Minutes of the meeting of the Town of Chebeague Island Planning Board, Thursday November 17, 2011 at 7:15 at the Hall

Present: Sam Birkett, Mabel Doughty, Jane Frizzell, Charles Hall, Beth Howe (Chair)
Absent: Ernie Burgess, Louise Doughty and Ron Tozier, CEO

There was discussion at the beginning of the meeting about whether members of the Board had been up to see the work on the Hamilton Beach stabilization project. Several people had been up and said that the extension of the road down to the beach and the staging area are quite massive. Beth said another proposal for bank stabilization has been submitted by Barney Baker for the Johnston’s on Island View Road. That will probably be on the agenda at the next meeting.

1. Minutes
Jane said she had a change in the minutes of the previous meeting. She wanted more explanation about why no definition of “shed” was added to the ordinance. The proposal had been that the definition would say that sheds can be used for storage or work but not for sleeping. The Committee decided this would not be useful. This will be added to the minutes. Mable moved, seconded by Sam to approve the minutes. Approved unanimously.

2. Back Lots and Private Roads
Beth suggested that since several members were not at the meeting that the discussion of a decision on these issues be deferred to January. She did suggest that she could see if she could arrange for a legal expert from the Town’s law firm or MMA on private roads to give a presentation on how private roads can and do become public r ROWs. Jane said she understood that one way to keep then private was to post them as private for at least 24 hours in a year. Everyone agreed that it would be useful to learn more about this topic and Beth said she would try to set up a meeting on it.

3. and 4. Ron was prevented by boat problems from getting to the meeting to report.

5. Review of the Chebeague Growth Management Ordinance
Beth summarized the State law and Chebeague’s ordinance:
Chebeague inherited from Cumberland what the State calls a “rate of growth” ordinance. The State law requires that:

- The ordinance be in conformance with the Town’s Comprehensive Plan.
- The ordinance be reviewed every three years and the number of houses allowed per year set at 105% or more of the yearly average of the number of building permits for houses issues over the past ten years.
- The ordinance must allow building permits for affordable housing at least 10 percent of the number of permits.

- In addition, the Town may set different limits for different areas that the Comp Plan designates as rural or designated growth areas.
Currently The Town is operating under the ordinance carried over from Cumberland in 2007 which allows 4 new growth permits per year plus 2 additional permits for affordable housing constructed by a non-profit. There is some leeway, however, in that as many as 20 permits can be issued over a 5 year period. The “year” is the calendar year. The applicant must submit a complete application to the CEO (none by mail). The applications are dated and reviewed in the order received. The permits are not-transferrable unless the lot is sold.

The ordinance has not been reviewed since 2007. Indeed, it wasn’t really reviewed then.

Beth said that one reason why this has come up is that Ron was worried last spring that he was getting enough applicants for growth permits that he might run out. Should the ordinance spell out a more systematic process if there were more applicants than permits – like the waiting list that Cumberland had during the flap when the ordinance was first adopted? She would like to hear what Ron has to say about administering the ordinance.

There was discussion of the 20 permits over five years. If permits cannot be carried over from one year to another, then how could you have 5 permits in a single year? Beth said this might have been wording that was left in by mistake when the ordinance was amended.

Beth asked whether members thought the growth permit ordinance is in conformance with the new Comprehensive Plan. She promised to get copies of it to members soon, since Judy Colby-George is finishing correcting the maps. She posed the issue of whether Chebeague needs such an ordinance. Mabel said that the legislative logic is that such caps are allowed to allow Towns to keep pace in increasing their services as the population grows. Beth said that Chebeague would like to have more students for its school. Sam said that most island services are sized for the summer population. Something like the Transfer Station would have to expand if the summer population grew, but this would probably occur slowly. Beth said it would be possible to find out if there had been an increase in trash being taken off. Mabel said she thought there may be, particularly for recyclables but someone else pointed out that the installation of a compactor for them was intended to reduce the volume. Beth asked if there were other services that would be affected by growth. No one could think of any except the CTC.

Several people said that they would like to see a growth cap that would not discourage families from moving to the island year-round. Someone said that because many Town services are sized to deal with demand in the summer, an increase in the winter population would not be much of a problem, and suggested having a greater allocation of units under the cap to year-round houses, with fewer for summer ones. Sam said the problem with such a policy is that applicants would have an incentive to lie about whether they were moving to the island year-round, or they might come for a year and then move away again.

Beth said the State law does allow for having different allowances of permits in rural and growth areas of a Town. Jane said she thought it might be a good idea to allow fewer in the rural areas in our plan compared with the growth areas. This would put some teeth into the Comprehensive Plan. Beth said it might not be popular. There was a discussion about what the impact of having only one permit for rural areas versus 3 to 4 for growth areas would be on new year-
round residents. Younger people with more modest incomes are more likely to build inland, but
would probably not be wanting to build substantial driveways. We need to look at the Future
Land Use Map in the Plan to see what areas would be affected.

Beth said that this issue of allocating fewer permits to rural areas also raises the issue of dealing
with the blue “planning” area on the land use map – would it count as rural or growth area? Also
it is related to the issue of back lots and private roads.

Jane said it would be useful to have a large version of the map for meetings like this.

Beth said that in order to review the ordinance we have to see if the Town’s CEOs have been
keeping statistics on building permits issued. Also she needs to see what data she has from 2001
to 2007 from Cumberland.

Given the various pieces of information that need to be gathered on this issue, and the need to
have copies of the Comprehensive Plan, Beth suggested that this discussion be continued in
January.

Respectfully submitted,

Beth Howe
Chebeague’s Growth Management Ordinance

Chebeague inherited from Cumberland what the State calls a “rate of growth” ordinance (copy attached). The State law (copy attached) requires that:

- The ordinance be in conformance with the Town’s Comprehensive Plan.
- The ordinance be reviewed every three years and the number of houses allowed per year set at 105% or more of the yearly average of the number of building permits for houses issues over the past ten years.
- The ordinance must allow building permits for affordable housing at least 10 percent of the number of permits.

- In addition, the Town may set different limits for different areas that the Comp Plan designates as rural or designated growth areas.

Currently we are operating under the ordinance carried over from Cumberland in 2007 which allows 4 new growth permits per year plus 2 additional permits for affordable housing constructed by a non-profit. There is some leeway, however, in that as many as 20 permits can be issued over a 5 year period. The “year” is the calendar year. The applicant must submit a complete application to the CEO (none by mail). The applications are dated and reviewed in the order received. The permits are not transferable unless the lot is sold.

The ordinance has not been reviewed since 2007. Indeed, it wasn’t really reviewed then.

Ron had a concern last spring that there might be more applicants for permits than there were permits. This and the State requirements raise several issues:

- Should we have such an ordinance at all?
- Is the current ordinance in conformance with our Comprehensive Plan?
- Should we change the number of permits allowed?
- Do we have data on building permits over the past 10 years?
- Should we allow fewer permits to be issued in “rural” than in “growth” areas?
- Should we have a more formal application process with a waiting list like Cumberland did when the great rush for permits occurred when the ordinance was first adopted?

Some away Jan 4-12
3. Rate of growth, zoning and impact fee ordinances. After January 1, 2003, any portion of a municipality’s or multimunicipal region’s rate of growth, zoning or impact fee ordinance must be consistent with a comprehensive plan adopted in accordance with the procedures, goals and guidelines established in this subchapter. The portion of a rate of growth, zoning or impact fee ordinance not directly related to an inconsistency identified by a court or during a comprehensive plan review by the office in accordance with section 4347-A, subsection 3-A remains in effect. For purposes of this subsection, “zoning ordinance” does not include an ordinance that applies townwide that is a cluster development ordinance or a design ordinance prescribing the color, shape, height, landscaping, amount of open space or other comparable physical characteristics of development. The portion of a rate of growth, zoning or impact fee ordinance that is not consistent with a comprehensive plan is no longer in effect unless:

A. (REPEALED)

B. (REPEALED)

C. The ordinance or portion of the ordinance is exempted under subsection 2;

D. The municipality or multimunicipal region is under contract with the office to prepare a comprehensive plan or implementation program, in which case the ordinance or portion of the ordinance remains valid for up to 4 years after receipt of the first installment of its first planning assistance grant or for up to 2 years after receipt of the first installment of its first implementation assistance grant, whichever is earlier;

E. The ordinance or portion of the ordinance conflicts with a newly adopted comprehensive plan or plan amendment adopted in accordance with the procedures, goals and guidelines established in this subchapter, in which case the ordinance or portion of the ordinance remains in effect for a period of up to 24 months immediately following adoption of the comprehensive plan or plan amendment;

F. The municipality or multimunicipal region applied for and was denied financial assistance for its first

30-A § 4360. Rate of growth ordinances

1. Ordinance review and update. A municipality that enacts a rate of growth ordinance shall review and update the ordinance at least every 3 years to determine whether the rate of growth ordinance is still necessary and how the rate of growth ordinance may be adjusted to meet current conditions.

2. Differential ordinances. A municipality may enact rate of growth ordinances that set different limits on the number of building or development permits that are permitted in designated rural areas and designated growth areas.

3. A municipality may adopt a rate of growth ordinance only if:

A. The ordinance is consistent with section 4314, subsection 3;

B. The ordinance sets the number of building or development permits for new residential dwellings, not including permits for affordable housing, at 105% or more of the mean number of permits issued for new residential dwellings within the municipality during the 10 years immediately prior to the year in which the number is calculated. The mean is determined by adding together the total number of permits issued, excluding permits issued for affordable housing, for new residential dwellings for each year in the prior 10 years and then dividing by 10;

C. In addition to the permits established pursuant to paragraph B, the ordinance sets the number of building or development permits for affordable housing at no less than 10% of the number of permits set in the ordinance pursuant to paragraph B; and

D. The number of building or development permits for new residential dwellings allowed under the ordinance is recalculated every 3 years.
Ron,

Thanks for the email. This is not currently on my radar screen but I'll discuss with Beth and review the ordinance. The Board of Selectmen have let a lot of ordinance stuff pile up while they were budgeting so there is a bunch of stuff to prioritize.

It would be helpful to have a clear recommendation from you to the Board relative to the June 4th Town Meeting; something that quantifies the issue. For example, about how many permits do have in process (or expect to have) and how imminent are refusals that could be avoided by Board & Town action?

Regards,

H.

Herb Maine, I.T. Manager Voice: 207 829-5016

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> -----Original Message-----
> From: codeoffice@chebeague.net [mailto:codeoffice@chebeague.net]
> Sent: Tuesday, May 03, 2011 6:19 AM
> To: Herb Maine
> Cc: bethhowe@chebeague.net
> Subject: Re: Growth permit
>
> Hi Herb and Beth, Are you looking at the growth permit issue at all. It is a carry over from Cumberland, and we may have to limit the new homes in 2011 because of this ordinance.
> Thanks, Ron