the Public Hearing and Vince Vanier seconds the motion. All are in Favor.**

## **Public Meeting**

### **Article 1: Call the Meeting to Order.**

The meeting was called to order at 6:00p.m..

### **Article 2: Establish a Quorum of Members.**

A quorum was established. All Planning Board members are present.

### **Article 3: Determine any Conflict of Interest or Bias**

None of the Planning Board Members have a Conflict of Interest or Bias to the following Articles.

### **Article 4: Discuss the CDBG Micro-Enterprise Project.**

This Micro-Enterprise Grant is a small-business grant from Department of Economic and Community Development. It will be covering repairs and equipment to the following small businesses: Tang's Palace, Baron Builders, Main Street Auto, Acadia Restaurant, Chug a Mug, Bob's Neighborhood, River Valley Feed and Supply.

The Planning Board members are asked to review, support and sign this form. The grant complies with Madawaska's comprehensive plan and local ordinance without non-conforming changes. Code Enforcement Officer, Bob Ouellet, questions why Acadia Restaurant? Does Suzie Paradis mean Inn of Acadia? Gary Dufour states that Suzie Paradis doesn't give enough information when she sends these forms to be signed by the Planning Board. He'd like to have more information on the equipment and the improvements that are being made to these businesses. He feels like he's being asked to approve something he doesn't know enough about. Selectperson Dave Morin explains that in order for Suzie to be able to apply for these grants, she needs the Planning Board's consent. He also stated that if these businesses are making changes, they would need to go through the Code Enforcement Officer. Planning Board member Vince Vanier reminds the Board that there are no non-conforming changes. The Planning Board agrees that they will sign this when "Acadia Restaurant" has been Corrected to "Inn of Acadia".

**Gary Dufour makes a motion to accept the CBDG Micro-Enterprise Project after the corrections have been made from Acadian Restaurant to Inn of Acadia; Tom Schneck seconds the motion. All are in favor.**

### **Article 5: Discuss the CDBG Business Assistance Grant for Gateway Hospitality LLC and Evergreen Manufacturing LLC**

The next two forms to be reviewed and signed are business assistance grants to Evergreen Manufacturing LLC and Gateway Hospitality.

**Gary Dufour makes a motion to accept Article 5 as presented and Vince Vanier seconds the motion. All are in favor.**

**Article 6: Review and Discuss Planning Board Public Hearing proposed amendments to the 1977 Madawaska Land Use and Development Code**

**Gary Dufour motions to accept Article 6 and Tom Schneck seconds the motion.**

Code Enforcement Officer, Bob Ouellet, presents a form to the Planning Board comparing 2012 and 2013 building permits with new construction and renovation for less and above \$15,000.00. This form has the amount of permits issued and the value obtained from these permits. Bob is concerned for the uncaptured fee that will occur with the loss of permits issued for projects under the \$15,000.00 mark.

Planning Board member, Gary Dufour, states that The Land Use Ordinance was not designed to govern the value of people's properties. It wasn't made to add taxation to people's properties. It was designed to build buildings and provide perimeters to their lots. Gary accuses the Code Enforcement officer of using these permits as a source of revenue.

Bob Ouellet responds that he's just illustrating to the Board that one relies on another. Eventually all Departments rely on this and the tax assessor relies on the building permits to assess the value of people's properties.

Town Manager, Christina Therrien, states that most towns **do** use permits to go out and assess to see if there's been a change in the value of the property. Most towns have a reevaluation every ten or twenty years; they don't go around every single year. In between years, the assessor will use the building permits to see if a person's property has increased in value. Christina suggests that the Planning Board talk with Randy Tarr the Town's assessor. He needs to explain the ramifications of removing building permits and losing that value for tax purposes. Christina states that if an individual put \$15,000.00 of repairs into their home without changing the footprints, it raises the value of the home. A person will market that home at a higher value than before making those changes. She tells the Board that Randy Tarr, the town's tax assessor, can explain this better because he works in twelve or fourteen different towns. The assessor uses the building permits to show him the changes that have been made. Randy Tarr can explain the  
ramification of not getting building permits.

The Planning Board continued to discuss the clarity of the proposed Article and then came to a decision.

**Vince Vanier motions to present this to the Town's people and let them decide. Vince also motions to change the permit expiration from six(6) months to one(1) year; Gary Dufour seconds the motion. All are in favor.**

**Vince Vanier motions to accept the definitions as read and Tom Schneck seconds the motion. All are in favor.**

**Article 7: Review and Approve previous meeting Minutes**

**Gary Dufour motions to accept the February 13, 2014 Minutes and Tom Schneck seconds the motion. All are in favor.**

**Gary Dufour motions to accept the May 13, 2014 Minutes and Tom Schneck seconds the motion. All are in favor.**

**Article 8: Other Business**

The Planning Board wants to discuss bringing the Shoreland Zoning Ordinance 12B General, #2 Repair/Maintenance (\$500.00 to \$15,000.00) consistent with the Land-Use Ordinance at a future date. The Planning Board discussed a Hearing for these amended changes.

**Gary Dufour motioned to set a hearing date for July 8, 2014 and Tom Schneck seconds the motion. All are in favor.**

**Article 9: Adjournment**

**Gary Dufour motions to adjourn at 6:30; Tom Schneck seconds the motion. All are in favor.**