

## MEMORANDUM

**TO:** Board of Selectmen, Planning Board, Comprehensive Plan Committee

**FROM:** Erin Cooperrider, Planning Board Chairman

**DATE:** June 12, 2006

At the June 5, 2006 joint meeting of the Planning Board and Board of Selectmen, a member of the public asked how the language of Article V, Section 4.8 of the Town of Edgecomb Land Use Ordinance came to be in the document. The Planning Board was unable to answer the question at the time. It was a fair question, but the answer is not simple, and it would have been difficult for anyone to provide an accurate answer without first reviewing the record. I have found a review of the record very helpful, and have recounted it below for you. References have been included so that you may more easily review the record yourself.

When the Planning Board was unable to answer the question at the meeting, several members of the public offered their own version of events. Following this, members of the public alleged that 1) the language that appears in the Town of Edgecomb Land Use Ordinance is not what was voted upon by the townspeople, 2) the language that appears in the Town of Edgecomb Land Use Ordinance was not lawfully enacted, and 3) the provision for increased density with public water and sewer was limited to the three zoning districts along Route 1, and later expanded to include other areas of town without adequate explanation by the Planning Board.

These are very serious allegations, particularly given that some of them were made by former members of the Planning Board and the Board of Selectmen, and at least one was made by an attorney hired by 13 families living on Davis Island. I do not believe the record supports any one of these allegations.

***The language in question was proposed and approved at the May 2002 Annual Town Meeting as a part of a stand alone ordinance, the Building Code, which applied to all of the Town of Edgecomb. From that date to this date, increased density with public water and sewer has been a possibility anywhere in the Town of Edgecomb.***

Although three zones along Route 1 in Edgecomb were also proposed and approved at the May 2002 meeting, the Annual Report included a Summary of Findings for Sewer and Water Feasibility Study on pages 68 - 75, which concluded that the cost to bring sewer and water to Edgecomb would be \$2.5 million, and says, "It is our recommendation that the Town of Edgecomb does not act on its desire to obtain sewer and water service at this time..." This suggests that dialog about where in Edgecomb water and sewer might go did not occur at the same time the language of Article V, Section 4.8 was enacted.

At the annual town meetings in 2003 and 2004, the voters approved additional zoning, which by 2004 covered all of Edgecomb. Increased density with public water and sewer was a possibility anywhere in town both before and after the zoning was approved by the voters. The zoning had no impact on this provision of the Building Code.

The Building Code was incorporated, along with nine other existing land use ordinances, into one Town of Edgecomb Land Use Ordinance on May 21, 2005. After this compilation, the language in question continued to apply to all of the Town of Edgecomb.

The following tracks the language of Article V, Section 4.8 as it was amended and approved.

## **May 2002 Meeting**

**Planning Board Members: Robert Crink (Chair), Amanda Russell (Vice Chair), Ted Smith, Erin Cooperrider, Lisa McSwain, Duncan Slade, and Brian Bolduc.**

At the time of the May 18, 2002 Town Meeting, the Building Code Ordinance was a stand alone ordinance that applies to all of the town of Edgecomb, and the language in question read as follows:

### **“I. Lot Size for Multiple Residential Units**

If more than one residential dwelling unit is constructed or located on a single lot, the minimum lot size must contain one acre per residential dwelling unit. Residential buildings must be separate by a minimum of thirty (30) feet.” [sic]

At the May 18, 2002 Town Meeting, among many other warrant articles, the townspeople considered this:

**ART. 34. Shall the Town vote to revise the Building Code Ordinance. A copy of the ordinance is posted together with this warrant and hereby incorporated into this warrant by reference.** [Annual Report, Town of Edgecomb, Maine 2001, p. 116]

Building Code Ordinance Proposed Revisions are printed in the 2001 Annual Report, on pages 94 -99. The following text appears on pages 97 and 98:

“Page 4, under the heading SECTION 5. CRITERIA & STANDARDS, I. LOT SIZE FOR MULTIPLE RESIDENTIAL UNITS, insert

~~If more than one residential dwelling unit is constructed or located on a single lot, the minimum lot size must contain one acre per residential dwelling unit. For any residential unit above one, the lot must contain one additional acre per unit in addition to the minimum lot size required for that particular district. For any residential unit above one on a lot having Town of Edgecomb sewer and water, the lot must contain one-fourth acre per unit in addition to the minimum lot size required for that particular district. Residential buildings structures must be separated by a minimum of thirty (30) feet.”~~

*According to the 2002 Annual Report, page 68, the article was approved.*

Also in the 2001 Annual Report, the townspeople voted to approve the creation of three zoning districts along Route 1. Language about density with Town of Edgecomb sewer and water also appears in those warrant articles. At this time, these are the only “zones” in Edgecomb, aside from Shoreland Districts (stream protection, resource protection, general development, limited residential).

## May 2003 Meeting

**Planning Board Members: Robert Crink (Chair), Amanda Russell (Vice Chair), Stuart Smith, Erin Cooperrider, Lisa McSwain, Duncan Slade, and Brian Bolduc.**

At the time of the May 17, 2003 meeting the Building Code Ordinance is a stand alone ordinance that applies to all of the town of Edgecomb, and the language in question reads as follows:

### I. LOT SIZE FOR MULTIPLE RESIDENTIAL UNITS

For any residential unit above one, the lot must contain one additional acre per unit in addition to the minimum lot size required for that particular district. For any residential unit above one on a lot having Town of Edgecomb sewer and water, the lot must contain one-fourth acre per unit in addition to the minimum lot size required for that particular district. Residential structures must be separated by a minimum of thirty (30) feet.

At the May 17, 2003 Town Meeting, Article 36 proposed amendments to the Comprehensive Plan, and Building Code, Land Use and Site Plan Review Ordinances, but ***no changes were proposed to the language in question.*** Article 37 proposed amendments to definitions in six ordinances, including the Building Code. Article 38 proposed addition of a provision for back lots in the Building Code. Article 39 proposed adjustment of the fee schedule in the Building Code.

*According to the 2003 Annual Report, pages 94 through 102, all the articles affecting the Building Code were approved.*

## May 2004 Meeting

**Planning Board Members: Robert Crink (Chair), Amanda Russell (Vice Chair), Stuart Smith, Erin Cooperrider, Lisa McSwain, and Charles Olney.**

At the time of the May 22, 2004 meeting the Building Code Ordinance is a stand alone ordinance that applies to all of the town of Edgecomb, and no changes to the language of I. LOT SIZE FOR MULTIPLE RESIDENTIAL UNITS have been made since May 18, 2002.

At the May 22, 2004 Town Meeting, among other warrant articles, the townspeople considered this:

**ART. 41. Shall the following amendments to sections 4 and 5 of the Building Code Ordinance be enacted as follows:**

(additions are underlined, deletions are indicated by ~~strikethroughs~~)

### "I. LOT SIZE FOR MULTIPLE RESIDENTIAL UNITS

For any residential unit above one, with the exception of an accessory apartment, the lot must contain one additional acre per unit in addition to the minimum lot size required for that particular district. For any residential unit above one on a lot having Town of Edgecomb sewer and water, the lot must contain one-fourth acre per unit in addition to the minimum lot size required for that particular district. Residential structures must be separated by a minimum of thirty (30) feet." [Annual Report, Town of Edgecomb, Maine 2003, p. 157]

*According to the 2004 Annual Report, page 81, the article was approved.*

## May 2005 Meeting

**Planning Board Members: Erin Cooperrider (Chair), Lisa McSwain (Vice Chair), Amanda Russell, Stuart Smith, Bruce Cameron, Brian Bolduc, and David Boucher.**

At the May 21, 2005 Town Meeting, among other warrant articles, the townspeople considered this:

**ART. 32. To see if the Town will vote to enact an ordinance entitled “Town of Edgecomb Land Use Ordinance.”** Note: This combined 10 stand alone land use ordinances into one document in accordance with Goal A, Stage 3, of the Comprehensive Plan of the Town of Edgecomb, pages 71 and 72.

*According to the 2005 Annual Report, page 88, the article was approved.*

## May 2006 Meeting

**Planning Board Members: Stuart Smith (Chair), Erin Cooperrider (Vice Chair), Lisa McSwain, Amanda Russell, Bruce Cameron, David Boucher, and Katharine Braid.**

At the time of the May 20, 2006 Town Meeting, the Building Code has become Article V of the Town of Edgecomb Land Use Ordinance, which still applied to all of the town of Edgecomb, and the language in question has become Section 4.8 and it read as follows:

**“4.8. Lot Size For Multiple Residential Units**

For any residential unit above one, with the exception of an accessory apartment, the lot must contain one additional acre per unit in addition to the minimum lot size required for that particular district. For any residential unit above one on a lot having Town of Edgecomb sewer and water, the lot must contain one-fourth acre per unit in addition to the minimum lot size required for that particular district. Residential structures must be separated by a minimum of thirty (30) feet.” [Town of Edgecomb Land Use Ordinance, p. 185 ]

At the May 20, 2006 Town Meeting, among other warrant articles, the townspeople considered this:

**ART. 40. Shall the following amendment to Article V, Sections 4.1, 4.7, 4.8, 4.11, and 4.13 of the Town of Edgecomb Land Use Ordinance be enacted as follows:**

(Strike-through indicates deletion, underscore indicates addition.)

**“4.8. Lot Size For Multiple Residential Units**

For any residential unit above one, with the exception of an accessory apartment, the lot must contain one additional acre per unit in addition to the minimum lot size required for that particular district. For any residential unit above one on a lot having Town of Edgecomb sewer and water, the lot must contain one-fourth acre per unit in addition to the minimum lot size required for that particular district except in Shoreland as provided for in Article III, Section 1.9.1.5. Residential structures must be separated by a minimum of thirty (30) feet.” [Annual Report, Town of Edgecomb, Maine 2005, p. 99]

*The article was approved. This is the language that appears in the Town of Edgecomb Land Use Ordinance as updated following the May 20, 2006 meeting.*