

**TOWN OF MOUNT DESERT
PLANNING BOARD MINUTES
February 8, 2023**

Board Members Present: Chair William Hanley, Tracy Loftus Keller, David Ashmore, Meredith Randolph

Public Present: Katrina Carter, Noel Musson, Kathy Miller, John Ryerson

I. Call to order 6:00 p.m.

Chair Hanley called the meeting to order at 6:00PM.

Board Members present were noted.

Alternate Member Gloria Kunje was not in attendance.

II. Approval of Minutes

January 25, 2023

MS. LOFTUS KELLER MOVED, WITH MS. RANDOLPH SECONDING, APPROVAL OF THE JANUARY 25, 2023 MINUTES AS PRESENTED.

VOTE:

TRACY LOFTUS KELLER: AYE

MEREDITH RANDOLPH: AYE

DAVID ASHMORE: AYE

CHAIR WILLIAM HANLEY: AYE

MOTION APPROVED 4-0.

III. Public Hearing – 6:05PM

Land Use Zoning Ordinance and Land Use Map Amendments for the 2023 Annual Town Meeting on May 2, 2023.

CEO Keene confirmed adequate public notice.

Noel Musson presented the LUZO and Land Use Map Amendments proposed for the 2023 Annual Town Meeting. The Articles were discussed by the Board at an earlier meeting. Mr. Musson met with the Town’s attorney to discuss any necessary refinement or language changes.

Shall an ordinance dated May 2, 2023 and entitled “Amendments to the Land Use Zoning Ordinance to amend the deadline for establishment of use” be enacted as set forth below?

Mr. Musson asked if there were any questions. There were none.

MR. LOFTUS KELLER MOVED, WITH MS. RANDOLPH SECONDING, RECOMMENDATION FOR APPROVAL THE LAND USE ORDINANCE AMENDMENT TITLED “AMENDMENTS TO THE LAND USE ZONING ORDINANCE TO AMEND THE DEADLINE FOR ESTABLISHMENT OF USE” AS PRESENTED.

VOTE:

TRACY LOFTUS KELLER: AYE

MEREDITH RANDOLPH: AYE

DAVID ASHMORE: AYE

CHAIR WILLIAM HANLEY: AYE

MOTION APPROVED 4-0.

1 **Shall an ordinance dated May 2, 2023 and entitled "Amendments to the Land Use Zoning Ordinance to remove the air landing sites" be enacted as set forth below?**

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3 Mr. Musson noted that air landing sites are not an allowed use. This removes it from the
4 Ordinance language. The space will be reserved to avoid having to renumber the allowed uses
5 table in the ordinance. There were no questions.

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7 MS. LOFTUS KELLER MOVED, WITH MR. ASHMORE SECONDING, RECOMMENDATION FOR
8 APPROVAL THE LAND USE ORDINANCE AMENDMENT TITLED "AMENDMENTS TO THE LAND USE
9 ZONING ORDINANCE TO REMOVE THE AIR LANDING SITES" AS PRESENTED.

10 VOTE:

11 TRACY LOFTUS KELLER: AYE

12 DAVID ASHMORE: AYE

13 MEREDITH RANDOLPH: AYE

14 CHAIR WILLIAM HANLEY: AYE

15 MOTION APPROVED 4-0.

16
17 **Shall an ordinance dated May 2, 2023 and entitled "Amendments to the Land Use Zoning Ordinance Regarding Lots within the Village Commercial District in the Village of Northeast Harbor" be enacted as set forth below?**

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19 Mr. Musson explained the change will make clear that this amendment means the lots affected
20 are only within the village of Northeast Harbor, as was the original intent of the amendment.
21 CEO Keene explained a lot in this district must have a minimum lot area of 5,000sf. That lot must
22 have 1,000sf per dwelling unit on the lot. This rule was specific to Northeast Harbor and the
23 implications such a ruling has on other villages in Mount Desert were not discussed. Such
24 discussion can be had when the Comprehensive Plan is discussed. There were no questions.

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27 MR. RANDOLPH MOVED, WITH MS. LOFTUS KELLER SECONDING, RECOMMENDATION FOR
28 APPROVAL THE LAND USE ORDINANCE AMENDMENT TITLED "AMENDMENTS TO THE LAND USE
29 ZONING ORDINANCE REGARDING LOTS WITHIN THE VILLAGE COMMERCIAL DISTRICT IN THE
30 VILLAGE OF NORTHEAST HARBOR" AS PRESENTED.

31 VOTE:

32 MEREDITH RANDOLPH: AYE

33 TRACY LOFTUS KELLER: AYE

34 DAVID ASHMORE: AYE

35 CHAIR WILLIAM HANLEY: AYE

36 MOTION APPROVED 4-0.

37
38 **Shall an ordinance dated May 2, 2023 and entitled "Amendments to the Land Use Zoning Ordinance to amend the date for when a lot was created for access purposes" be enacted as set forth below?**

39 Mr. Musson noted this corrects a date in the Ordinance. There were no questions.

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43 MS. LOFTUS KELLER MOVED, WITH MS. RANDOLPH SECONDING, RECOMMENDATION FOR
44 APPROVAL THE LAND USE ORDINANCE AMENDMENT TITLED "AMENDMENTS TO THE LAND USE
45 ZONING ORDINANCE TO AMEND THE DATE FOR WHEN A LOT WAS CREATED FOR ACCESS
46 PURPOSES" AS PRESENTED.

47 VOTE

48 TRACY LOFTUS KELLER: AYE

49 MEREDITH RANDOLPH: AYE

50 DAVID ASHMORE: AYE

51 CHAIR WILLIAM HANLEY: AYE

1 MOTION APPROVED 4-0.

2
3 **Shall an ordinance dated May 2, 2023 and entitled “Amendments to the Land Use Zoning Ordinance to ...” be enacted as set forth below?**

4 Mr. Musson noted single family units and duplex family units are both counted as single
5 structures. This clarifies that dimensional requirements for a single-family unit do not need to be
6 met for each unit within a duplex. There were no questions.
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9 MS. LOFTUS KELLER MOVED, WITH MR. ASHMORE SECONDING, RECOMMENDATION FOR
10 APPROVAL THE LAND USE ORDINANCE AMENDMENT TITLED “AMENDMENTS TO THE LAND USE
11 ZONING ORDINANCE TO ...” AS PRESENTED.

12 VOTE:

13 TRACY LOFTUS KELLER: AYE

14 DAVID ASHMORE: AYE

15 MEREDITH RANDOLPH: AYE

16 CHAIR WILLIAM HANLEY: AYE

17 MOTION APPROVED 4-0.

18
19 **Shall an ordinance dated May 2, 2023 and entitled “Amendments to the Land Use Zoning Ordinance to clarify where the setback is measured from a road or right-of-way” be enacted as set forth below?**

20 There were no questions.
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23 MS. RANDOLPH MOVED, WITH MR. ASHMORE SECONDING, RECOMMENDATION FOR APPROVAL
24 THE LAND USE ORDINANCE AMENDMENT TITLED “AMENDMENTS TO THE LAND USE ZONING
25 ORDINANCE TO CLARIFY WHERE THE SETBACK IS MEASURED FROM A ROAD OR RIGHT-OF-WAY”
26 AS PRESENTED.
27

28 VOTE:

29 MEREDITH RANDOLPH: AYE

30 DAVID ASHMORE: AYE

31 TRACY LOFTUS KELLER: AYE

32 CHAIR WILLIAM HANLEY: AYE

33 MOTION APPROVED 4-0.
34

35 **Shall an ordinance dated May 2, 2023 and entitled “Amendments to the Land Use Zoning Ordinance to add Barns/Stable and Garage/Shed as permitted uses in Section 3.4” be enacted as set forth below?**

36 Mr. Musson noted that in talking with the Town’s attorney, it was agreed that barns and stables
37 should not be included in the amendment, due to the fact that it could imply such wording
38 implies animal husbandry. Animal husbandry is covered elsewhere in the Ordinance. The term
39 agreed on was a residential storage building or shed, and a definition was included. There were
40 no other questions.
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43 MR. ASHMORE MOVED, WITH MS. LOFTUS KELLER SECONDING, RECOMMENDATION FOR
44 APPROVAL THE LAND USE ORDINANCE AMENDMENT TITLED “AMENDMENTS TO THE LAND USE
45 ZONING ORDINANCE TO ADD BARN/STABLE AND GARAGE/SHED AS PERMITTED USES IN
46 SECTION 3.4” AS PRESENTED.
47

48 VOTE:

49 DAVID ASHMORE: AYE

50 TRACY LOFTUS KELLER: AYE

51 MEREDITH RANDOLPH: AYE

1 CHAIR WILLIAM HANLEY: AYE
2 MOTION APPROVED 4-0.

3
4 **Shall an ordinance dated May 2, 2023 and entitled "Amendments to the Land Use Zoning Ordinance the footprint lamination for principal and accessory structures in the shoreland zone" be enacted as set forth below?**

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7 Mr. Musson noted this was a housekeeping amendment to make the Ordinance consistent with
8 State shoreland zoning. This was brought to the Town's attention two years ago. There were no
9 questions.

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11 MS. LOFTUS KELLER MOVED, WITH MS. RANDOLPH SECONDING, TO RECOMMEND FOR
12 APPROVAL THE LAND USE ORDINANCE AMENDMENT TITLED "AMENDMENTS TO THE LAND USE
13 ZONING ORDINANCE THE FOOTPRINT LAMINATION FOR PRINCIPAL AND ACCESSORY
14 STRUCTURES IN THE SHORELAND ZONE" AS PRESENTED.

15 VOTE:

16 TRACY LOFTUS KELLER: AYE
17 MEREDITH RANDOLPH: AYE
18 DAVID ASHMORE: AYE
19 CHAIR WILLIAM HANLEY: AYE
20 MOTION APPROVED 4-0.

21
22 **Shall an ordinance dated May 2, 2023 and entitled "Amendments to the Land Use Zoning Ordinance regarding the definition of Marina and Expansion of Use" be enacted as set forth below?**

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25 Mr. Musson noted the definitions the amendment addresses. Moorings regulated by the
26 Harbormaster will be excluded with regard to expansion of use, and placement of moorings in
27 the definition of Marina are regulated by the Harbormaster. This is consistent with the Town's
28 ordinance and state statutes.

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30 MS. RANDOLPH MOVED, WITH MS. LOFTUS KELLER SECONDING, TO RECOMMEND FOR
31 APPROVAL THE LAND USE ORDINANCE AMENDMENT TITLED "AMENDMENTS TO THE LAND USE
32 ZONING ORDINANCE THE FOOTPRINT LAMINATION FOR PRINCIPAL AND ACCESSORY
33 STRUCTURES IN THE SHORELAND ZONE" AS PRESENTED.

34 VOTE:

35 MEREDITH RANDOLPH: AYE
36 TRACY LOFTUS KELLER: AYE
37 DAVID ASHMORE: AYE
38 CHAIR WILLIAM HANLEY: AYE
39 MOTION APPROVED 4-0.

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41 **Shall an ordinance dated May 2, 2023, entitled "Amendments to the Land Use Zoning Ordinance to change the Land Use District designation of Tax Map 003: Lot 026 and Map 003: Lot 027" be enacted as set forth below?**

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44 Mr. Musson explained this would move two lots from Shoreland Residential II Zoning to
45 Residential II Zoning. Both lots are outside the 250' shoreland zone. A map was presented for
46 clarification. There were no questions.

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48 MS. RANDOLPH MOVED, WITH MR. ASHMORE SECONDING, TO RECOMMEND FOR APPROVAL
49 THE LAND USE ORDINANCE AMENDMENT TITLED "AMENDMENTS TO THE LAND USE ZONING
50 ORDINANCE TO CHANGE THE LAND USE DISTRICT DESIGNATION OF TAX MAP 003: LOT 026 AND
51 MAP 003: LOT 027" AS PRESENTED.

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VOTE:

MEREDITH RANDOLPH: AYE

DAVE ASHMORE: AYE

TRACY LOFTUS KELLER: AYE

CHAIR WILLIAM HANLEY: AYE

MOTION APPROVED 4-0.

Mr. Musson reported the Selectboard requested the Land Use Ordinance Committee look into potential language for short term rentals. The Committee is working on creating a balanced licensing ordinance. Several meetings have occurred. There is a public hearing on this draft on February 21. The draft Ordinance is on the Town Website.

The Town recognizes rentals can affect the cost and availability of homes in the community. The Land Use Committee is trying to create a process by which they can more accurately grasp the number of short-term rentals in Town. Once that's determined the Town can make decisions on the impact of the situation. A position on short-term rentals is not being taken at this time.

Ms. Randolph asked if there was any separation of houses that are rented out for a short period of time per year, like two weeks. Mr. Musson did not believe two weeks would qualify as a short-term rental. Ms. Randolph believed how much time a residence is rented out should be an indicator for determining a short-term rental. Mr. Musson noted the Ordinance now uses consecutive nights of rental as an indicator. The draft ordinance has a provision that if the residence is an owner-occupied rental, meaning a residence offering a room for rent, it does not need to be registered as a short-term rental. There are basic safety requirements like smoke detectors and fire extinguishers included in the ordinance.

Mr. Ashmore noted the IRS does not require income from rental of two weeks or less to be reported.

Mr. Musson read the definition of short-term rental:

Any person who rents, licenses, occupies or has the right to occupy a dwelling unit for less than 3028 consecutive ~~days~~nights.

Mr. Musson read the definition of a short-term rental:

The use, control, management or operation of a legally existing dwelling unit offered, in whole or in part, for rent for transient occupancy for dwelling, sleeping or lodging purposes for fewer than 3028 consecutive ~~days~~nights.

Ms. Randolph believed a number of residents rent for a short time during the summer months and live in them the rest of the summer or year. She suggested upping the number to 32 nights. Resident Katrina Carter noted the definition came from the State of Maine website.

CEO Keene noted the ordinance states short term rental does not include units rented no more than twice per calendar year, and for less than a total of 14 days in a calendar year.

A rental unit renting for a week, give or take, will have to register, unless they rent less than twice per calendar year.

Chair Hanley felt it was more of a mapping exercise than regulatory. Mr. Musson agreed. There is a problem in town with affordability and availability. This will begin mapping the rentals to determine if rentals are a problem. A licensing ordinance will allow the town to determine the

1 type of regulation needed.

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3 Mr. Musson is meeting with the Town attorney to discuss the ordinance.

4

5 Mr. Ashmore suggested the clause regarding violations and penalties be softened or perhaps
6 removed altogether. Violations and penalties are covered under suspension and revocation, and
7 the wording in this section seems severe. Mr. Ashmore believed it should be administered by the
8 Selectboard.

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10 Mr. Ashmore asked if additional regulations were being considered, as noted in IX in the
11 ordinance. Mr. Musson believed the section would be removed, but he would consult with the
12 Town attorney first.

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14 There were no other comments.

15

16 **IV. Other**

17 There was no other business.

18

19 **V. Adjournment**

20 MS. RANDOLPH MOVED, WITH MR. ASHMORE SECONDDING, TO ADJOURN.

21 VOTE:

22 MEREDITH RANDOLPH: AYE

23 DAVID ASHMORE: AYE

24 TRACY LOFTUS KELLER: AYE

25 CHAIR WILLIAM HANLEY: AYE

26 MOTION APPROVED 4-0.

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28 The Meeting adjourned at 6:37PM.

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