

August 14, 2002

Phippsburg Planning Board

REGULAR MEETING

The meeting convened at 6:00pm and a quorum was declared. Board members present: Marie Varian, Chairman; Marion Hebert; Steve Thayer; Josh Bate; Bruce Kaake; Clifford Newell, Alternate. Codes Enforcement Officer, Lee Rainey, was also in attendance.

Varian explained that the Board would recess at 6:30pm to conduct a New Business Hearing and would resume as soon as that hearing was concluded.

The first item on the agenda was to receive an application provided by Donald and Glenda Koehling of the Main Road (Map 42, Lot 29). The Koehling's application requested a permit for a lesser buffer for their Home Business, The Lobster Shed. Sketches of the property depicting their property lines, buildings, parking area and buffers were provided as well as photographs. Mrs. Koehling explained to the Board that, in addition to the selling of lobsters, some small crafts are involved and their purpose of requesting a Small Business Permit was to be able to sell clams which would be purchased from family members. Sections 1.6 and 1.7 of the Land Use Ordinance regarding Buffer Zones was referred to. Board member, Steve Thayer, explained that he is an abuttor of the Koehlings and stated that he has no problem with the business being conducted. The only other abuttors (Nichols) have been notified. The application for a lesser buffer received unanimous approval from the Board and was signed by all members. The \$20 fee was paid.

The Board was next approached by Ellen Fontaine and Jim Guidi, representatives for Parker Head, Inc. on the Capt. John Parker Road (Map 11, Lot 58). They provided a preliminary sketch showing three proposed house lots, proposed back-up septic field servicing the three lots, common land, and a 20' x 50' turnaround area. Guidi explained to the Board that each lot would have their own individual septic field. The sketch was accompanied by a letter from Land Use Consultant, William Maier which stated that "there appears to be sufficient lot area with suitable soil conditions for separate drainfield installation for each dwelling unit, or a shared drainfield could be installed for multiple dwelling units." Discussion showed that the Board will consider a shared septic system.

Varian advised Guidi/Fontaine of the criteria that must be met before an application could be accepted or site inspection conducted (Section 6.3, Items 1-10). Concerns with the grade of the road were discussed and Guidi proposed a modification of the plan. The Board accepted the map as a sketch plan. Guidi and Fontaine will attend the Planning Board meeting in September.

The Board recessed at 6:35 for a New Business Hearing.

August 14, 2002

NEW BUSINESS HEARING

Selectmen present: Michael Rice, Chairman; Alan Douglass

Planning Board members present: Marie Varian, Chairman; Marion Hebert, Steve Thayer; Josh Bate; Bruce Kaake; Clifford Newell, Alternate. Codes Enforcement Officer, Lee Rainey, also attended the Hearing.

The two Boards convened at 6:40pm for the purpose of hearing the case of Donald and Glenda Koehling of 1182 Main Road (Map 42, Lot 29). The Koehlings wish to sell their own seafood products, products obtained from others, wood products, crafts, arts, farm produce and similar items. Varian explained that the abutters have been notified and that Planning Board member, Steve Thayer, will step down since he is one of the two abutters to the Koehling property.

Mrs. Koehling advised the two Boards that they are seeking a Small Business Permit so that they can continue buying the items from other fishermen which are already being sold, in addition to selling farm and craft products. Varian told the Selectmen that the Planning Board had just issued a Permit for a lesser buffer because the Koehlings did not have the required footage on their property. Mrs. Koehling provided the Selectmen with the photographs which she had shown the Planning Board previously.

Varian stated that there will be no hazardous waste generated, that the Koehlings have their own private well and sewerage system. Rice asked if this was for prepared food to be served. Mrs. Koehling answered that although they have a State license permitting the cooking of lobsters to go, there will be no consumption on the property.

Douglass asked about abuttor approval. Thayer, from the audience, explained that he has no problem with privacy and that the Koehlings property is more than adequate for their business and that he has no objections.

A check for \$90 was paid after unanimous approval of the application by both Boards.

The meeting adjourned at 6:55pm.

Respectfully submitted,

Marion J. Hebert,
Recording Secretary/
Planning Board Member

The Planning Board resumed their regular meeting at 6:53pm.

The July minutes were approved with a minor typographical correction.

Varian announced that the Department of Inland Fisheries and Wildlife has provided an up-to-date book on Endangered and Threatened Species. The book will be put on file at the Town Hall.

She further advised of a workshop for Planning Boards and Boards of Appeals to be held in Saco on Sept. 11.

A recess was called at 6:55pm and, during that recess, Oliver Dominick, President of the Parker Neck Association, the Secretary of that Association, and Bill Emerson of the Conservation Commission came before the Board regarding the proposed subdivision of which the Board had previously discussed with Jim Guidi and Ellen Fontaine. They were advised of this previous discussion and given a copy of the sketch which Guidi had provided. Concerns with setbacks and protection of fish and wildlife were stated. They were told that no decisions had been made during this meeting and were invited to attend the September meeting.

The meeting resumed at 7:10pm.

The Board was approached by Bob Smith, owner of Sebasco Harbor Resort, and Steve Mohr, Landscape Architect. Mohr explained that they were not expecting the Board to act on anything during this meeting, that this would serve as an informational meeting to discuss things that are being proposed in the future.

Mohr presented an Agenda to Board members and pointed out on a flip chart the proposed changes. He stated that they would like to amend the Sebasco Fairway Cottages Subdivision Phase 2 and split Lot 5 into two single lots. Each lot would be comprised of just over one acre and the plan does not entail any other driveways onto Route 217. A new subsurface disposal system for overboard discharge removal was discussed. He explained that they have met with DEP and with Health Engineering to talk about how the system works and modified the current design to get element levels down to State standards which has been accomplished. He added that there is a dip in the Round Cove Road and that the side slopes off the septic system run across the road so that it has to be built up some 18 inches and that Smith needs to control that; therefore, a change to the frontage of Lot 3 should be accomplished. Smith realizes he will need to have approval from property owners with deeded rights-of-way. A reconfiguration of Lot 3 would also

be needed. Mohr stated that this would solve a paperwork issue that they have with DEP and that they would like to pull 12,000 square feet out of Lot 3 which would mean another amendment to the Subdivision Plan.

A new lot creation for the property owned by Carney, the relocation of three existing waterfront cottages, and construction of additional buildings comprised of 12 units was discussed. It was determined that because of the relocation of the three cottages, there would be a net expansion of 18 units. This project would require an Expansion of Business Hearing. Mohr suggested that they go to each member of the Association and have them sign off on the expected work on Long Cove Road before they appear before the Board at another meeting. Varian agreed that it would be logical for them to do everything required for permit approval before a public hearing was held. Smith stated that he would like that hearing held in September, if possible.

Varian suggested that they provide an overview of the whole property showing all of the buildings. She further advised that they obtain an application as soon as possible.

Newbold Varian III next approached the Board. Board Chairman, Marie Varian, stepped down, as Mr. Varian is her son. Vice Chairman, Marion Hebert, conducted this portion of the meeting. Varian has purchased approximately a 1/3 acre property on the corner of Blacks Landing Road and Lettie Lane in Sebasco (Map 31, Lot 71-0-01, zoned Village District). Varian's application proposes to remove the present dwelling and outbuildings and construct a new dwelling, increasing the size up to 30%. The application was accompanied by a sketch of the lot showing dimensions of each existing building totalling 835.75 square feet. He told the Board that he has an approved septic design drawn up by William Maier and that the existing hand dug well will be eliminated and an artesian well installed. He provided the Board with a picture of the proposed 22' x 22' new house. It was determined that there are 5,581 cubic feet existing with 7,255 cubic feet allowed. The application received unanimous approval by the Board. The \$20 fee was paid.

Dr. Gregory Gensheimer of Newbury Point (Map 27, Lot 20) next approached the Board to discuss road access to his property. In 1997 Dr. Gensheimer was cited and a fine was levied against him for the clear cutting of a strip of land (a former roadway) on his property which is zoned Resource Protection. The Planning Board at that time referred him to the Board of Appeals which unanimously upheld the citation and fine.

At tonight's meeting, Gensheimer presented the Board with several maps of his property and a letter addressed to the Board which stated that he is experiencing increased traffic on the subdivision roadway because of additional construction. The letter went on to state that the Newbury point roadway is "fatally" flawed and that he has sought approval from the developer, Gerald C. Leary, for authorization and approval to amend the

Subdivision Plan to include the former roadway. Mr. Leary has never responded to these requests.

Gensheimer stated that he is asking the Board to grant him the use of that former roadbed as a driveway access to his property. He added that it wouldn't involve construction because the roadbed exists, but will require maintenance. He further stated that he wishes to appear before the Board in September with an application for permission to use this roadbed.

Thayer asked why the current road cannot be modified or improved. Gensheimer answered that he does not own the roadway, therefore cannot modify it. Thayer stated that that is not, in his opinion, an issue for the Planning Board to address. Gensheimer answered that it has to be addressed because of the safety issue and the Shoreland Zoning Ordinance states as its first purpose "to further the maintenance of safe and healthful conditions."

The maintenance of the subdivision roadway was discussed and Gensheimer again reiterated that, even though he has right-of-way he only has right of travel, not ownership of the road.

Varian explained that, because the area is zoned Resource Protection, it could not be allowed except to provide access to permitted areas within the district or when no reasonable alternative route or location is available outside the Resource Protection area, which can be permitted by the Planning Board.

Gensheimer pointed out on the maps provided that there is no other alternative access to his property that doesn't include steep grades. He added that the reason the roadbed in question was put in some 50 years ago was because it was the best possible way to access the property.

Sam Jones, owner of Lot 6 in the Subdivision, who is currently in the process of construction, spoke to the Board, stating that the Subdivision road does need trimming on both sides and that he would communicate that to the owner, Gerald Leary. He added that, other than the trimming, the road is in excellent shape and that there is ample room for two vehicles to pass.

Abuttor, Mark Overington, addressed the Board. He stated that five years ago Gensheimer had been given permission to maintain a ten foot wide path on the roadbed, but recently vehicular traffic has been conducted in that area. He added that it is important to understand that there are bylaws in the Newbury Point Subdivision and cited that "the Subdivision members shall be responsible for the maintenance, surfacing and resurfacing, improvement, clearing and repair of the road for the purpose of passage and repassage of building site owners, their families, etc. to and from their respective building

sites to and from the West Point Road or public way.” He stated further that the other issue is that when the Subdivision was put in place, the supposed roadway which did exist years ago before the road was put in, was eliminated. He concluded by saying that the Gensheimers have a road, they live in a Subdivision, and that it is their responsibility not Leary’s, that the Gensheimers own four of the ten lots there, that they are 40% responsible for the maintenance of the road.

Gensheimer countered with the fact that he owns nothing on the road except the right of passage, that members of the Association own nothing on the roadway - Gerald Leary does. He added that the documents creating the Newbury Point Association specify that the roadway was to be transferred in title to the Association and that that has never happened. He added that he cannot maintain a road that is not his.

Bate responded by saying, “you also cannot drive over land that you illegally cut, either.”

Gensheimer answered that there has been nothing illegally cut, that he can drive over anything that is a trail in this town and he can do what he needs to do in an emergency. He pointed out the Ordinance regarding Emergency Passage.

Mrs. Gensheimer spoke from the audience and reiterated that the road is very unsafe and invited those in attendance to drive the road and see for themselves.

Varian explained that the Board would get information out of the file, but that anything to do with the present road is nothing that the Planning Board can help with. She advised Gensheimer that he would be put on the September agenda.

The meeting adjourned at 8:53pm.

Respectfully submitted,

Marion J. Hebert,
Recording Secretary/
Planning Board Member