

**Planning Board
WORKSHOP
SHORELAND ZONING
PROPOSED GUIDELINES
CEO: DECISION POINTS
This document referenced as
SLZ Decision Points**

Discussion & Comments from Code Enforcement Officer:

- Maine DEP; 2015 SLZ proposed guidelines: (CEO handed out at the May 2015 meeting)
PB members worked on questions independently and are discussing collectively.

*Note: Page numbers given refer to the SLZ Guidelines.

July 21, 2015

1) Regulate Structures built on or over a dock? Page 1:

Discussion: * PB Members all agree to leave this to IF&W/DEP to regulate. CEO agrees with this.

*Motion that we leave this out of the proposed SLZ Ordinance. SB/BD – Unanimous.

2) Does Otisfield want more districts; LC,GD II, CFMA? Page 3:

Discussion: CEO: We do not have any commercial fishing enterprises that he knows of. DH: Do we influence use if we put them into one type or another of districts. CEO: Definitely and wants PB members to give this lots of thought. Camp Arcadia / Seeds of Peace are in Limited residential, Days Store is in Limited Residential, The Outpost and 2 properties beside it are in General Development: * PB Members all agree to pass on this for the time being.

***February 2, 2016:** All agree, No CFMA. We have 2 right now and should keep this simple. All agree, to keep it as is.

*Motion not to add more districts. RJ/HO Unanimous.

3) Include written district boundaries? Page 4:

Discussion: DEP has always said the map prevails. PB members think this should be lumped with the current issue and if more districts are needed, this may tie in to question (2). All agree that # 3, may depend on # 2.

*Motion that we leave off the verbiage as it is on the map and that we do not include a written description of any district boundaries on the proposed Shoreland Map & Ordinance. RJ/DM- Unanimous.

4) How much expansion of a non-conforming structure? 30%? Page 5 & 6:

Discussion: All agree it is straight forward as it currently is. Under the new guidelines we eliminate volume, and look at just square footage. Up to 25 feet. Using the verbiage *Expansion of “that” portion* clarifies it.

*Motion that in C. (1) (a) (i); The first sentence should be changed to read “any” to “that”. RJ/DH – Unanimous. *All agree to leave C. (1) (a) (ii), current ordinance as is and not act upon it.

*Motion to include the word “*tributary stream*” in the Ordinance under section C,(1) (a) (ii), last line.

- 4) CONTINUED: **09.15.15:** Discussion: CEO: The State now calls floor area, foot print.

The CEO asked the PB to address a major question that needs to be decided under these SLZ Guidelines: The State now would allow planning boards to consider a structure's footprint and height rather than the volume and floor area of a structure being expanded within 100' of the water. There would still be height restrictions, i.e. 20' of height within 75' and 25' within 100'. Overhangs would be included in footprint. Decks and patios are considered in footprint. Discussion and finding: KT: What issues are we considering when thinking about height? Are there environmental considerations? CEO: The State is using the height rather than a volume restriction as a carrot to encourage home owners to move a structure as far back as possible from the water. Otherwise, height makes no difference. SB: If someone has come before the PB, would they be able to come back under the new Guidelines. CEO: Yes they can and have been able to since 2009 when Otisfield eliminated 30% rule for non-conforming structures. DH: Using footprint would mean only measuring square footage.
*Motion to use footprint and height rather than floor area and volume. This makes the calculations much easier for the CEO and for the property owner without any negative effects.

September 15, 2015

- 5) To remove a paragraph about two or more lots served by a public sewer? Page 10:

Discussion:

*Motion to remove since it does not apply to Otisfield. All agree. BD/DM- Unanimous.

- 6) Remove any reference to coastal, tidal, or significant river segments? Page 10:

Discussion: Otisfield does not have any "coastal, tidal, or significant river segments"

*Motion to remove since it does not apply to Otisfield. All agree. DM/BD-Unanimous

- 7) Remove reference to A-E if not in Comp Plan? Page 10, 11 ***TABLED**

- 8) Identify additional districts? Page 11, 12:

Discussion: CEO is asking all to give this some substantial thought.

***February 2, 2016:** We are not adding any additional districts.

*Motion to not add any additional districts. RJ/DH Unanimous.

- 9) Include provisions for clustered housing? Page 16:

Discussion and finding: The State was pushing it at one point. If we don't have it and-the PB is not encouraging it, it is not needed. If we had clustered, would it mean higher density? If it results in higher density along the shoreland, we don't think it's something we want to allow. KT: Can we have the provision just for camps? CEO: If you are going to get into conditions for camps, you would need to really be careful in being too selective. DH: I see no use for it in Shoreland Zoning. DM: Only in camps, does he see it useful. SB: I feel we shouldn't try to address it and we should leave it out. We do not want to encourage clustered housing and we do not want to be specific about where it might or might not apply.

*Motion to exclude any reference to clustered housing. BD/DM-Unanimous.

10) Exempt cupola, dome, and widow's walk from height limits? Page 18:

Discussion and finding: CEO: 81 Sq. ft, or 9 x 9 are the restrictions. BD: I don't see an issue with allowing them. DH: I think it's nice architecture that we don't want to discourage. KT: What is the issue? It adds height. DM: I don't have an issue. SB and BD: I don't have an issue. All agree they have no issue with these architectural features adding height to a structure.

*Motion to exempt cupolas, domes, and widow's walks from height limit. DH/BD - Unanimous.

11) Keep paragraph B(5) to permit retaining walls not needed for erosion? Page 19:

Discussion and finding: This is strictly to allow someone with a slope to the water to create a flat area. We don't see it used very often. It's normally used to slow down erosion. You can't put a patio behind the retaining wall. You can't create an opening, so what benefit is there to create a level spot. We have it in the SLZ Ordinance and we can keep it. All agree they don't want to discourage the retaining walls. If it's needed for erosion, it's allowed for erosion. DH: When they are required for erosion, no question we don't want to cause any issues there, but they are nice landscaping feature. I don't think we want to discourage normal use or the ability to have them. SB: if the owner puts them in, he is creating an area, and I feel he should be able to, as long as it's not more than 2' in height. *Motion that it's already there and they should leave it as is. DH/DM Unanimous.

October 20, 2015

12) Elect not to regulate docks 15(C)? (See #1 above)? Page 20

Discussion: PB members all agree that the regulation of docks and structures over docks is best left to IF&W/DEP as moved in #1. CEO agrees. However, the members agree that the "Note:" under C.(10) "A permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection for Shoreline Stabilization activities." should be included.

*Motion that Section 15(C) of the Proposed Guidelines should not be incorporated into the Ordinance but the note regarding a permit requirement should be. BD/HO- Unanimous.

13) Keep repeal of Timber Harvesting and give to Maine Forest Service? Page 29

Discussion: Our current Ordinance is written this way and PB members all agree that it is working well.

*Motion to keep repeal of Timber Harvesting and allow the Maine Forest Service to have regulatory responsibility. HO/SB Unanimous.

14) Keep the 25'x50' areas for point system of tree removal/retention? Page 40

Discussion: This guideline is in our Ordinance and has been working well.

*Motion to keep the 25'x50' areas for point system of tree removal/retention. SB/BD Unanimous.

February 2, 2016

15) Enforce contractor certification requirements C(5) Page 48

Discussion: The state exempts itself. Highway crews are exempt. MDOT has been more willing to work w/the guidelines and to require the contractors work with the guidelines. If we go forward with it, then CEO will change the Shoreland Zoning application to include the certification number. CEO can check on the website to be sure it's up to date. Website can be listed on the application, but not suggested in the ordinance in case there are any changes to the website address.

*Motion that we put the certified contractor requirement into the Ordinance. RJ/HO Unanimous.

16) Administrative appeal process "appellate" or "De novo"? Page 51

Discussion: Appellate is when the appeals board looks at your evidence. Findings of Facts and Conclusions of Law. De novo is to start new. In Shoreland Zoning it's undue hardship, which requires all 4 criteria be met. All agree, responsibility is on the applicant. That shouldn't be a revolving door. I think we should expect applicant come forward w/ a completed application and we make a decision on it. If we make a mistake, it can be appealed.

*Motion that we keep it as it currently is which is "appellate" basis. RJ/SB Unanimous.

17) Code officer or Appeals board for a disability variance: Page 52

Discussion: Legislature changed the rules so that CEO can be authorized to grant disability variance or it can go to the Appeals Board. CEO says he is not qualified to question a person's disability. More research needed, evidence of disability. CEO wants applicants to have access and be safe. As is, CEO could deny disability variance and the applicant would then go before the BOA for an appeal. Right to privacy/Right to know. *CEO will contact MMA. ***TABLED**

*Motion

18) Definitions to Definitions Ordinance? Page 55-66

Discussion: All agree that the definitions should go to the Definitions Ordinance. Existing Ordinance has it listed. CEO: If it only applies to Flood Plain we have said for Flood Plan only. A comprehensive list was made so that no matter what Ordinance you are using, it would have the same definition. If it was different it was noted. As these newer definitions are proposed, I would compare them to what we already have. Maybe the older definition would need to be updated. All agree they should not go to the town w/ the Shoreland Zoning Ordinance without updating the definition changes. The intention of this was to clear up things that were troublesome. ***TABLED**

*Motion

19) Remove significant river segments since none are in Otisfield? Page 69

Discussion: There are no significant river segments in Otisfield. Why have it in here when it does not apply. CEO would suggest it be removed. All agree.

*Motion that we remove this. SB/RJ Unanimous.

20) Where do summer camps fall into a district?

Discussion: Do summer camps fall into a district? The map shows them as residential around the lake. Outpost and couple lots beside it are the only General Development areas in Town. We have not had any complaints with summer camps.

*Motion that we leave this as is. HO/SB Unanimous.

21) Days Country Store?

Discussion: CEO, why would we distinguish between Days country Store and the Outpost. Outpost is General Development. Days Country Store is under Limited Residential District. If we tried to make it General Development it would not meet the criteria. It's up to the Town to decide if they were considering changing from Limited Residential District to General Development.

*Motion that we will leave this as is. RJ/HO Unanimous.

22) Wading bird habitat on our map? Go with minimum required?

Discussion: Back in 2008, they were anticipating a change from IF&W. IF&W came back with significantly higher levels of wading bird habitat. We have a wading bird habitat, but it's not "significant" wading bird habitat. We have the choice of leaving it at 250'. If the area is not a significant wading bird habitat, then the setback will be 75 feet. All agree we stick with IF&W's recommendation. If it's not significant, we stick with what we have. ***TABLED**

*Motion

02.02.16 was last updated by TT

02.16.16 all tabled items reviewed

03.01.16 all tabled items confirmed

Refer to CEO's Draft of the revised Shoreland Zoning Ordinance.

03.15.16 Edits from DEP were approved