

October 9, 2002

Phippsburg Planning Board

EXPANSION OF BUSINESS HEARING

The hearing was called to order at 6:03pm. Planning Board members present were: Marie Varian, Chairman; Marion Hebert; Steve Thayer; Josh Bate; Clifford Newell, Alternate. Board member, Bruce Kaake, was absent. Codes Enforcement Officer, Lee Rainey was also in attendance.

Selectmen present were Mike Rice and Alan Douglas

Varian explained that this hearing for Sebasco Harbor Resort (Map 29, Lot 11) is being reconvened from September at which time the Board decided to conduct a site walk to view pertinent items regarding their application for an expansion of business. The expansion calls for the moving of three buildings, the construction of two new buildings, increasing by 18 the number of rental units at the Resort. Varian reported that the site walk was conducted on September 15. She gave a detailed report of that inspection.

Steve Mohr, Landscape Architect for the Resort, provided copies of the certified mail signatures from abutters received from the Postal Service. He stated that 42 certified notifications were sent, 36 have been returned with signatures, two were refused, two are still pending, and two were lost in the mail. He further stated, for the record, Bob Smith's commitment during the September Planning Board meeting regarding parking and traffic control at the Resort. He explained that Smith is going to post "No Parking" signs along the west side of the road going towards the Pilot House, will go through administrative enforcement policy of the staff and will have daily monitoring of that area to eliminate congestion. Mohr advised that he has also included the parking count and distribution which was discussed during the site inspection. He presented building elevations which were essentially unchanged except for the relocation of the handicapped accessible units and the adjustment of the sidewalks to accommodate these units. He added that there has been no change in septic or water use.

He further advised the Boards that the new plan notes the relocation of the Edgewood Cottage which was not shown on the original plan.

Gloria Gray asked if the buffer of pine trees abutting her property line would remain standing. Mohr stated that all of the trees would remain and that could go on the record.

Ona Barnet, proprietor of Rock Gardens Inn, asked who would be accountable to ensure the quality of water, the parking issues, etc. Selectman Rice answered that in some cases it may be a Codes Enforcement issue, but parking would be a civil matter. He added that if it is a Town right-of-way it would be incumbent upon the Town for law enforcement,

but if it is a private road the Town would not be liable. Mohr stated that these issues are part of the permit and on record.

Douglas stated that, in his conversations with people, he has found that there is more concern with congestion and usage of the road than there is with parking. He added that if, in the future, the Resort intends to expand again this problem is not going to go away and suggested they take strong measures with employees regarding using the road.

Rice stated that he would like to see a written policy for parking for employees because that was the commitment he understood from the September meeting. He added that he would also like to have a date and time when that could be added subsequent to the permit. Mohr advised that he has no issue with that suggestion, that he and Smith have discussed this.

Varian made a motion to approve the expansion application with comments. The application was unanimously approved with the following comment: "Resort will post 'No Parking' on west side of road from 'Early Bird' down; staff will have direction to control congestion and parking - a plan will be submitted to the Planning Board within 30 days. A letter dated October 9, 2002 from Steve Mohr re above issues will be part of this document. Existing buffer of trees along the common property line will remain." The application was signed by all Board members and Selectmen.

The Expansion of Business Hearing adjourned at 6:32pm.

Respectfully submitted,

Marion J. Hebert  
Recording Secretary/  
Planning Board Member

October 9, 2002

Phippsburg Planning Board

REGULAR MEETING

The meeting convened at 6:35pm. Board members present were: Marie Varian, Chairman; Marion Hebert; Steve Thayer; Josh Bate; Clifford Newell, Alternate. Board member Bruce Kaake was absent.

Varian explained that the Board had participated in an Expansion of Business Hearing, therefore the regular meeting was late in convening.

The Board first heard from Steve Mohr, Architect representing Sebasco Harbor Resort. Varian stated that this is a continuation from last months meeting regarding the relocation of Long Cove Road and an amendment to add a lot to the subdivision. The Board conducted a site inspection of the proposed road in September. Varian read the report of that site visit.

Mohr presented the approved plan of the Phase I Subdivision Plan and explained that this is the plan he is asking the Board to amend for the additional lot. He advised that the Resort is requesting to take a portion of Long Cove Road and connect it to the Round Cove Road to allow the creation of the additional lot. He explained that, because roads separate parcels of land, a piece of the parcel formerly belonging to another lot would become part of Parcel II creating a third lot, therefore becoming a subdivision situation. He pointed out the reconfiguration of the road and added that a deeded prohibition against building on top of Long Cove Road would be issued.

Mohr presented an application for the amended Minor Subdivision Plan. A written submission for Minor Subdivision Review was also presented which included a field survey and proposed lot boundaries, copies of Deeds, easements, water guarantee, soil survey results, well sites and list of abutters.

Varian asked abutters present if they felt the need for a public hearing and it was determined that one should be held, but that there was no need for another site inspection. The hearing will be held on November 9 prior to the Planning Board meeting. Mohr stated that Certified notification will be sent to abutters.

The Board next heard from Ellen Fontaine and Jim Guidi, representatives of Parker Head, Inc. (Map 11, Lot 58) regarding a three lot subdivision. The Board heard their proposal in August and again in September and a site inspection of the property was conducted by the Board on September 29. Varian read the report of that inspection and noted that while the access road is substandard at this point, it will be rebuilt to conform to Ordinance standards. She reported that several abutters and representatives of the Home Owners Association were present during the site visit.

Varian received a letter from abuttor John Quelch of 274 Captain John Parker Road dated October 2, 2002 which stated his concerns that the developer maintain a 50 buffer of vegetation and the possibility that a duck blind on the tip of the proposed development might be destroyed. He further conveyed his concerns over the possibility of a dock or float being constructed which could impact the sight lines from his house. Mr. Quelch was in attendance at this meeting and spoke again of these concerns. He asked that the 50 foot buffer issue be included in the permit as part of the final plan. Varian replied that his concerns would be in the record but the Planning Board, at this point, would not restrict a dock and explained that there are state laws that governing the water usage rights of waterfront property owners. She added that the Harbor Master would be involved in such construction and would be the one to decide whether there would be too much congestion or interference with navigation. She further advised Mr. Quelch, regarding his concerns over the duck blind issue, that the blind was apparently erected by a hunter without permission of the landowner and would not be something the Board would address.

Varian stated that on October 5 Board members Varian and Newell, Fire Chief, James Totman and developer Jim Guidi visited the site, viewed the roadbed and the proposed 50' x 20' hammerhead site. She read a report of that site visit and advised that, in reply to Totman's concerns regarding space for emergency vehicle turnaround, the developer will be willing to make the turnaround 72' x 20' with a graveled surface and will round the edges of the turn area. She added that the Fire Chief had no other concerns with the area, but did state that he hopes that people who build on these lots will take the space needed by emergency vehicles into consideration when they build and put in their driveways.

Abuttor Wayne Beach expressed concern over the dumping of construction materials.

Fontaine presented the Board with a revised final map; the By-Laws of the Parker Head Point Association; a final Subdivision Application; a Corrected Quit Claim Deed to Adah Ginn; a letter from the President of Parker Head, Inc., Herbert Ginn; a guarantee of water supply and a copy of the soils report. She stated that the Subdivision Road will be named Kindred Way.

Varian advised that the land deeded to Adah Ginn should be explained for the record. She stated that when Phase II of the Parker Head Colony was enacted in February of 1987, there was a restriction No. 6 which limited the use of land that was retained by the Subdivider. It did not allow anything to happen to that land without coming back to the Planning Board and also said "may not be subdivided more than two times." This note, she added, should carry through to any of the deeds which may be written referring to Item No. 6. The proposal for the retained parcel of land is to transfer a portion of approximately 4.78 acres to abuttor Adah Ginn and the remainder is for a 3-lot Subdivision. She advised that the Town Attorney has given an opinion regarding this and

stated that in the Subdivision Laws an abuttor, child or close relative is exempt under certain criteria of subdivisions from the Subdivision Rules. She stated that the land conveyed to Adah Ginn would fall under the category of going to an abuttor and that, in the opinion of the Town's Attorney, the decision on this matter should rest in the hands of the Planning Board.

Abuttor Quelch asked for clarification from the Planning Board regarding when the Board gives approval on a large lot such as Adah Ginn's, is it giving approval for a single family residence. Varian answered yes it is possible, as well as possibly a compatible guest house and added that there is nothing that states how large or small the house shall be, that there is nothing in the Covenants governing that.

Quelch again stated his concern over buffers and that a second structure on a lot of land not be visible from his property. Guidi answered that technically Quelch has 150 feet of setback. Quelch advised that he would feel more comfortable with a vegetation buffer than simply a setback because of the sight lines from a possible second very large structure. Ginn agreed to a 50' setback on Lot I on the west boundary, but would not agree to a buffered setback since they are in accordance with the laws of the Town.. The Land Use Ordinance requires only a 20' setback.

Thayer stated that, in his opinion, the developer is showing good will by extending the setback to 50 feet which is 30 feet more than is required by the Land Use Ordinance and sees no issue here as far as providing a buffer.

Varian, after reviewing the Subdivision Checklist, stated that everything is complete for the application, but needs certified copies of the Final Plan Map and a copy of the recorded deed to abuttor, Adah Ginn, for the files. The Board unanimously approved the application as submitted and the Final Plan and Covenants was signed by all members. The \$150 fee was paid.

An application was next received requesting relief from the 250 foot setback in the Resource Conservation Zone on Subdivision Lot 16 in the Parker Neck Colony Phase II Subdivision (Map 10, Lot 19). Varian stated that she has received a letter from a potential buyer of the property, advised that the buyer has some questions about the lot, that the buyer would like to put a dock on the "Rising Sun" lot which is owned by the Town. She advised that that could not be done without a vote at Town Meeting, that neither the Planning Board or Selectmen has the authority to grant that. The potential buyer told Varian that, in that case, he would like one on his own land and she advised him that he would have to apply to the Planning Board if permanent, to the Codes Enforcement if temporary, but would have to obtain permission from the Harbor Master

Fontaine stated that due to the topography, they would like to request relief from the setback and requested a 150 foot setback.

It was determined by the Board that a site inspection would be in order and will be held at 9:00am on November 3.

The Board next heard from Jeff Lozier of Sea Street in Popham (Map 14, Lot 76, zoned Resource Conservation). Abutters were listed on Mr. Lozier's application. The application called for the addition of a second story for a master bedroom and bath, a deck, exterior stairway, the widening of an existing boardwalk to four feet, and expansion of a front deck to a non-conforming structure. Lozier advised the Board that the structure is presently 1700 square feet and that his proposal amounts to an additional 1728 square feet, over 100% expansion. The structure would not go further towards the water.

Codes Enforcement Officer, Lee Rainey, explained that the road and water setbacks are within codes, but the sideline dimensions make it non-conforming.

The proposed dimensions amount to over the up to 30% allowed and the application was denied with the comment "The Planning Board does not have the authority to grant expansions of 30% or over." Mr. Lozier will present his application to the Board of Appeals.

A representative from Waterman Marine next approached the Board and presented an after-the-fact application to move an existing dock, pier and ramp on the property of Dr. Gregory Gensheimer (Map 27, Lot 20). The Planning Board had originally issued a permit for this pier in 1998. In August 2002, Gensheimer hired Waterman Marine to relocate the pier due to water roughness and surge from the cove. Mr. Gensheimer did not attend this meeting. Waterman Marine did not think another application had to be filed with the Board to move the dock since the stringers along the shore were not affected. An accompanying letter from Peter Spencer of Waterman Marine to Marie Varian explained that the outer section of the pier would be pivoted 60' seaward to its new location and the old pilings removed. The access point to the pier remains unchanged. The letter also contained a copy of correspondence from the DEP stating that the pier location meets the applicable Permit by Rule standards, a copy of Spencer's note to Lee Rainey, a copy of a property map showing the new and old locations of the pier, and photos of the relocated pier. Varian advised that the Harbor Master had telephoned and stated his approval of the dock. A written approval will be forthcoming. The after-the-fact permit was approved and signed by all Board members and the \$40 fee was paid.

Board member, Josh Bate of Cranberry Point Road (Map 7, Lot 14), stepped down from the meeting and presented the Planning Board with an application stating his intentions to move an existing barn from Lot 14 to Lot 12.01, zoned Resource Protection.

The 18 ' x 20' barn is to be used as a marine related accessory structure to permitted use and shall be used for storage, small office, etc. Bate's application was accompanied by a sketch of the property and listed his abutters who have been notified of this meeting. Bate explained that he has been employed by Sea Tow Services, and that his land would be used as a base and will employ one full time and two part time personnel. The service will respond to emergency situations on the Kennebec and Sheepscot Rivers as well as Fire Department emergencies.

The reason for moving the barn, he explained, is for the storage of gear and equipment for Sea Tow as well as to provide a small office. This building would be located approximately 22' from the high water mark near his existing float. Bate provided photographs of the barn and proposed site for the relocation. He referred to the Shoreland Zoning Ordinance Section 14, Table 1.16 which states that the Planning Board has the authority to permit a structure accessory to allowed uses. He explained that it is marine related and that access is an issue from the float to the building.

Varian referred to Section 15.B.1.a of the Shoreland Zoning Ordinance covering Principal and Accessory Structures and to Section 17 regarding Functionally Water-Dependent Uses. Abuttor Pamela Warring, accompanied by Dana Edgerly, was in attendance. Varian asked Bate if the reason for this move is primarily emergency work. Bate answered that the nature of Sea Tow is emergency work and, functionally, is like an insurance company. It is a membership-based organization to which users pay an annual fee. It is also a salvage, rescue operation, he added.

Varian advised that a letter has been received from the Coast Guard which stated in part, "I would just like to state that Sea Tow of Midcoast Maine has in the past assisted the U.S. Coast Guard here in Boothbay Harbor with Search and Rescue and is a valuable asset to the area."

Edgerly stated that he (and Warring) have no objection to the relocation of the building, but advised that Bate does not own the property on which it sits. He asked if the Board had authority to permit the moving of a building from land which is owned by another party without the permission of that land owner. He stressed that he would like to see the property cleaned up, seeded, etc. after the building is moved, that the moving contractor has adequate insurance to cover all aspects of that move, and have it understood that no other building be allowed on that piece of property.

Bate answered that what Edgerly was referring to is a civil matter which has not been pursued, and explained that the barn was in its present location when his grandmother purchased the property in the 1950's. He further explained that Warring has had a survey done which shows half the barn, part of his house, a portion of his septic field not on his property and that he cannot gain title to that land until he is told by Warring to 'quit and desist or vacate'. If he is not told to get off the property, he cannot sue for adverse possession. This matter has been pursued by attorneys with no results, he told the Board and, since it is a civil matter, the Board should not have to deal with it.

Warring asked what would happen if she were to sell her property and was told that it is a civil matter. She agreed that the land would be more saleable if the building was not there.

Varian stated that if this building is moved the civil matter is still there. Bate agreed, stating whether he landscapes the area, whether he makes it into a garden or septic field, it is still a matter of being told to vacate before he can make a claim for adverse possession and again asserted that it is not a matter for the Board.

Varian advised that the applicant would be instructed to clean the area after the barn is moved.

A motion was made to accept the application, was unanimously accepted by the Board, and signed with the following comment "Barn site debris will be removed and area will be landscaped."

Bate next presented the Board with an application to erect a 24' x 26' barn/garage (Map 7, Lot 14) to replace the existing barn and shed on the north side of his house in a less non-conforming manner. The application was accompanied by square footage/cubage calculations and sketch of the land showing existing buildings and planned new structure.

Discrepancies between a survey Warring had had conducted and the Town Tax Maps were discussed. Varian advised that when there is a question between two property owners and the applicant applies for something in good faith, the Board takes it that way. The only time the Board cannot do that, she added, is if something is actually in court and then a decision could not be rendered.

The application was approved and signed by all Board members with the comment "Attached list of building footages will be verified by the Codes Enforcement Officer - see Page 2." Varian advised that the property line dispute will have to be settled between the two parties and is not for the Board to decide; that the Board cannot hold up an application because of it.

The September minutes were approved as written.

Varian advised of several upcoming training seminars. She told Board members of a Board of Appeals Meeting to be held October 15 regarding the denial of the Gensheimer case in September and gave the Board an update on the status of the Richard Lee case in Small Point. Mr. Lee has decided not to pursue the subdivision of his property.

The meeting adjourned at 9:20pm.

Respectfully submitted,

Marion J. Hebert  
Recording Secretary/  
Planning Board Member