

**MADAWASKA PLANNING BOARD  
PUBLIC MEETING MINUTES  
THURSDAY, FEBRUARY 13, 2014  
AT 5:00 P.M.**

**Board Chambers**

**MEMBERS PRESENT:** Vincent Sirois, Vincent Vanier, Gary Dufour, Tom Schneck, Jeff Albert

**OTHERS PRESENT:** Eddie A. Plourde, Joe LaChance, Richard Corbin, Earl Pelletier, Rudy Daigle, Raoul Compagna, Paul Bouchard, Larry Fournier, Chad Carter, Pete Clavette, Dave Morin, James Wetmore, Dan Pelletier, Armand Tardif, Milton Pelletier, Toby Cyr, Roger Albert, Vincent Frallicciardi

**CODE ENFORCEMENT OFFICER:** Robert Ouellet

**RECORDING SECRETARY:** Sarah Pelletier

**ARTICLE 1: Call the Meeting to Order.**

The meeting was called to order at 4:57 p.m. by Chairperson Vincent Sirois.

**ARTICLE 2: Establish a Quorum of Members.**

A Quorum was established with Vincent Sirois, Vincent Vanier, Gary Dufour, Tom Schneck and Jeff Albert.

**ARTICLE 3: Determine any Conflict of Interest or Bias**

Conflict of Interest or Bias was determined and all members claim to have no bias to the following Articles.

**ARTICLE 4: To review an amendment to the requirement for building permits. Section IV Administration, Subsection D Building Permits.**

The Planning Board agreed that they would discuss this issue for about five (5) minutes than invite the public to voice their thoughts. Gary Dufour presents the matter that he had originally presented at the last town meeting in October 29, 2013. Gary was told that this was not the time to present this issue. He also brought the issue up at the last Planning Board

meeting as “Other Business” and it was decided that it needed to be on the Agenda and addressed at another meeting. Gary Dufour went to see the Code Enforcement Officer Robert Ouellet and requested that this be put on the Agenda for the next Planning Board meetings. This meeting tonight is the outcome of that discussion. Gary begins by saying that individuals have approached him with concerns that they shouldn’t need a permit to do renovations and/or replacement, maintenance and upkeep. Gary states that the people are requesting a change to the current ordinance with a clear definition of building versus renovation. He gives the example that if someone accidentally hits a window with a ball and breaks the window; the resident should be able to replace that window without a permit because the window was already in existence. The people feel that the same idea should go with replacing a door, ruined rugs or any existing replacement part. He presents a potential Ordinance referring to possible changes to guidelines in getting a building permit. He proposes that family dwellings require no permits but would exclude new additions, dwellings, garages or commercial structures. The Ordinance gives samples of projects one can do without the need for a permit- roof and siding repairs, replacement of carpets and flooring, painting, plaster and wallpapering the interior of a home and replacing broken, rotten or damaged boards on a porch or patio. This would exclude Egress windows. Gary Dufour requests that a similarly-worded Ordinance be presented at the town meeting. Gary Dufour further expounds on the issue that the town’s people think that they shouldn’t have to run to the town for a permit to repaint or stripping paneling and replacing it or fixing something that needs replacing. He further explains that if expansions are made where the footprint is changed, then a permit should be obtained.

The Planning Board discussed the cost of permits. Code Enforcement Officer, Robert Ouellet, explains that from \$0 to \$500.00, there is a permit application and a permit given with no fee. From \$500.00 on, there are fees- depending on the amount. Robert, better known as Bob, reads out the price range and cost of permits. That fee needs to include cost of material and cost of labor. According to Bob, these permit fees have been reviewed and established by the Board of Selectpeople. Jeff Albert asks when policy had changed that a permit was needed for a project less than \$500.00; he states that this amount has always been a subject of contention. Bob responded that years ago it was brought before the Selectman and has been the policy.

There was a debate narrowing what the term “renovate” means. If a set of cupboards and countertop are old and needs replacement, does that mean it could be replaced without a permit? Is this project considered a renovation? Gary Dufour believes that renovations versus remodeling are two separate issues. Taking a cupboard out and replacing it should not need a permit but taking all the cupboards down and changing the footprint would require a permit. Vincent Vanier states that there is a

significant difference between the two. Gary believes that if the footprints are not being changed, there should not be a permit. Taking a wall down changes the infrastructure and should require a permit. They questioned among themselves if that involves replacing using different materials or similar material. Jeff Albert questions whether replacing an old shower will need a permit. Gary believes that old showers have different plumbing fixtures than today's version and it would require a permit. He also states that if the tub cracks and needs to be replaced with no changes in the plumbing, it shouldn't require a permit. Vincent Vanier questions Gary if he thinks a twenty-five (25) year old shingled roof needing replacement should require a permit. Gary responds that the tax payer has been paying for a shingled roof and he shouldn't need a permit to replace that roof. He feels that when the assessor comes around, he'll reevaluate the house and will see the new roof and he'll assess accordingly. Vincent Vanier believes that the whole purpose of the permits is that the assessor has something to go by so he knows what to be looking for. It protects the fairness that everybody can be taxed equally and protects the value of their property. Vince addresses Bob Ouellet and asks him if he's issued more than ten (10) no permit fees in the past year. Bob responds that he's given about fifteen (15). Vince then asks Bob if it's safe to say that the majority of the permits given have been \$500 or more. Bob responded that he's issued about two-hundred, fifty-five (255) permits. Vincent states that there is an issue that needs to be addressed that was mentioned at the last meeting. The \$500.00 limit is out of line; a person can't even buy a door for that price. What is "renovation", "replacement" and "repair"? You have a building permit but no renovation permit. Gary states that "building" means that your construction something new and should require a "building permit". He feels like if the house is already there and everything is complete and something needs replacement, it shouldn't require a permit. He gives another example that if a door needs to be changed in this established place or the hinges needs to be changed, a person shouldn't need a permit for this. Gary exclaims, "There was a door there before, there is a door there now, the infrastructure didn't change and you should be able to put a door in". Gary feels that there is a need to differentiate between building, renovation and remodeling and he believes that renovation and remodeling come under the same title. If there's a major overhaul of the house, then Gary agrees that there should be a permit involved and reassessment involved. He believes that replacing molding for molding and flooring with carpet or repainting a room shouldn't be an issue. Vincent Sirois states that if he puts his lawyer's hat on and reads the existing code concerning the building permits, he can do whatever he wants inside his house. He reads "No building or other structures shall be erected, moved, added to or externally altered without a permit..." He continues, "I can do whatever I want inside that house." At this time the Planning Board gave time to the audience to speak their minds.

Joe Lachance speaks as a landlord saying that if something breaks in one of his apartments or someone ruins a countertop, he'd like to work on his apartments without having to come for a permit every time he needs to do repairs. He states that he would constantly be at the town office. He requests that there should be a change in the amount of money that can be spent before having to come for a permit. He said that \$500.00 is just too little. Vince Vanier told him to put a number on it. Joe responds that when a tenant leaves, he spends about an average of \$1,000.00 to repair an apartment.

Gary reminds the audience that this is a public meeting and that they don't have to include the audience in open discussions and at any time, they could cease discussion. He informs the audience that no decisions will be made tonight. From this point, they will hold a public hearing and allow the public to speak and at that time an informed decision will be made then be brought to the town meeting for the public to vote on.

Mr. Eddie A. Plourde, a member of the audience, states that there should be no differentiation between remodeling or fixing or whatever. He also felt like \$1,000.00 is nothing. You can't change a floor for \$1,000.00. The amount of \$500.00 was decided in 1977. The audience agreed that this needed to be changed. Planning Board member Jeff Albert speaks, "Let's look at the numbers and puts things into perspective." "Just because an owner puts \$1000.00 improvements to a house whether it's inside or outside doesn't necessarily mean that the house will be worth \$1,000.00 more." He continued, "If you do enough to increase the value of the house by \$1,000.00 that's \$18.00 of taxes for that increase. To increase your tax bill, you have to increase the value of your home substantially." Jeff Albert talked with Randy Tarr today and asked him questions about how this works. Randy told Jeff that he gets all the building permits from Bob. He compares his past notes and the current changes and reassesses the property; He has to use his judgment on whether or not he increases the value of the building. Jeff adds, "It's the only tracking system that the Town of Madawaska has." Vincent reiterates, "That's why the building permit, as a tool, is important not to get rid of entirely.

Another audience member, Pete Clavette questions whether the "pendulum swings the other way." If the home owner doesn't put any money into the home for fifteen (15) to twenty (20) years, does he get a tax rebate? Jeff Albert answers that the value of the house depreciates and the valuation goes down as long as the market stays the same. That's the assessor's job. Gary Dufour mentions the abatement process. If a tax payer hasn't put money in his home for thirty (30) years and it's rundown and expects to sell the house for a very low price and realizes that nobody is going to buy this at the market value, he may come to the town office and request an abatement application. The assessor will come in and reassess that property to what he thinks the value is today.

Dave Morin speaks for the majority of the audience. He states that the group does conclude that an unlimited amount of repairs and upkeep would not work. He gives the example that if he bought a house twenty (20) years ago and never repaired the roof but it's at the stage of leaking, that roof is worth zero. He feels that in all actuality, he should come to the town and get a rebate. It's creating a price drop in the value of the home. If he replaces the roof today, he's just bringing it back to the value of the property twenty (20) years ago when there was a new roof. "It shouldn't increase the taxes; it shouldn't affect any taxes." Dave suggests that they put a dollar limit on it so it doesn't go out of control. It affords him the ability to change or upkeep, not add to, anything in his house. He claims that there are communities in the Valley that have a \$15,000 deductible for upkeep and repair. He hopes this would restore the freedoms and independence of the people to be able to work and maintain their homes. Dave states that if a person spends \$1,000.00-\$4,000.00, this would be minor repairs with major repairs at \$5,000.00-\$15,000.00. If a person spends more than that, it's time to go knocking on Bob Ouellet's door. He states that there are some people here that don't want a limit at all but Dave thinks \$15,000.00 is reasonable.

Vincent Frallicciardi remarks that he probably is the one resident that comes to get the most permits. He feels that he must be devious in his actions; he does one \$500.00 project at a time. He'll replace six (6) bulbs at a time. He'll stretch out his projects section by section to stay within the No permit fee limit. He would like to do all of it at once but is avoiding the cost. He comments that he realizes that most home owners can't stretch out their projects like that because they have a carpenter coming in for a limited amount of time. He's a commercial owner and at the end of the year gets a tax sheet that he must record all the changes that he's made on his properties and he will be assessed by that information. Tom Shneck questions Vincent on what he thinks the price cap should be. Vincent states that his property is Commercial and he lives in a Commercial building and the rules are different for Commercial versus Residential. It took him three (3) years to replace all the lights on his properties doing it the way he described. If the price cap was \$3,000.00 or \$4,000.00, he could do his projects within two (2) and three (3) weeks without needing to get another permit.

Dan Pelletier states that the theory of the tax appraiser coming in and reappraising the house because you got a permit and bringing in tax revenue for the town doesn't hold water. He put \$100,000.00 in his home and the value of the home is worth less today than when he initially got permits from Bob Ouellet. He said that even the \$15,000.00 price cap is conservative. You can put all the money into your home that you want, but in this society, in this town.... The last time he looked, he states that there were seventy-five (75) homes by the lake for sale with ten (10) prospective buyers a year in Madawaska. The value of the home is not going up no matter what you put in it. Jeff Albert wants to clarify and

asks, "Did your tax evaluation go up? Dan Pelletier responds that it almost tripled. He said that he bought his property at the peak of the market and now we are at the bottom of the market. He continues that Madawaska values his home higher and he is being taxed accordingly but he could ever sell it now, he could only get half of the value. Jeff Albert states that the revaluation at the lake was done at the peak of the market; "we need a revaluation to reflect what has happened since then."

Richard Corbin speaks out that there are eighty (80) properties for sale around the Lake. Revaluation was done at the peak of the market. The Code was done 30-40 years ago and needs to be revised. He said that there is a problem here in town. People are moving out; it's too expensive to live in Madawaska. Taxes are expensive. He had a tenant who is a chiropractor renting his apartment house and he decided to leave and set up in Fort Kent because he can't afford the taxes in Madawaska. As a landlord, Richard states that this is now coming out of his pocket.

Vincent Vanier agrees that \$500.00 is very low but 15,000.00 is a lot of money. A member in the audience states that \$15,000.00 is not a lot if you're redoing a roof. Vince states that \$500.00 about 35 to 40 years ago at 2 1/2 %, is about \$3,500.00-\$4,000.00 today. It definitely needs to be revised. Gary Dufour wants for Bob to differentiate between Building and Remodeling. He would like to see that there is a building permit where footprints are changed and then a renovation permit with a \$15,000.00 cap. There is a dispute about the word upkeep, remodeling, renovation, replacing, upgrading and building versus changing the footprint. The Board believes that the wording will be one of contention and in twenty (20) years from now, they will still be arguing over the wording. Jeff Albert suggests keeping it simple and changing the wording in the Code concerning Building permits. He suggest that the wording be "If there is no exterior dimensional change and your under a certain minimum number (an example \$5,000.00), there's no permit needed. The goal would be to come up with the wording and recommendations during the Planning Board Hearing then sent to the Selectman and finally, to the town meeting. The Board discussed the limit and they questioned when permits are obtained and the amounts in neighboring towns.

**Vince Vanier makes a motion that the Code on 2D, Building Permit, be changed to "No building or other structure shall be erected, moved added to or externally enlarged (instead of altered)" .....with a change in wording in the last sentence: "The building permit shall not be required if market value of the work is \$15,000.00 or less" Vince Vanier continues "Let's bring that language to the hearing." Tom Schneck seconds the motion and all are in favor.**

Jeff Albert remarks that \$15,000.00 is a little high but the Board agrees that they have to start somewhere. Final changes will be made at the

hearing after getting feedback from Randy and after hearing from the people.

## **ARTICLE 5: Other Business**

Dave Morin presents three articles titled “Request by We the People.”

Article 1: One and two family residential upkeep and repairs only, will be Permit free for the first \$15,000.00.

Article 2: All existing sheds and garages that have been existing for at least five (5) years and no complaints have been recorded or received, will be grandfathered.

Article 3: All existing residential lots on east Main Street that are located in a “new” commercial zone will return to previous set back requirements.

Article 1 has already been discussed and the Board went on to Article 2. Dave Morin explains that the code was established in 1977 but wasn't enforced until 1982 and 1983. Over the years, people have done whatever they wanted to do. Dave states that there are a lot of buildings here in Madawaska that are not in compliance and new owners are made responsible for this. Dave mentions a case here in town that a gentleman bought a property that had a twenty-five (25) year old shed and needed to defend that he wanted to keep the shed where it was. His neighbor told the town that if it doesn't pick up this case, he's suing the town. This has put the Town of Madawaska in a predicament and it has been forced to move. This case has affected this family and the reputation of our town with all the legal publicity it has caused- all of these problems for a shed that was there for twenty-five (25) years that nobody had a problem with till now. This has cost the town of Madawaska \$12- \$15,000.00 and the family has spent thousands of dollars in legal fees. Apparently, four to five similar cases have come up since July. Property is purchased, property owner wants to make changes on his property and Bob Ouellet pays a visit and informs the owner of buildings that are not in compliance. Jeff Albert questions how it can be that after twenty (20) years, a property owner has no defense and he agrees that there needs to be a statute of limitation. Dave Morin responds to this by saying, “That's why there needs to be a “Grandfather Clause” to prevent future lawsuits involving the town of Madawaska.” The Clause would also protect the new owners from having to be responsible for any non-conforming buildings that were there when the property was purchased. Vincent Vanier states that a new property owner should do his homework. When somebody looks to buy a property, he hires a lawyer. They go over the Deed of the Lot; they go over the whole layout of the land with Bob and they make sure that

everything is in compliance. Vincent Vanier states, “That’s what you pay that lawyer to do.” He mentions that if it’s not in compliance than it’s up to the prospective buyer to take it up with the landowner before purchasing the property.” Dave Morin responds, “That’s only in a perfect world.”

He states that he can guarantee that 99% of the lawyers don’t go on the property or take inventory, don’t measure distances, or come to the town office. Even Bob doesn’t know that that shed or building is there most of the time. Jeff Albert questions that if someone has a non-conforming shed for twenty (20) years that these buildings should be on the tax cards when Randy evaluated everything four or five years ago. Dave Morin states that it wasn’t the assessor’s responsibility to make sure that there was a permit for all the buildings on that property. The assessor evaluates the property and the property owner pays the taxes for the assessed buildings.

Another audience member explains that when he bought his property, the lawyer didn’t go on the property. He did what Dave Morin was saying; he checked to see if there was any litigation or liens with the Title. As a client, he was given option of buying Title insurance. The Title Insurance insures the customer that if any litigation were to come up concerning pending issues before he brought the property, they would represent the new property owner in court. Dave thinks that this Insurance will not protect the individual whose building is non-compliant when he bought it. He continued to say that the law states that if a building is non-compliant, than the landowner must remove it. Vincent questions if everything should be grandfathered-even a leach field. Dave Morin states that he is talking about a building. Board member, Jeff Albert, states that the Selectpeople could introduce a statute of limitation for our town in situation like this. The Board says that the DEP won’t allow this on Shoreland Zoning. Dave states that DEP regulates the distance from the waterline but the town regulates the property side setbacks. Jeff Albert declares that it would be nice if the request came from the Selectpeople; As a Planning Board they deal with land issues. Dave Morin believes the process starts with the people, is recommended by the Planning Board and finally appears to the Selectpeople. Dave Morin asks that this would be recorded or received as “pending complaints or active complaints”. In other words, “If no one has said anything about the building or asked about it, why bring it up.” Vincent Vanier believes that they are opening up an issue that was already closed. He questions exactly what this clause will pertain to. Just sheds or Garages? He question what would happen if this non-conforming structure would cause water to flood the neighbor’s basement. Dave Morin responds that a water problem can be fixed. The Board discusses other scenarios concerning new property owners and non-conforming buildings. They discussed a time limit for grandfathering a building. They discussed prior owner responsibilities and new owner responsibilities when it comes to non-conforming buildings. Dave Morin

states that having a grandfather clause would be an escape clause for the town. It would prevent the town from being pulled into some of the disagreements among neighbors and having to deal with old issues.

**Gary Dufour made a Motion on Article 2 that reads “All existing sheds and garages that have existed for at least five years with no pending complaints have been recorded or received will be issued an After-the-Fact Variance by the Board of Appeals. Tom Schneck seconds the motion. Jeff, Gary and Tom are in favor and Vince Vanier votes “No”.**

Article 3: All existing residential lots on east Main Street that are located in a “new” commercial zone will return to previous set back requirements. Dave Morin presents the Article starting with mentioning that about five (5) or six (6) years ago, East Main Street, previously zoned Medium Density, was rezoned Commercial. This area is located from Acadia School to Gagnon Road. This change was great for businesses but it caused the residents to have to change their setbacks as if they were Commercial. Dave Morin is requesting that Residents keep the previous zoning privileges as Residential but no changes to the actual Commercial Zone. Jeff Albert agrees that when a Residential Zoning is changed, it shouldn't hurt the residents. Jeff Albert wants to look into this further before making any decisions.

**Jeff Albert motions to table this Article at the next meeting. Tom Schneck seconds the motion. All are in Favor.**

**ARTICLE 6: Review and Approve previous meeting Minutes.**

**Gary Dufour made a motion to approve the November 4, 2013 Minutes; Tom Schneck seconds the motion. All are in favor.**

**Gary Dufour made a motion to approve the August 12, 2013 Minutes; Tom Schneck seconds the motion. All are in favor.**

**ARTICLE 7: Adjournment**

**Jeff Albert motioned to Adjourn at 7:00p.m. and Tom Schneck seconds the motion. All are in Favor.**

