

**Town of Owls Head**  
**Minutes of Planning Board Meeting**  
**Wednesday, December 10, 2014 – 7:30 P.M.**

**Board Present:** Chair Robert Pratt, Larry Choate, William Leppanen, Dale Martin, and Marc McNeilly (Alternate)

**Board Absent:** Ken Wexler

**Staff Present:** Code Enforcement Officer Scott Bickford and Recording Secretary Deborah Sealey

**Public Present:** Sue Choate, David Jenny, Paul Gibbons, Anthony Dermarderosian, and Claire Perry

Chair Robert Pratt called the meeting to order at 7:30 P.M. He stated there was only one item on the agenda and participation would be limited to PB members; only under exceptional circumstances would the Chair decide to entertain comment from the audience. The Chair said he had recused himself and would act this evening as a parliamentarian only. He asked if there were any objections and none was raised.

David Jenny asked to comment on the minutes of the previous meeting, but the Chair said he had Mr. Jenny's email and would have it attached to the minutes.

**I. Approve Minutes of 11/12/14**

**ACTION:** Dale Martin made a motion, seconded by William Leppanen, to accept the minutes of the 11/12/14 meeting as written.

Carried 3-0-2 (Mr. Pratt and Mr. McNeilly abstained)

**II. Clarify the Previous Planning Board Findings of Fact and Conclusions of Law for the Zoning Board of Appeals**  
meeting of January 8, 2015

Chair Pratt said the Zoning Board of Appeals had requested clarification and additional information concerning the Findings of Fact voted on September 10, 2014. He stated that there were two parts to any action the PB could take: first, consideration of activity vs. the ordinance itself and, 2) how that applies to the law. The PB had already looked at Sections 1-6 (all administrative activities) and the Chair asked members if there was any need to go back and justify parts of the ordinance not germane to this particular case.

Mr. Leppanen said the Zoning Board of Appeals had wanted more abbreviated Findings and had not looked at those of September 10. He said there was confusion about whether the application in question was an expansion or not. Mr. Leppanen said the application in question was a rebuilding-in-place and not an expansion.

Referring to the PB Manual, CEO Bickford said the board should go through the Shoreland Zoning Ordinance [SZO] and address each review standard. The board should then review to see if other ordinances applied and which was stricter. In each section, the PB should say whether it did or did not apply to the application and why. Mr. Bickford also made reference to what would be required if the case went to court. He concluded by saying the Zoning Board of Appeals wanted to know exactly what each of the PB's 9/10/14 Findings of Fact meant.

Chair Pratt said both the Zoning Ordinance and the SZO might apply and he assumed the members had looked at both. He stated that the SZO was usually the more stringent. However, if the Zoning Ordinance was more stringent in any circumstance, that must be considered.

Mr. Choate said Section 1 of the SZO was the foundation of the ordinance, Mr. Leppanen said the application at issue would use the existing footprint and was not an expansion.

**ACTION:** Dale Martin made a motion, seconded by William Leppanen, that Section 1 [*Purpose*] of our ordinance was fulfilled by this application.  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

**ACTION:** Larry Choate made a motion, seconded by Dale Martin, that the application was within the limits of Section 2 [*Authority*] of the Shoreland Zone Ordinance.  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

**ACTION:** William Leppanen made a motion, seconded by Larry Choate, that the application does not violate Section 3 [*Applicability*], Section 4 [*Effective Date and Repeal of Formerly Adopted Ordinances*], Section 5 [*Availability*], or Section 6 [*Severability*] of the Shoreland Zone Ordinance.  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

Mr. Martin said the SZO was more restrictive than the general zoning ordinance and Mr. Leppanen agreed, referring to Section 12C of the former.

**ACTION:** Larry Choate made a motion, seconded by Dale Martin, to accept Section 7 as written and the application refers back to regular Zoning Ordinance Section 1.5 (D) (2).  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

Mr. Leppanen said Sections 8-10 were applicable because this application was in a Rural/Residential area.

**ACTION:** William Leppanen made a motion, seconded by Dale Martin, to accept Sections 8 through 10.  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

Chair Pratt read aloud Section 11 [*Land Use Requirements*]. Mr. Choate felt this was a reconstruction since there would be no new building and it did not qualify for any of the other things. Mr. Martin said it could not be subdivided.

**ACTION:** William Leppanen made a motion, seconded by Dale Martin, that Section 11 be accepted, as the application agrees with it.  
**Motion Withdrawn**

Mr. Leppanen said the existing building would stay where it was and would be repaired. Mr. Martin said he felt Section 11 applied only if looking to divide a lot, which had nothing to do with this application.

**ACTION:** Dale Martin made a motion, seconded by Larry Choate, that Section 11 [*Land Use Requirements*] does not apply to this application.  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

Chair Pratt read aloud each section of Section 12 [*Non-Conformance*] prior to discussion and vote.

**ACTION:** William Leppanen made a motion, seconded by Larry Choate, to accept Section 12 (A) [*Purpose*].  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

Mr. Martin said the applicant would be doing repair and maintenance, as stated in 12 (B) (2). Mr. Leppanen agreed this was a non-expansion reconstruction.

**ACTION:** William Leppanen made a motion, seconded by Larry Choate, to accept Sections 12 (B) (1 & 2) [*General*] because this was a non-expansion reconstruction.  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

In reference to Section 12 (C), Mr. Martin said the existing structure would not be expanded or relocated. Mr. Leppanen did not see how this section pertained: he said no new, enlarged, or replacement foundation was proposed.

**ACTION:** William Leppanen made a motion, seconded by Larry Choate, that Sections 12 (C) (1) (a, b, and c) [*Expansions*] did not apply to this application because this is not an expansion.  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

**ACTION:** William Leppanen made a motion, seconded by Larry Choate, that Section 12 (C) (2) [*Relocation*] is not applicable to this application.  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

Mr. Leppanen said the applicant could have painted, resided, and replaced the roof and never needed to come to the PB. He said the board needed a date when the value of the structure was 50% in order to apply for a permit; we could never determine when it reached that point. Mr. Choate said the structure had a current value of \$8,000, which had not changed since 2005. He said the clock should start when the Johnsons bought the property. Mr. Martin said this section applied more to hurricanes, fire, etc., when the owner had only one year to fix damages. He said this situation resulted from years and years of neglect.

**ACTION:** William Leppanen made a motion, seconded by Dale Martin, that the application conforms to Section 12 (C) (3) [*Reconstruction or Replacement*].  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

Mr. Martin said that this was once a residence and would be again. Mr. Leppanen said it had always been a residential property and Mr. Choate agreed. Mr. Martin said Section D did not apply because it was not a change of use.

**ACTION:** William Leppanen made a motion, seconded by Dale Martin, that Section 12 (C) (4) [*Change of Use of a Non-Conforming Structure*] did not apply because they were not changing the use.  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

**ACTION:** Dale Martin made a motion, seconded by Larry Choate, that Sections 12 (D) (1, 2, 3) [*Non-Conforming Uses*] does not apply to this application.  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

**ACTION:** William Leppanen made a motion, seconded by Larry Choate, that Sections 12 (E) (1, 2, 3) [*Non-Conforming Lots*] were not applicable to this application.  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

**ACTION:** William Leppanen made a motion, seconded by Larry Choate, that in Section 13 [*Establishment of Districts*] the only part that applies to this application is Subsection B [*Rural Residential area*].  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

Chair Pratt asked the members to review the Rural Residential district to see if this application did or did not conform. Mr. Leppanen asked if the conversion of seasonal to year-round residence applied to this. Chair Pratt replied that he understood the reconstructed structure would be a summer cottage. The CEO said a principal structure was allowed, but the table didn't deal with non-conformance.

**ACTION:** William Leppanen made a motion, seconded by Larry Choate, that Section 14 [*Table of Land Use*] was not applicable here because this is a non-conforming structure, although Table 1, #15, allowed one & two-family principal residences and uses.  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

In regards to Section 15, Chair Pratt said the applicant had to prove he had an acceptable septic system and he had done that.

**ACTION:** Larry Choate made a motion, seconded by William Leppanen, that Section 15 (a through i) was not applicable to this application.  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

**ACTION:** William Leppanen made a motion, seconded by Larry Choate, that Section 15 (j) [*Septic Waste Disposal*] was applicable and was addressed by the application.  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

**ACTION:** William Leppanen made a motion, seconded by Larry Choate, that Sections 15 (k through o) was not applicable to this application.  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

**ACTION:** William Leppanen made a motion, seconded by Larry Choate, that Sections 15 (p & q) said the applicant must use best management practices, which had been addressed in the application.  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

**ACTION:** William Leppanen made a motion, seconded by Larry Choate, that Sections 15 (r & s) is not applicable to this application.  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

**ACTION:** William Leppanen made a motion that all permits must be in place before construction starts.  
**Failed for lack of a second**

Chair Pratt instructed the members to read Sections 16 (D) (1 through 9).

**ACTION:** William Leppanen made a motion, seconded by Larry Choate, that we have read Sections 16 (D) (1 through 9) [*Conditions*] and the application is in conformance.  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

**ACTION:** William Leppanen made a motion, seconded by Larry Choate, that Sections 16 (E) (e through i) [*Exceptions*] are not applicable.  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

There was discussion of whether the application conformed to all or only some of the definitions. Chair Pratt said members could pick out particular definitions for motions if they liked.

**ACTION:** Larry Choate made a motion, seconded by William Leppanen, that the application conforms with the definitions in Section 17 [*Definitions*].  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

Having concluded the SZO portion of the review, Chair Pratt asked the members if they had satisfied themselves that there were no other Owls Head ordinances that applied to this application.

**ACTION:** William Leppanen made a motion, seconded by Larry Choate, that the board had reviewed the application and it met all standards of the Shoreland Zoning Ordinance and the Land Use Ordinances of the Town of Owls Head.  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

Chair Pratt apologized for dragging this out, but said it was because the PB had never done this before.

### **III. Continuation**

**ACTION:** William Leppanen made a motion, seconded by Larry Choate, that the meeting be continued until Wednesday, December 17, at 4:30 P.M.  
**Carried 3-0-2** (Mr. Pratt and Mr. McNeilly abstained)

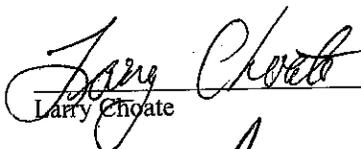
The meeting ended at 9:10 P.M.

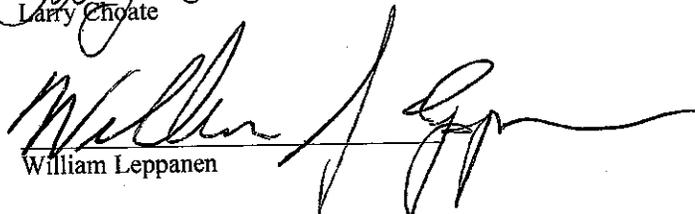
Respectfully submitted,

Deborah Sealey  
Recording Secretary

Town Of Owls Head Planning Board:

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Robert Pratt, Chair

  
\_\_\_\_\_  
Larry Choate

  
\_\_\_\_\_  
William Leppanen

  
\_\_\_\_\_  
Dale Martin

(Absent)

\_\_\_\_\_  
Ken Wexler

\_\_\_\_\_  
Marc McNeilly (Alternate)