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2<sup>nd</sup> Public Hearing for PL 2021, Ch.672 (LD 2003)

April 3, 2024, 7 p.m.

Location: Brownfield Community Center

Attendees:

Sonia Frye-Chair	X	Joe Egan	X
Kurt Wood Vice Chair	X	Judi Tordo*	X
Doug Heroux	X	Eric Walker *	X
Kristin Tremblay	X		

\*Alternates

Others present:

Mike Vane (Code Enforcement Officer), Richard Perreault (Fire Chief), Whit Lucy, Barbara Moulton, Willie Tracy (Recreational Director), and Pam Thomas (Secretary).

The meeting was called to order at 7:10 by the Chairperson, Sonia Frye. A quorum was present, and business could be conducted.

Sonia explained to all present that the Town has until July 1, 2024 to be compliant with PL 2021, Ch. 672, previously known as LD 2003.

The proposed revisions to The Brownfield Land Use Ordinance were read to all present:

Article XX. Shall an ordinance entitled "2024 Amendments to the Brownfield Land Use Ordinance Regarding Dimensional Requirements" be enacted?

(The proposed ordinance is available for review and inspection at the Town Clerk's Office and will be available at the Town Meeting.)

## 2024 AMENDMENTS TO THE BROWNFIELD LAND USE ORDINANCE REGARDING DIMENSIONAL REQUIREMENTS

The Land Use Ordinance of the Town of Brownfield shall be amended as follows (additions are underlined and deletions are ~~struck out~~):

1. Amend Article III, Dimensional Standard, as set forth below:

- 3.1** The minimum lot size shall be two acres. Minimum lot road frontage shall be 150 feet, with an additional 50 feet of frontage required for any additional use proposed.

The minimum setback from the centerline of any public or private road shall be 55 feet except for four-rod roads, for which the setback shall be 75 feet ~~shall have a 75 foot setback from the center of the road.~~ Property rear and sideline minimum setbacks shall be 25 feet. ~~Lots with duplexes or multi-family structures on them shall have an additional 50 feet of road frontage for each dwelling unit over one. Lots with two or more dwelling/units shall comply with current building and or building codes.~~ Set back requirements pertain to all structures, both principal and accessory; however structures already in place by June 4, 1988 may be added to only if dimensional standards are not further violated.

For non-conforming lots of record smaller than two acres, the minimum setbacks from rear and side property lines shall be 25 feet or 10% of the lot width, whichever is less.

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- 3.3** All single dwelling units shall be located on a minimum of two acres with at least one acre required for a second each additional dwelling unit. ~~Three or more dwelling units on a single tract or parcel, which are defined as a subdivision under M.R.S.A. Title 30-A, Subsection 4401, shall be located on a minimum of two acres per dwelling unit and must comply with the Brownfield Subdivision Regulations.~~

Article XX. Shall an ordinance entitled "2024 Amendments to the Brownfield Land Use Ordinance Regarding Accessory Dwelling Units" be enacted?

(The proposed ordinance is available for review and inspection at the Town Clerk's Office and will be available at the Town Meeting.)



**2024 AMENDMENTS TO THE BROWNFIELD LAND USE ORDINANCE REGARDING ACCESSORY DWELLING UNITS**

The Land Use Ordinance of the Town of Brownfield shall be amended as follows (additions are underlined and deletions are ~~struck-out~~):

1. Amend Article VII, Definitions, as set forth below:

**Accessory Dwelling Unit:** A dwelling unit that is incidental and subordinate to the principal dwelling unit located on the same property and that is either located within the detached principal single-family dwelling unit or within a separate, detached structure on the same parcel as the principal single-family dwelling unit.

2. Amend Article III, Dimensional Standard, as set forth below:

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**3.5** Off street parking shall be provided for all dwelling units at a rate of one and one half spaces per dwelling unit; provided, however, that no additional off street parking need be provided for any accessory dwelling unit permitted under this Ordinance.

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**3.10** Accessory Dwelling Units are permitted on any lot where a single-family dwelling is the principal structure, subject to the following standards:

a. Accessory Dwelling Units may be located within an existing dwelling unit on the lot, attached to or sharing a wall with such an existing dwelling unit, or may be located in a new structure on the same lot.

b. Accessory Dwelling Units must be at least 190 square feet in total area and may not exceed: (i) 1,500 square feet in total area, or (ii) 40% of the area of the existing primary dwelling unit, whichever is less.

- c. Accessory dwelling units are subject to the same setback requirements as the principal structure.
- d. An accessory dwelling unit must comply with all shoreland zoning requirements imposed by the Town of Brownfield and by the Maine Department of Environmental Protection.
- e. Prior to issuance of a building permit, the property owner must submit written verification that the Accessory Dwelling Unit is connected to adequate water and wastewater facilities. Proof of adequacy must be consistent with the requirements of 30-A M.R.S. § 4364-B (7), as may be amended.
- f. This section may not be construed to interfere with, abrogate, or annul the validity or enforceability of any valid or enforceable easement, covenant, deed restriction, or other agreement or instrument between private parties that imposes greater restrictions on Accessory Dwelling Units than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

Previous 3.3 f "An Accessory Dwelling Unit may not be leased or rented to a tenant for periods of less than sixty (60) days" **has been deleted** from the proposed revisions, the Chair stated that this requirement is not enforceable.

3.1 **State revised** 3.1 to read as follows: The minimum lot size shall be two acres. Minimum lot road frontage shall be 150 feet, with an additional 50 feet of frontage required for any additional use proposed.

**Previous language: 3.1** The minimum lot road frontage shall be 150 feet, with an additional 50 feet of frontage required for any additional dwelling unit or use proposed.;

Joe stated that the State sent out the notice for the change. Joe stated that you cannot do that (additional 50 feet for a dwelling unit), but a house or a business WOULD need an additional 50 feet.

Joe stated that the following was struck out because of what the State changed: "Lots with duplexes or multi family structures on them shall have an additional 50 feet of road frontage for each dwelling unit over one. Lots with two or more dwelling/units shall comply with current building or building codes," adding that lot road frontage is from our current Land Use Ordinance.

The Chair read an email from the Planning Boards Attorney; Ben McCall sent on April 1, 2024.

Hi Pam –

Good to talk to you just now. Regarding Wednesday's public hearing, the Planning Board has three options:

1. Go ahead with the public hearing as scheduled, in spite of the snow.
2. Convene the meeting with at least a quorum of the Planning Board present and then immediately vote to continue the public hearing to a date certain.
3. Preemptively cancel the public hearing and then re-notice for a new date, with notice once again being published in the newspaper as required by statute.

In advance of that public hearing, I have made one slight adjustment to the draft. The second sentence of Section 3.1 has been amended to delete mention of road frontage. Since we finalized the last draft, the State has clarified that municipalities may not require additional road frontage for additional dwelling units. This updated draft should be made available at the public hearing, but this late change does not invalidate the hearing if it were to still be held on Wednesday.

If the public hearing needs to be re-noticed, I understand that the Select Board is hoping to finalize the warrant on April 20, so it be included in the annual report. Please note that there is no legal requirement that the annual town meeting warrant be included in the annual report, or be finalized prior to its printing. Instead, the warrant only needs to be posted at least 7 days prior to the annual town meeting. To the extent that the Select Board still wants to include a model warrant in the annual report, I would encourage

them to include the draft language included at the top of the attachment, but not include the text of the proposed amendments themselves.

Finally, to the extent the Town does not enact these amendments prior to July 1, the Town will still be required to follow all of its requirements, and any provisions of the Town's ordinances that are inconsistent with LD 2003 will be preempted and invalid. While LD 2003 does not set any fine or other penalty for non-compliance, it is not recommended that the Town do nothing. Failing to adopt these amendments would put property owners at a disadvantage, as they would not be able to read the Land Use Ordinance and completely understand what is and is not allowed by State law. The same would be true for the Town's CEO, who would likely need additional legal support to determine which provisions of the Town's Land Use Ordinance remain enforceable.

Please let me know if you have any questions about any of this.

Thanks,  
Ben

There was no public comment from those present.

Kurt made a motion that was seconded by Joe to pass the proposed warrant articles to the Selectmen, the vote was called and carried 5-0-0.

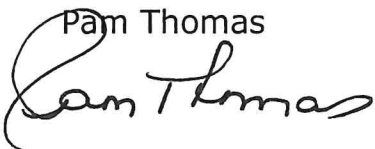
Joe made a motion to close the Public Hearing, Kurt second the motion, the vote was called and carried 5-0-0.

The hearing adjourned at 7:30.

Submitted by,

Chair,

Pam Thomas



Sonia Frye

