

MEETING #29-78  
DECEMBER 19, 1978  
Time: 7:30 P.M.  
Place: Council Room

M I N U T E S

TOWN OF FREEPORT

MEETING OF THE FREEPORT TOWN COUNCIL

☒ Regular  
☐ Special

Chairman's Call to Order

Present Excused Absent

Edward Bonney, Chairman, Nathan Nye Street  
Vaughndella Curtis, Vice Chairman, Pine St  
Eric Saunders, Lower Mast Landing  
Elizabeth Ruff, Durham Road  
John Swan, 48 Bow Street  
George True, Flying Point Road  
William Pushard, Lunt Road

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Moved and Seconded - That the reading of the Minutes of Meeting  
#28-78 held December 5, 1978 be waived and accept them as printed.

MEETING #29-78

Moved and Seconded - That the Council adjourn and the Licensing Board convene. (Councilors Ruff & Curtis) (7 Yes) (0 No)

Roll Call of Members

Present Excused Absent

Edward Bonney, Chairman, Nathan Nye Street	X	-	-
Vaughndella Curtis, Vice Chairman, Pine St	X	-	-
Eric Saunders, Lower Mast Landing	X	-	-
Elizabeth Ruff, Durham Road	X	-	-
John Swan, 48 Bow Street	X	-	-
George True, Flying Point Road	X	-	-
William Pushard, Lunt Road	X	-	-
Bruce E. Benway, Treasurer, Harraseeket Park	X	-	-
Phyllis A. Roy, Town Clerk, Park Street	-	X	X

Moved and Seconded - That the following Application for a Victualer's License be subject to Public Hearing:

Dennis E. Daniel, d/b/a Mario's of  
Freeport, 7 Main Street.  
(Members Swan & True) (8 Yes)  
(0 No)

Moved and Seconded - That the Public Hearing be closed. (Members Ruff & Swan) (7 Yes) (0 No)

ITEM #156-78

Be It Ordered - That approval be  
granted on an Application for a  
Victualer's License to Dennis E.  
Daniel, d/b/a Mario's of Freeport,  
7 Main Street.  
(Members Saunders & Ruff)  
(8 Yes) (0 No)

Moved and Seconded - That the Council reconvene. (Members Curtis & Swan) (8 Yes) (0 No)

Moved and Seconded - That the Proposed General Assistance Work Requirement Ordinance be subject to Public Hearing. (Councilors Pushard & Curtis) (7 Yes) (0 No)

Moved and Seconded - That the Public Hearing be closed. (Councilors Curtis & True) (7 Yes) (0 No)

Moved and Seconded - That ITEM #157-78 be tabled until January 2, 1979. (Councilors Curtis & Ruff) (7 Yes) (0 No)

MEETING #29-78

Council Chairman states that Council will pass over ITEM #158-78 as it is deleted from the Agenda.

ITEM #159-78

Be It Ordered - That a Proposed Amendment to the Zoning Ordinance to rezone property on the Desert Road from Rural Residential I to Industrial II be herein introduced and submitted to Public Hearing on January 2, 1979 at 7:30 P.M. in the Council Room of the Municipal Building.

Be It Further Ordered - That 30 copies of the Proposed Ordinance be printed and distributed to abutting property owners and placed in the B.H. Bartol Library, and the Municipal Building for pick-up by citizens.  
(Councilors Saunders & Swan) (7 Yes)  
(0 No)

Moved and Seconded - That the first Paragraph of ITEM #151-78 be amended to read:

Ordered: That a portion of a Town way known as the Old Prout Road, so called, lying from the Freeport-Brunswick municipal boundary to a point 1,950 feet Southerly from said boundary, as included in the description in Volume 4, Page 18 of the records of Cumberland County (November Term 1810, Circuit Court of Common Pleas) be, and hereby is, discontinued and that damages shall be paid to abutting property owners as follows:

<u>Name</u>	<u>Map/Lot</u>	<u>Amount of Damages</u>
Gordon Fraser	17/24	\$ 0
Gordon Fraser	17/25	0

(Councilors Saunders & Pushard)  
(3 Yes) (4 No)

Moved and Seconded - That the second reading be waived. (Councilors Swan & Pushard) (7 Yes) (0 No)

ITEM #151-78

Be It Ordered - That the following Order of Discontinuance is hereby approved:

Ordered: That a Town way known as the Old Prout Road, so called, in the Town of Freeport, Maine, lying between the Old Brunswick Road (Baker Road) and the Freeport-Brunswick municipal boundary, as described in Volume 4, Page 18 of the records of Cumberland County (November Term 1810, Circuit Court of Common Pleas) be, and hereby is, discontinued and that damages shall be paid to abutting property owners as follows:

Name	Map/Lot	Amount of Damages
Ernest Marstaller	17/21	\$ 0
Ernest F & Louis J Marstaller	17/22	0
Ernest F & Louis J Marstaller	17/23	0
Mark Theriault	17/23A	0
Gordon Fraser	17/24	0
Gordon Fraser	17/25	0
David Giles & William Lamb	17/37	0
James & Mary Vakalis	18/12	0

Be It Further Ordered - That the foregoing Order of Discontinuance shall be promptly filed with the Town Clerk of the Town of Freeport, Maine, and that a certified copy of said Order, attested by the Town Clerk, shall be recorded in the Cumberland County Registry of Deeds. (Councilors Ruff & Saunders) (0 Yes) (7 No)

ITEM #153-78

The Town of Freeport Hereby Ordains - That the Proposed Appropriation Ordinance for a Structural Facility for the Police Department introduced on November 21, 1978 and submitted to Public Hearing on December 5, 1978 be adopted. (Councilors True & Ruff) (0 Yes)

Moved and Seconded - That the rules be waived to introduce an item not on the Agenda. (Councilors Curtis & Saunders) (7 Yes) (0 No)

ITEM #161-78

Be It Ordered - That the Town Manager be authorized to sign and execute a Lease with Melborn Smith for property and building located on School Street for use as a Police Station at a cost of \$3,600.00 per annum for a two year period.

Be It Further Ordered - That the Town Manager be authorized to apply the costs of the Lease during the current fiscal year and that up to \$2,000.00 for renovations and operations be charged to the Miscellaneous and Contingency Account.

(Councilors Curtis & True) (5 Yes)  
(2 No, Councilors Saunders & Swan)

Moved and Seconded - That the rules be waived to receive an inquiry not on the Agenda. (Councilors Swan & Curtis) (7 Yes) (0 No)

Moved and Seconded - That we waive the second reading of the Motion. (Councilors Curtis & Swan) (7 Yes) (0 No)

Moved and Seconded - That the following sections of the Proposed Amendments to the Zoning Ordinance as introduced on November 7, 1978 and tabled December 5, 1978 be removed from the table and that all other sections be tabled indefinitely.

Home Occupation I: Any occupation or profession which is accessory to a residential use and:

- A. Is customarily carried on wholly within a dwelling unit, or wholly within a structure accessory to a dwelling unit;



- B. Is carried on exclusively by a member or members of the family residing in the dwelling unit except, however, two additional employees not residing within the dwelling unit shall be permitted; and
- C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes.

Home Occupation I shall include such uses as Art Studios, Beauty Shops, Dressmaking, Teaching, or the Office of a Physician, Dentist, Lawyer, Engineer, Architect or Accountant. Home Occupation I shall also include Animal Husbandry where such activity is not the primary means of livelihood for the owner.

Retail Trade: Any business engaged primarily in the sale of goods or services to the ultimate consumer for direct consumption and/or use, and not for resale. The term Retail Trade shall not include auto service stations and auto garage.

Section 201C. No more than one principal building and its accessory buildings as regulated in this Ordinance may be located on any one lot used as a residential lot, except in the case of a Planned Unit Development.

Section 408B. ("VC") Permitted Uses

1. Retail Trade with use of under 50,000 square feet in area, including parking but not driveway areas.
2. Commercial Recreation, Indoor
3. Business and Professional Office
4. Accessory Uses and Structures
5. Municipal Uses
6. Open Space
7. Multiple Family Dwelling on second floor
- \*8. Retail Trade with use of over 50,000 square feet in area, including parking but not driveway areas.

\*Refer to Article VI, Section 602E.  
Site Review

Section 411B. ("I-I") Permitted Uses

- \*1. Manufacturing and Processing
  - 2. Business and Professional Offices
  - 3. Open Space
  - 4. Timber Harvesting
  - 5. General Agriculture
- \*Refer to Article VI, Section 602E.  
Site Review

Section 413. ("C-I") Commercial  
District I

Section 413B. ("C-I") Permitted Uses

- \*1. Retail Trade
  - \*2. Non-Retail Trade
  - \*3. Business and Professional Offices
  - \*4. Family Restaurant
  - \*5. Motel
- \*Refer to Article VI, Section 602E.  
Site Review

Section 413E. ("C-I") Other Standards

- 1. Landscaping required between any permitted use building and a public road.

Section 414. ("C-II") Commercial  
District II

A. Purpose: Because the land area is adjacent to major roadways, it is most appropriately zoned for retail trade and other similar uses.

B. Permitted Uses

- \*1. Retail Trade with use of under 50,000 square feet in area, including parking but not driveway areas.
  - \*2. Non-Retail Trade.
  - \*3. Business and Professional Offices
  - \*4. Family Restaurant
  - \*5. Motel
- \*Refer to Article VI, Section 602E.  
Site Review

C. Special Exceptions

1. Single Family Dwelling
  2. Home Occupation I
  - \*3. Manufacturing and Processing
  - \*4. Commercial Recreation - Indoor
  - \*5. Commercial Recreation - Outdoor
- \*Refer to Article VI, Section 602E.  
Site Review

D. Space Standards

1. Minimum Lot Size: 3 Acres
2. Maximum Building Height: 35 Feet
3. Minimum Road Frontage: 500 Feet
4. Maximum Building/Lot Area Ratio:  
50 Percent
5. Minimum Set Back/Front: 100 Feet  
/Side: 100 Feet  
/Rear: 100 Feet

E. Other Standards

1. Buffer Zones as required by Article V, Section 507 shall be at least one-hundred (100) feet in depth and shall consist of natural growth and landscaping.
2. Landscaping required between any building and major roadway.
3. No parking allowed in front of any building or closer to the road than the front of any building.

Section 503. Home Occupations

- A. Home Occupation I shall conform with the following requirements:
1. Exterior storage of materials or other exterior indication of the home occupation shall be permitted provided that such storage or exterior indication is not incompatible with the residential character of surrounding properties.
  2. Objectionable conditions such as noise, smoke, dust, odors, or glare shall not be generated.
  3. No traffic shall be generated by such Home Occupation I in substantially greater volumes than would normally be expected in the neighborhood.



4. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of each employee and the vehicles of the maximum number of users the home occupation may attract during peak operating hours.
  5. The home occupation shall not utilize more than 25% of the total floor area of the dwelling (excluding basement floor areas). Accessory structures may be used in the case of the raising, breeding or keeping of livestock or fowl.
- B. Home Occupation II shall conform with the following requirements:
1. Accessory structures may contain up to 600 square feet of ground floor space.
  2. Home Occupation II is identical in all other respects to Home Occupation I.

Section 508A. Vegetative Cutting:

Except as otherwise provided in a Resource Protection Zone, clearing of trees and shrubs or conversion to other vegetation is permitted only for approved construction and landscaping. Where such clearing or conversion is permitted and where it extends to the shoreline, a cleared opening not greater than thirty (30) feet in width (measured along the normal high water mark) may be created in any lot in the strip extending fifty (50) feet inland from the normal high water mark and paralleling the shoreline. Where natural vegetation is removed, it shall be replaced with other vegetation that is equally effective in retarding erosion and preserving natural beauty.

Section 524. Junkyards and Automobile Graveyards

Junkyards and Automobile Graveyards shall conform to the minimum requirements imposed under State licensing procedures and the following:

1. The area designated as the storage yard may contain up to 50,000 square feet.
2. The setbacks of the District in which it is located are to be applied to all exterior storage and fencing material.
3. A buffer or preferably natural evergreen vegetation or a combination of natural and man-made fencing is required to visually block the stored items from adjacent roads and abutting properties.
4. A letter is required from the Department of Environmental Protection indicating their review of potential water pollution hazards as may be caused by storm water runoff to nearby streams or aquifers. In order for a permit to be granted, a hazard must be proven not to exist.

Section 602D.2. (Conditions Attached to Special Exceptions)

In order to secure information upon which to base its determination, the Planning Board may require the Applicant to furnish, in addition to the information required for a Special Exception Permit, the following information:

- a. The Site Plan shall be drawn to a scale of not less than one inch equals 50 feet.
- b. The name and address of Owner and Applicant.
- c. Scale and North Arrow.
- d. The size, shape and location of existing and proposed buildings.
- e. The location, cover and dimensions of parking areas, loading and unloading facilities, and points of ingress and egress of vehicles to and from the site to public streets

- f. Location of all existing and proposed easements and rights of way.
  - g. Location and dimensions of pedestrian access ways.
  - h. Location and size of existing and proposed water and sewer mains, culverts and storm drains.
  - i. Location and type of on-site sewage disposal and water supply.
  - j. Location and type of outdoor lighting.
  - k. Location of natural features such as water courses, marshes, rock outcroppings, and stands of trees.
  - l. Provisions for dedicating open space and/or recreational areas if applicable.
  - m. Landscape Plan showing location and type of plantings and screenings, grading and curbing.
  - n. Location, type and size of signs and advertising features.
  - o. Where appropriate, letters from the Maine Department of Transportation when access approval is involved, and from the Department of Environmental Protection when the site selection law is applicable or a discharge permit is required.
  - p. Where applicable, letters from Town Department Heads, i.e. Police Department, Fire Department and Public Works Department, indicating their review and comment regarding the safety and maintenance of proposed traffic circulation.
- (Councilors Swan & Saunders) (7 Yes)  
(0 No)

Moved and Seconded - That the second reading of the Order be waived.  
(Councilors Swan & Ruff) (7 Yes) (0 No)

Moved and Seconded - That Section 503. Home Occupations shall be amended for clarification purposes to read:

Section 503. Home Occupations shall be amended by adding thereto Sub-Paragraph 6. which shall read:

Accessory structures may contain up to 600 square feet of ground floor space.

(Councilors Saunders & Ruff) (7 Yes)  
(0 No)

The Town of Freeport Hereby Ordains -  
That the following sections, as further amended, of the Proposed Amendments to the Zoning Ordinance of the Town of Freeport as introduced on November 7, 1978 and submitted to Public Hearing on November 21, 1978 be adopted.

Section 104. Definitions

Home Occupation: Any occupation or profession which is accessory to a residential use and:

- a. Is customarily carried on wholly within a dwelling unit or wholly within a structure accessory to a dwelling unit.
- b. Is carried on exclusively by a member or members of the family residing in the dwelling unit except, however, two additional employees not residing within the dwelling unit shall be permitted, and
- c. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes.

Home Occupation shall include without limitation such uses as Art Studios, Beauty Shops, Dressmaking, Teaching, Television Repair Shops, Woodworking Shops, Brokerage Offices, Ceramic Studios, or the Office of a Physician, Dentist, Lawyer, Engineer, Architect or Accountant. Home Occupation shall also include Animal Husbandry where such activity is not the primary

Retail Trade: Any business engaged primarily in the sale of goods or services to the ultimate consumer for direct consumption and/or use, and not for resale. The term Retail Trade shall not include auto service stations and auto garage, and any other use which exceeds 50,000 square feet in building and paved areas provided that in the Village Commercial Zone, Retail Trade may include uses which exceed 50,000 square feet in buildings and paved areas.

Section 201C. No more than one principal building and its accessory buildings as regulated by this Ordinance may be located on any one lot used as a residential lot, except in the case of a planned unit development or multiple dwelling units that meet all other applicable sections of the Ordinance.

Section 408B. (VC) Permitted Uses

1. Retail Trade
2. Commercial Recreation, Indoor
3. Business and Professional Office
4. Accessory Uses and Structures
5. Municipal Uses
6. Open Space
7. Multiple Family Dwelling on 2nd Floor

Section 411D. Space Standards

1. Minimum Lot Size: 3 acres
2. Maximum Building Height: 35 feet
3. Minimum Road Frontage: 500 feet
4. Maximum Building/Lot Area Ratio:  
30 percent
5. Minimum Set Back/Front: 100 feet  
/Side: 100 feet  
/Rear: 100 feet



Section 411E. Other Standards

1. Buffer Zones as required by Article V, Section 507 shall be at least one-hundred (100) feet in depth and shall consist of natural growth and landscaping.
2. Landscaping required between any building and major roadway.
3. No parking allowed in front of any building or closer to the road than the front of any building.

Section 503. Home Occupations

6. Accessory structures may contain up to 600 square feet of ground floor space.

Section 508A. Vegetative Cutting:

Except as otherwise provided in a Resource Protection Zone, clearing of trees and shrubs or conversion to other vegetation is permitted only for approved construction and landscaping. Where such clearing or conversion is permitted and where it extends to the shoreline, a cleared opening, not greater than thirty (30) feet in width (measured along the normal high water mark) may be created in any lot in the strip extending fifty (50) feet inland from the normal high water mark and paralleling the shoreline. Where natural vegetation is removed, it shall be replaced with other vegetation that is equally effective in retarding erosion and preserving natural beauty. This section shall not be construed to prohibit the selective cutting or pruning of shrubs or trees.

Section 602D.2. (Conditions Attached to Special Exceptions)

In order to secure information upon which to base its determination, the Planning Board may require the Applicant to furnish, in addition to the information required for a Special Exception Permit, the following information:

1. A Site Plan shall be drawn to a scale of not less than one inch equals 50 feet and shall include:
  - a. The name and address of Owner and Applicant.
  - b. Scale and North Arrow.
  - c. The size, shape and location of existing and proposed buildings.
  - d. The location, cover and dimensions of parking areas, loading and unloading facilities, and points of ingress and egress of vehicles to and from the site to public streets.
  - e. Location of all existing and proposed easements and rights of way.
  - f. Location and dimensions of pedestrian access ways.
  - g. Location and size of existing and proposed water and sewer mains, culverts and storm drains.
  - h. Location and type of on-site sewage disposal and water supply.
  - i. Location and type of outdoor lighting.
  - j. Location of natural features such as water courses, marshes, rock outcroppings, and stands of trees.
  - k. Provisions for dedicating open space and/or recreational area if applicable.
  - l. Landscape Plan showing location and type of plantings and screenings, grading and curbing.
  - m. Location, type and size of signs and advertising features.

2. Where appropriate, letters from the Maine Department of Transportation when access approval is involved, and from the Department of Environmental Protection when the site selection law is applicable or a discharge permit is required.
  3. Where applicable, letters from Town Department Heads, i.e. Police Department, Fire Department and Public Works Department, indicating their review and comment regarding the safety and maintenance of proposed traffic circulation.
  4. Other pertinent information necessary to determine if the proposed use meets the provisions of this Ordinance.
- (Councilors Saunders & Swan) (6 Yes)  
(1 No, Councilor Pushard)

Moved and Seconded - That ITEM #147-78 be tabled indefinitely.  
(Councilors Swan & True) (6 Yes) (1 No, Councilor Bonney)

Moved and Seconded - That the rules be waived to introduce an item not on the printed Agenda. (Councilors Swan & Curtis) (7 Yes)(0 No)

Moved and Seconded - That the Council instruct the Planning Board to prepare an Island Zone Amendment that would allow a single family dwelling to be constructed. (Councilors Bonney & Saunders) (7 Yes)  
(0 No)

Moved and Seconded - That the Council move to Executive Session to discuss the contractual provisions contained in options for property.  
(Councilors Saunders & Ruff) (7 Yes) (0 No)

Moved and Seconded - That the Council reconvene. (Councilors Saunders & Curtis) (7 Yes) (0 No)

ITEM #160-78

Be It Ordered - That the Town Manager be authorized to sign and execute the options granted to the Town by Mr. & Mrs. Merrill Fogg, Jr. and Mr. & Mrs. Donald Estes for property located on the Desert Road designated as Map 22 Lot 23 and Map 22 Lot 22C respectively, said option costs to be charged to the Miscellaneous and Contingency Account.  
(Councilors Saunders & Swan)(7Yes)(0No)

MEETING #29-78

Moved and Seconded - That we waive the rules to discuss an item not on the Agenda. (Councilors Curtis & Swan) (7 Yes) (0 No)

Moved and Seconded - That the Chairman be excused from attending meetings on January 2 and January 16, 1979. (Councilors Ruff & True) (7 Yes) (0 No)

Moved and Seconded - That the Council adjourn at 11:10 P.M. (Councilors Swan & Ruff) (7 Yes) (0 No)

The foregoing was recorded by:

*Mary D. Wescott*  
Mary D. Wescott  
Council Secretary

Distribution: Council, F. Paul Frinsko, Supt. of Schools, Police, Town Clerk, Bookkeeper, Library, Highway