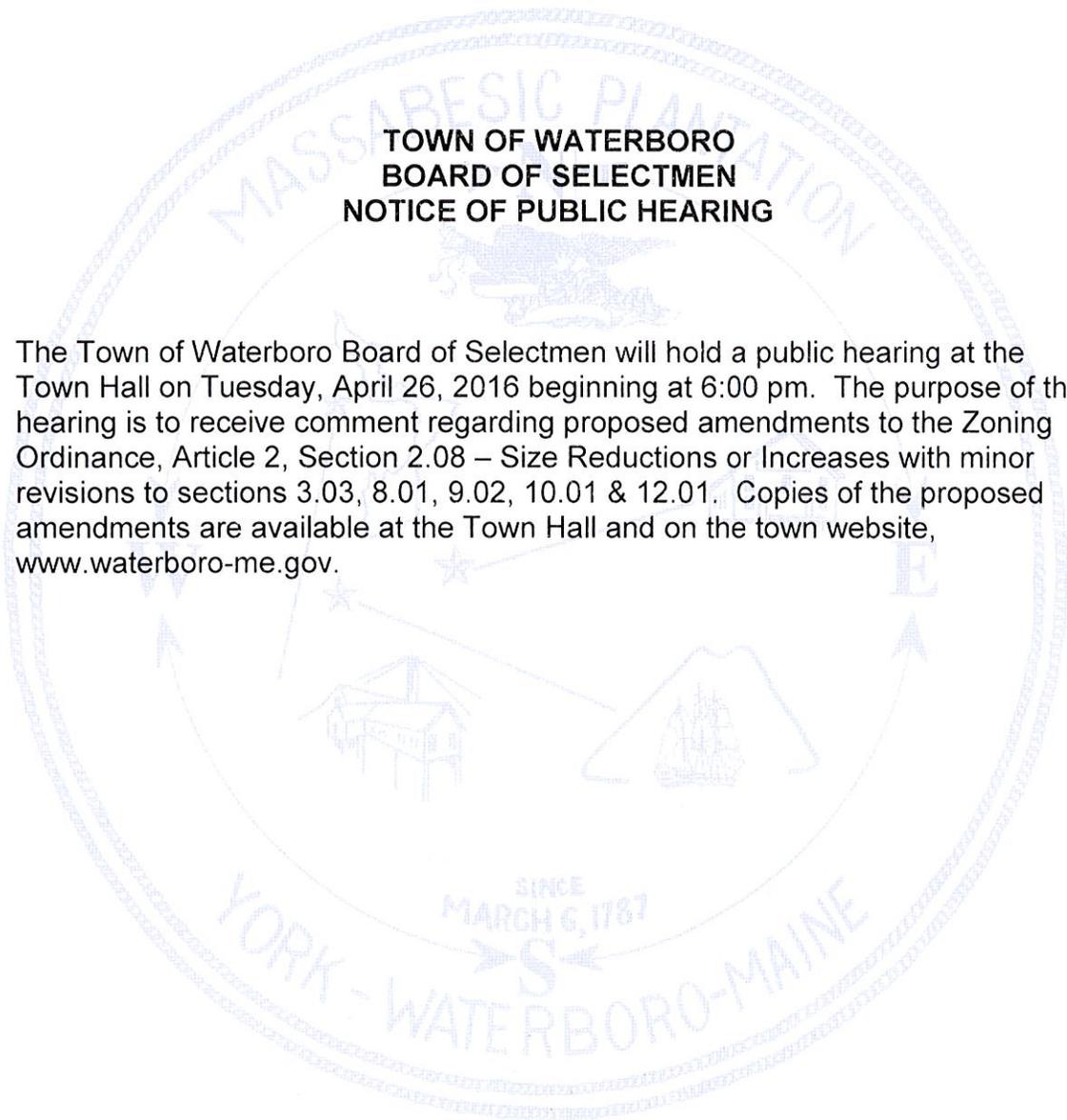


Selectmen's Office

Town of Waterboro



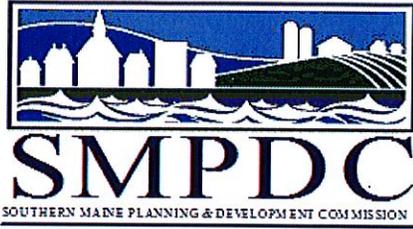
**TOWN OF WATERBORO
BOARD OF SELECTMEN
NOTICE OF PUBLIC HEARING**

The Town of Waterboro Board of Selectmen will hold a public hearing at the Town Hall on Tuesday, April 26, 2016 beginning at 6:00 pm. The purpose of the hearing is to receive comment regarding proposed amendments to the Zoning Ordinance, Article 2, Section 2.08 – Size Reductions or Increases with minor revisions to sections 3.03, 8.01, 9.02, 10.01 & 12.01. Copies of the proposed amendments are available at the Town Hall and on the town website, www.waterboro-me.gov.

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email: waterboro@waterboro-me.gov



To: Town of Waterboro, Board of Selectman
From: Lee Jay Feldman, Director of Planning
Date: 3/23/2016
Re: Section 2.08

This proposal for replacing 2.08 is a sliding setback option which I presented to you at the workshop 2 weeks ago. As you recall this wording is being taken from another community where this template has been in place for a number of years and has worked without issue. Based on comments from the work session, I have made some minor adjustments to the wording found in Section 3.03 Setbacks as found in the ordinance. This adjustment since you previously saw the ordinance proposal will allow buildings on each side of the property line go to 5 foot setback or 10 feet of separation providing the Building Code allows it.

For new construction this works great when the lot does not conform to the current zoning requirements, i.e. lots created prior to the zoning ordinance being established.

For those lots that have a building on them and they do not meet setbacks the additional wording that I would suggest will accommodate additions provided they do not go any closer to the setback than that of the current building line in violation.

This proposal also recognizes those properties where a public taking or conveyance has occurred to assist in a public purpose by not penalizing them as a setback violation.

As part of this proposal, there are several other sections of the zoning ordinance that I am proposing minor changes to in order to make sure all other areas of the zoning ordinance work in conjunction with this proposal. None of these changes as proposed will in any way change the other sections of the ordinances performance but do clean up the general process with the new section 2.08

I will be at the meeting and available for any additional questions you may have

*Proposed Amendment
Waterboro Zoning Ordinance
Article 2 General Provisions Section 2.08
with minor revisions to sections 3.03, 8.01, 9.02, 10.01 & 12.01*

Note: The symbol of “* * * *” indicates that there is missing text that will remain unchanged, which has been left out of this document for the purpose of brevity. Underlines indicate proposed language to add, and ~~strikeouts~~ indicate proposed removals of language.

Section 2.08 Size Reductions or Increases: ~~Except as provided by the express provision of this Ordinance or by the Town’s Subdivision Regulations dealing with unique design or development types (see for example Sections 2.06, 8.02, 8.03), the provisions of this ordinance dealing with lot size, setback, frontage and side yard requirements; height limitations; parking and loading areas, sign and billboard size may not be changed. They are designed to achieve the purposes of this ordinance (see Section 1.02) and reflect differing location and physical characteristics affecting the land or water areas involved (see Section 1.04). However, minor percent increase or decrease in the stated requirements, M.R.S.A Title 30-A §4353 (4), for issuing a variance are met. (AMENDED 3/11/00)~~

~~Lots created before the enactment of the Waterboro Zoning Ordinance that are substandard are required to have a Standard Boundary survey performed or present evidence to show the true boundary lines, (i.e. a plot plan prepared by a certified surveyor), before a building permit can be issued. (AMENDED 3-12-88 & 3-11-89)~~

~~In addition, any single lot of record on the date of enactment of this ordinance in any zoning district created by this ordinance may if the existing requirements of state law are met, be used to construct, renovate, or reconstruct a primary use and structure in spite of the fact that otherwise applicable dimensional requirements of this ordinance can not be met except where the realignment of lots is possible (see Section 9.01). Applications for building permits in cases where all applicable setback requirements cannot be met shall be reviewed by the Planning Board and may be appropriately conditioned to avoid harm to adjacent property owners and public, in accordance with the standards set forth in Section 4.02 of this ordinance. (AMENDED 9-25-90, 11-12-96 & 3-11-00) Departures from the usual dimensional requirements of this ordinance shall be kept to a minimum. Applications for building permits in cases where all applicable setback requirements can be met may be submitted directly to the Code Enforcement Officer and shall not require prior Planning Board review. (AMENDED 11-12-96)~~

If an existing lot of record does not comply with the minimum lot size requirements of the zone in which it is located the following shall apply to all setbacks:

1. Yard requirements.

a. Rear. There shall be behind every building a rear yard having a minimum depth of the established by the zone in which the property is located as found in section 3.03 or 25 percent of the average depth of the lot, whichever is less.

b. Side. There shall be a minimum distance of the side yard setback established by the zone in which the property is located between any building and the side property line or the side yard setback shall be five feet and increased one foot for every five feet or part thereof increase in

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street frontage over 50 feet to a maximum side yard setback as found in section 3.03 for the zone in which the property is located.

c. Front. There shall be in front of every building a front yard having a minimum depth of the setback established by the zone in which the property is located as found in section 3.03 or 25 percent of the average depth of the lot whichever is less.

2. Land Takings

Any land taken by eminent domain or conveyed for a public purpose shall not be deemed in violation of this provision. Any setback, or lot that is reduced below the minimum dimensional requirements as a result of land taken by eminent domain or conveyed for a public purpose shall not be deemed nonconforming. Setbacks for the enlargement of any existing building located on such a lot shall be referenced to the property line as it was located prior to the eminent domain action or the conveyance for a public purpose.

3. Non-Conforming Residential Structure Expansions

A legal nonconforming residential building may not be enlarged beyond the size permitted by dimensional regulations for buildings in said district except that an existing non-conforming building line parallel to the property line may be extended, but in no case shall the yard setback requirement for said addition be reduced to less than five feet.

4. Non-Conforming Non-Residential Structures

An existing lawfully non-conforming, non-residential building or structure may be extended or enlarged, provided that it satisfies the following criteria:

a. Any enlargement shall only be used to accommodate the needs of the existing use or different conforming use proposed to occupy the entire structure as outlined by the applicant.

b. An enlargement which purpose is to provide for additional floor space as a result of the addition of a new business under separate ownerships shall not be allowed;

5. Shoreland Zoning Standards

a. None of the above standards shall apply within the shoreland zone. All setbacks as determined in the Shoreland zoning ordinance Article 7 of the Zoning Ordinance.

Definition added to address the Average Depth of a Lot:

- Lot measurements means the following measurements:

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(1) The depth of a lot shall be considered to be the uninterrupted distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

(2) The width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided, however, that the width between the side lot lines at their foremost points (where they intersect the street line) shall not be less than 80 percent of the required lot width except in the case of a lot on the turning circle of a cul-de-sac, where the 80 percent requirement shall not apply.

Section 3.03 Summary of Dimensional Regulations Contained in Article 3:

***Note** In any case where structures are in existence at the time of the enactment of this ordinance, additions may be made to within ~~ten (10)~~ five (5) feet of the side or rear lot line but in no case should the buildings on one lot be closer than ~~twenty (20)~~ ten (10) feet to a building on an abutting lot unless the building code directs otherwise.

Section 8.01 Height Modifications for Special Structures: ~~As stated in Section 2.08 modifications (departures) from the p~~rovisions of this ordinance are not generally contemplated or encouraged but nonetheless permitted in circumstances which involve nonconformance (see Article 9), planned unit development (see Section 8.02), cluster development (see Section 8.03), otherwise unusable substandard lots (see Sections 2.08 and 9.05), and where the requirements for the issuance of a variance are met (see ~~Sections 2.08 and 10.04~~).

Section 9.02 Existing Uses and Structures Which Conform With This Ordinance: Uses of land or structures, which on the date of enactment of this ordinance are in compliance with the provisions of this ordinance, may not subsequently be converted to uses which are not permitted by the provisions of this ordinance subject only to the provisions in Section 2.07 dealing with uses similar in character to permitted uses. Nor may uses of land or structures, which on the date of enactment of this ordinance conform with the provisions of this ordinance, be subsequently expanded in a manner which gives rise to nonconformance unless such nonconformity is minor and meets all of the requirements for ~~the issuance of a variance (see Section 2.08 and Article 10).~~

Section 10.01 Establishment: Pursuant to the provisions of M.R.S.A Title 30-A §2691 and §4353 (1) a Zoning Board of Appeals is established for the Town of Waterboro to receive, hear, and decide appeals from interpretations of this ordinance and decisions of the officer (see Sections 2.05 and 13.02), the Planning Board and/or the Selectmen (see Sections 11.04 and 13.02), and all requests for variances ~~(see Section 2.08)~~ within the limitations established by M.R.S.A Title 30-A §4353 (4).

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Section 12.01 Permit and Review Fees:

Variance Request \$330.00 (see Section ~~2.08~~ and 10.04)

~~Review on Non-conforming lots~~ ~~\$25.00~~ (see Section ~~2.08~~)