Minutes of the Town of Chebeague Island Planning Board, Thursday
February 18, 2010 at 7:15 at the Hall

Present: Mabel Doughty, Jane Frizzell, Beth Howe and Tad Runge
Absent: Sam Birkett, Ernie Burgess and Louise Doughty

Visitor: Paul White, CEO

Beth said that this is a workshop on changes to the Zoning Ordinance proposed by Paul White. It is intended to give the Planning Board an opportunity to understand the proposed changes. On February 24 the Selectmen will hold a workshop on these and other proposed ordinance changes that may be brought to Town Meeting in June. If these changes go forward, the Planning Board will hold a public hearing on them, and perhaps at least one informational public meeting.

Beth asked Paul to explain why he is proposing these changes at this point. He handed out a sheet of points for “understanding your Land Use Ordinance. He also said that He and Beth had worked together on these changes, even though they do not necessarily have to agree on them. He said that a Zoning Ordinance is a living document and amending it should be a normal and regular practice. Communities want to support particular things through their ordinance. Chebeague, for example, wants to support things like fishing. Zoning Ordinances sometimes have provisions that rub some citizens the wrong way, don’t represent the opinion of the community, or are ambiguous or too detailed. When people come to him for permits he must be able to answer the question of why some policy exists. If he can’t give a reason, there is a problem. He said that in general people coming for permits on Chebeague are more accepting of his decisions than people in Elliott. But even so, it can be useful to review the Zoning Ordinance every year to see if there are changes that need to be made in it.

Site Plan Review
Beth suggested starting with the proposals on site plan review. Why should it be revised? Paul said that it costs residents money to make application to the Planning Board – in fees, in hiring site evaluators, engineers or surveyors. It also takes time. On Chebeague many of the projects brought to the Planning Board are applications to establish quite small businesses. These are not very different in scale from houses which do not have to be reviewed by the Planning Board. It may be excessive to have these people go before the Planning Board. It is quite possible to have standards for evaluating such proposals – general ones and regulations geared to particular kinds of land uses. For small projects these standards can be applied by the Code Enforcement Officer. He is suggesting that only developments that are larger than 1,000 square feet be reviewed by the Planning Board.

He also said that the existing site plan review section is full of redundant language and he wanted to simplify that.

Donna asked what standards are set by the Town and what are set by the State? What can the Town change? Paul and Beth said that not very much of the material in a Zoning Ordinance is determined by the State, with the major exception of the Shoreland Zoning. Paul said that communities don’t have to any have zoning other than shoreland zoning if they are on the shore.
Beth said that there are some provisions in State law about public hearings and notice requirements. Otherwise what is in the Zoning Ordinance is determined entirely by the Town.

Paul said that simple ordinances often work as well as complex ones. As new problems that might be dealt with by zoning come up, that is the time to take them up — don't need to anticipate every possible issue. Donna said she thought it was better to be prepared. There was a discussion of mobile vendors. The State has a simple law. Beth and Donna were involved in an effort to develop a local ordinance on this that was never adopted. One of the problems was agreeing on where mobile vendors could be located. Donna said she thought it was important in such an ordinance to define the places where mobile vending could not be done because of traffic congestion, such as the Stone Wharf and the Center. This needed to be spelled out before anyone applied for a mobile vending permit.

Paul said that the market drives the need for regulation somewhat. If Chebeague had many people who wanted to be mobile vendors then it could be important to spell out rules for location and equipment. But he thinks that personal contact with an applicant is always better than trying to have standards that spell everything out in advance.

Mabel said that clear standards might be more important in a small community where everyone knows each other. Paul agreed that everyone needs to be treated equally. She said she thinks it is useful to have rules in existence before people need permits so that they know what is required.

Paul said that it is never possible to have a perfect zoning Ordinance. It is important to be flexible about it and make amendments if they are needed.

Jane said she disagreed with equating the permitting of a small business with permitting a house. She thinks that businesses should be treated differently from houses because businesses can create issues such as parking, noise, light, visual impact, signs, smell. These create a need to have requirements for things like buffering. Tad said he agreed with Jane. Paul said that normally in zoning these conflicts are dealt with in zoning by separating "incompatible" uses — having separate zones for houses and businesses. But even though Chebeague has residential and business zones, uses are not really separated here, so conflicts are sometimes a real issue.

It is also possible to deal with these possible conflicts by defining standards for uses that might conflict. These standards can be applied either by the CEO or by the Planning Board. Paul is proposing that the former decide about proposals for projects smaller than 1,000 square feet, and the Planning Board decide about larger projects.

Donna said that she would like to see the review process streamlined so that people don't have to hire people to help with their applications. Beth said that applications for small developments can be like this. Virginia and Tom did all the application for the Clam Shack. They were given a waiver for the boundary survey. Donna said she hoped they were not allowed just to submit the tax map. Though the proposal was originally not expected to have a new septic system, the State required them to have some kind of grease tank.
Paul said that on Frye Island the submission requirements are flexible in the sense that the code officer has to be satisfied that the information required is available, though that may be through a number of different ways. In relations to a boundary survey, even if there is not one on paper, the property owner may be able to show the property markers to indicate that the building will be located on the property.

Paul concluded the discussion of the site plan review by saying that he wants to work with the Planning Board and the Board of Zoning Appeals on any changed that may be needed.

Other proposed changes:

110.143c: Sheds:
Paul said that ordinance now has no definition of a shed, though sheds are allowed to encroach into the normal setbacks. Donna said she was sure there had been one in Cumberland's ordinance and that it required that sheds not be built on a foundation, so they could be moved if they had to. [Beth checked this, there never seems to have been a definition of “shed”.] Paul said that the issue is the size of the building. Paul Belesca wanted to build a large shed in the setback. There is nothing in the ordinance that allows any distinction between a large and a small shed. This wording would limit sheds to 400 square feet.

110.32 and 110.32a: Commercial fishing:
Paul said that the old language was not really a definition of commercial fishing. So he added a section that defines it. Then he added to the old wording that it applies to buildings and uses related to commercial fishing. The reason for this is that commercial fishing in the existing ordinance is an “accessory” use and it has to be accessory to some other building like a house. But there are people who want to build buildings for commercial fishing on lots that do not have houses or other buildings on them. This change in the wording makes that possible.

Donna said she thought the new wording indicates that the buildings can only be used for storage. It might be better to say “buildings, not for occupancy that are used for activities directly . . . storage, the manufacture or sale of ice, bait and nets . . . used on boats.”

110.39 Lot Coverage
Needs to have the old language removed, since there is no percentage of lot requirement anywhere in the ordinance except in the shoreland zone. The new wording applies only to the shoreland zone.

110.83 Junk Yard
Beth said that junk yards are defined and have general regulations in our ordinance, but they are not specified as being allowed in either of our districts. Some time was spent making sure that they are not mentioned. Paul is suggesting that if we make them allowed, that they not be able to be larger than 500 square feet. Or, if we do not want to allow them at all, then the definition and the general regulations should be removed. Donna said that Cumberland had granted a junkyard permit on Chebeague for many years and then, after many delays had revoked it. [Beth checked the last (1984 as amended) Cumberland Ordinance and neither Chebeague district allowed junk yards.] It might be better to allow them so that they could be regulated.
Jane asked whether, if the change in the site plan process were made to make a distinction between larger and smaller than 1,000 square feet projects, there are really standards in the ordinance now that the CEO could use to review the smaller projects. She noted the lack of a noise ordinance. Paul said he thought there were already standards in the ordinance that would work. Beth said she was not sure, it would be necessary to go through to see if, between the site plan review standards and the general regulations, adequate standards are available.

Jane also said that the present system is hardly overloading the Planning Board. Tad agreed. Beth said she spends a fair amount of time on the applications and talking to people beforehand.

Paul had to leave for the boat before the other changes could be reviewed. Before he left, Jane asked where the amendments go from here. Beth said they will be part of a larger workshop with the Selectmen on February 24. Then if they go beyond that Paul said that he can organize a PowerPoint presentation to give at one or several public meetings. Then the Planning Board will hold a public hearing.

After Paul left Donna said that if the change to larger and smaller than 1,000 square feet were made, then there would be no public hearing process for small projects. Tad said that it would be possible to use the present distinction between major and minor projects but to change the threshold to 1,000 square feet from 5,000 and have a simplified application for the minor ones. But they would still go to the Planning Board. Paul could be the person who reviews the applications till they are determined to be complete.

Donna said that one reason why she didn’t want to change the present process is that she disagrees with some of the CEO’s interpretations of requirements and regulations. She gave the example of fees for building permits where the applicant will do the work him/herself, but they pay based on what it would cost to have someone else do the work. Beth said maybe Paul is trying to generate income for the Town. Donna said, even so, it isn’t fair. Beth and Jane said that this isn’t a zoning matter anyway. The structure of the fees is something the Selectmen should deal with.

Donna said that it would be possible to make the application submissions more flexible, as was discussed earlier with boundary surveys, and still have the applications go to the Planning Board. Beth said she would explore whether it would be feasible to make changes like this. Donna also suggested that inexperienced applicants could be given an “exemplar” – an example of a good, complete application to help them understand what was needed and how it should be presented. Beth said she had done this for the Kids Place applicants.

Donna said that the Selectmen were planning to have a workshop to examine the process that Kids Place had gone through. It is not scheduled yet.

Respectfully submitted,

Beth Howe