

**AGENDA**  
**SCARBOROUGH TOWN COUNCIL**  
**WEDNESDAY – MARCH 2, 2016**  
**WORKSHOP ON THE LONG RANGE FACILITY PLAN – 6:00 P.M.**  
**REGULAR MEETING – 7:00 P.M.**

***NO NEW BUSINESS SHALL BE TAKEN UP AFTER 10:00 P.M.***

- Item 1.** Call to Order.
- Item 2.** Pledge of Allegiance.
- Item 3.** Roll Call.
- Item 4.** General Public Comments.\*
- Item 5.** Minutes: February 17, 2016 – Regular Meeting.
- Item 6.** Adjustment to the Agenda.
- Item 7.** Items to be signed: a. Treasurer's Warrants.

**\*Procedure for Addressing Council** [Posted in Chambers.]

**Order No. 16-011, 7:00 p.m. Public Hearing** and second reading on the proposed amendment to Chapter 405 – the Zoning Ordinance of the Town of Scarborough, Maine – Section III. Nonconformance Subsection C. to allow non-conforming structures to be elevated to meet Floodplain requirements.

**Order No. 16-015, 7:00 p.m. Public Hearing** and action on the request for a new Food Handlers License from John Navarro, d/b/a Bad Dog Deli, located at 680 U.S. Route One.

**Order No. 16-016, 7:00 p.m. Public Hearing** and action on the request for a new Massage Establishment/ Massage Therapist license from Stacy Layburn Chenard, located at 20 Mussey Road.

**OLD BUSINESS:** None at this time.

**NEW BUSINESS:** None at this time.

- Item 8.** Non Action Items.
- Item 9.** Standing and Special Committee Reports and Liaison Reports.
- Item 10.** Town Manager Report.
- Item 11.** Council Member Comments.
- Item 12.** Adjournment.

**AGENDA**  
**SCARBOROUGH TOWN COUNCIL**  
**WEDNESDAY – MARCH 2, 2016**  
**REGULAR MEETING – 7:00 P.M**

**Order No. 16-011.** Move approval of the second reading on the proposed amendment to Chapter 405 – the Zoning Ordinance of the Town of Scarborough, Maine – Section III. Nonconformance Subsection C. to allow non-conforming structures to be elevated to meet Floodplain requirements.



To: Town Councilors and Tom Hall, Town Manager  
From: Brian Longstaff, Zoning Administrator and Dan Bacon, Planning Director  
CC: Long Range Planning Committee  
Date: January 28, 2016

**Proposed Zoning Amendment to  
Enable Non-conforming Structures to Meet Flood Zone Requirements**

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Currently a conflict exists between our Zoning Ordinance and our Floodplain Management Ordinance in situations where a building may exhibit a zoning non-conformity (such as not meeting a setback requirement) and is also located in a flood zone, where buildings are expected to be elevated to protect loss of life and property. In such circumstance, (which are fairly common in our beach and coastal areas) non-conforming buildings are not allowed to be “expanded, enlarged, or increased in height” unless they receive a variance from the Board of Appeals, while the Floodplain Management Ordinance requires these structures to be elevated to at least 1 ft. above the base flood elevation if the building is being invested in and improved by 50% of the value of the structure or greater.

Under the current regulatory situation our zoning ordinance does not permit by-right, and makes difficult by dictating a hardship variance, what our Floodplain Ordinance requires property owners to do to make their buildings more resilient to flooding and storm damage.

The proposed amendment is intended to address and eliminate this conflict between the two ordinances by expressly allowing non-conforming buildings and structures to be elevated and increased in height for the purposes of meeting the minimum elevation requirements of the Floodplain Management Ordinance as well as the Maine Department of Environmental Protection Sand Dune requirements, which also often require elevating structures in these same coastal areas.

The need for this change has been known for some time, and with the recent Higgins Beach zoning updates bringing this matter further to light, it makes sense to eliminate this conflict and enable and promote the elevating of buildings vulnerable to flooding.

## Proposed Amendment to the Zoning Ordinance Regarding Modifying Nonconforming Structures to Meet Flood Zone Requirements

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following amendment to the Zoning Ordinance of the Town of Scarborough, Maine, be and hereby are adopted:

Amend SECTION III. NONCONFORMANCE subsection C. as follows (additions are underlined; deletions are struck through):

### Section III. NONCONFORMANCE

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#### C. NON-CONFORMING BUILDINGS OR STRUCTURES

1. No building or structure which is non-conforming with respect to the Space and Bulk requirements of this Ordinance may be expanded, enlarged or increased in height unless such expanded or enlarged portion complies with the Space and Bulk requirements of this ordinance or the Board of Appeals grants relief from such requirements by [a](#) variance under Section V, B, 3 or [Section V.B.6](#), or by limited reduction of yard size under Section V, B, 5 of this Ordinance, except that:

a) [The](#) installation of one or more dormers on a dwelling shall not be considered an expansion, enlargement or increase in height provided that (1) dormer or dormers are set in a minimum of 12 inches from each end of the roof and from the exterior face of the story immediately below the roof, (2) the aggregate length of all dormers, measured along their faces, does not exceed the total length of the ridge of the roof less 24 inches, and (3) the height of the ridge is not increased.

b) [The elevation of an existing structure required for the purpose of meeting the minimum elevation standards in the Scarborough Floodplain Management Ordinance or Maine Department of Environmental Protection Chapter 355 – Coastal Sand Dune Rules, shall not be considered an expansion, enlargement or increase in height.](#)

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**PORTION OF PLANNING BOARD MINUTES FROM  
THE FEBRUARY 22<sup>ND</sup> MEETING**

4. The Planning Board will conduct a public hearing to receive input regarding proposed amendments to Chapter 405, the Scarborough Zoning Ordinance, to allow nonconforming structures to be elevated to meet Floodplain requirements\*

Mr. Chace explained that currently there exist a conflict between our Zoning Ordinance and our Floodplain Management Ordinance. Currently under the Zoning Ordinance, non-conforming buildings are not allowed to be “expanded, enlarged, or increased in height” unless they receive a variance from the Board of Appeals, while in the Floodplain Management Ordinance requires these structures to be elevated to at least 1 ft. above the base flood elevation if the building is being invested in and improved by 50% of the value of the structure or greater. Mr. Chace explained the proposed amendment would eliminate the conflict between the two ordinances.

Mr. Fellows opened public comment. There was no public comment.

Board members had nothing to add and were pleased to see the discrepancy being cleared up.

Mr. Fellows stated the Board showed favorable support and a positive recommendation would be made to the Council.

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**Order No. 16-015.** Move approval on the request for a new Food Handlers License from John Navarro, d/b/a Bad Dog Deli, located at 680 U.S. Route One.

*Town of Scarborough, Maine*

Town Clerk's Office

259 US ROUTE ONE

PO BOX 360

SCARBOROUGH, MAINE • 04070-0360

**TO:** Town Council Members

**FROM:** Yolande P. Justice, Town Clerk

**DATE:** February 26, 2016

**RE: Request for a Food Handlers License**

The following applicant is seeking approval on a new request for a Food Handlers License:

- John Navarro, d/b/a Bad Dog Deli, located at 680 U.S. Route One.

The completed application is on file with Clerk's Office and there are no outstanding issues and it is recommended that this license be approved.

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**WEDNESDAY – MARCH 2, 2016**  
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**Order No. 16-016.** Move approval on the request for a new Massage Establishment/  
Massage Therapist license from Stacy Layburn Chenard, located at 20 Mussey Road.



*Town of Scarborough, Maine*

Town Clerk's Office

259 US ROUTE ONE

PO BOX 360

SCARBOROUGH, MAINE • 04070-0360

**TO:** Town Council Members

**FROM:** Yolande P. Justice, Town Clerk

**DATE:** February 26, 2016

**RE:** New Request for a Combination Massage Establishment/Massage Therapy License

The following applicant is requesting approval on a Combined Massage Establishment/Massage Therapist License:

- Stacy Layburn Chenard, located at 20 Mussey Road.

Applicant is in compliance with the requirements of the Town Clerk's Office and there are no outstanding issues. The completed application is on file with Clerk's Office.

It is recommended that this license be granted.