

Town of Phippsburg – Planning Board

MINUTES – REGULAR MEETING

August 14, 2007 at Town Hall

PRESENT: Marie Varian, Chairman; Steven Thayer; Clifford Newell; Robert Smith; Mark Hawkes, and CEO, Lee Rainey

Chairman called the meeting to order at 6:00 PM. A Quorum was declared.

JOHN M. QUIMBY, 622 Parker Head Road, Tax Map 11 Lot 31 – Increase footage of non-conforming structure by adding a deck, using the 30% rule:

The application is for a 16' x 22' deck with a screened room 14'6" x 16'. This is an after-the-fact application as the deck has already been built. Mr. Quimby testified that he wanted to build the deck while he was on vacation and went to the CEO's office for a permit, but the CEO, Lee Rainey, was also on vacation. Mr. Quimby then started construction with no permit. After the CEO's return, Mr. Quimby contacted him again and was told that he could not have the expansion because of the variance given in 2001 by the Board of Appeals which used more than the up to 30% allowed by Ordinance. Mr. Quimby continued work and finished the deck and screened area. He stated he wasn't trying to hide anything, that "the timing was off" for both parties.

Chairman read from a report prepared by the CEO stating that the variance for a garage and an ell granted in 2001 already allowed Mr. Quimby 1236.4 sq. ft. over the pre-variance allowance of 597.6 sq. ft.

Chairman told Mr. Quimby that the Planning Board has no authority to grant expansions of over up to 30% under Section 2.11 of the Town's Land Use Ordinance. Mr. Quimby was advised to contact the Board of Appeals and apply for a further variance.

Motion by Mr. Newell, second by Mr. Thayer, and unanimous vote to deny the application for the reason stated above. It is noted that Mr. Quimby had not filled out a Planning Board application form but was given time to do so. The Board marked the form "denied" with explanation, and Mr. Quimby can take this information to the Board of Appeals.

MARTIN EATON, Round Cove Road, Tax Map 29 Lot 19, Village District – Rebuild old wharf.

Mr. Eaton's application is for a 10' wide x 75' long Commercial Fishing (Lobster) Wharf. His application included a copy of his detailed NRPA application to the DEP (including drawings and photos), a letter of non-objection from the Town's Harbor Master, and a letter of non-objection from abutter, Steven Doten. Mr. Eaton testified that his father had had water access from the property years ago and parts of same are still visible

Mr. Eaton has 45' of water frontage. He plans to use some of the existing concrete posts as well as pouring more. Wood timbers and decking will be spruce. The wharf will go out over the eel grass. There is a 220' distance to water at low tide so there is no need for a ramp or float. At high tide, there is 5' – 6' of water at the outward end of the wharf.

Discussed the fact that the Board usually advises an applicant to get his DEP permit in hand before applying to the Town. Lately, applicants have told the Board that DEP tells them to get the Town's permit first. Mr. Eaton explained DEP's thinking on the very in-depth NRPA Tier 3 application process. He was told that if the DEP permit is acquired first and the Town makes changes or restrictions in the application, then the applicant must start over with the DEP, including the several months of waiting for a decision as well as paying another \$390.00 fee. The Board will provide this advice to future applicants.

Chairman stated that this application is considered under Section 14, Table of Land Uses Item 17 and Section 15.C. of the Town's Shoreland Zoning Ordinance. Section 15.C.4. states that a structure shall be no larger than necessary to serve its purpose. Mr. Eaton feels that a 12' wide wharf would be more efficient, but as the DEP strives for 8' wharves of this type, Mr. Eaton is proposing a 10' width. Mr. Eaton will stack lobster traps on the wharf during the off-season.

The Board discussed the need of a site walk but as all members were familiar with the location, determined that such viewing was unnecessary.

Motion made by Mr. Newell, second by Mr. Smith, and unanimously voted to approve the application with the comment that "this is a Commercial Fishing wharf." The \$20.00 Planning Board fee was paid.

BATES COLLEGE, 74 POPHAM ROAD, Tax Map 45 Lot 57, Resource Conservation District – Discuss uses of structure (see Minutes of July 8, 1998)

Bates College had been donated the house/residence and land at 74 Popham Road. On July 8, 1998, the College had applied to the Board for a Change of Use from Residential to Educational. The College was granted a permit directing the College to "submit plans for a new dry well for garage site and for a new septic design for the main house site." These plans were to have been submitted at the following meeting in August. Plans were not forthcoming. The permit expired in July 1999 and the Board

heard no further word from the College. College personnel just recently learned that the application process had never been finished, but admitted that they have been using the facility.

Before discussion started on the College's application, Mark Hawkes stated that he does work for the Morse Mountain Preserve and sometimes the work overlaps with Bates College property, and that he would step down if anyone thought he had a conflict of interest. Neither the Board nor the Bates representatives present felt that there was a need for recusation.

Bates wishes to start over and presented a new application. They want to change the Use to Science and Education including overnight stays for retreats. Judy Marden described the proposed use of the facilities as classrooms, labs, student and faculty sleeping and eating space, conference rooms and associated. They expect to offer community services to Phippsburg School students as well as to other organizations.

The property is located on Meetinghouse Pond and is in a Resource Conservation District with a 150' setback. The application contains maps, aerial photos, photos of structures, room layouts, history of activities from September 2005 through February 2007, and a Subsurface Wastewater Disposal System Plan designed by Stephen H. Howell, SE #213. A decision has not yet been made whether to expand the present septic system or to construct a new one.

Discussed the taking of samples from the pond and surrounding land area, what samples get washed and the types of effluent that will go into the septic system. Mr. Newell is concerned about the various toxic materials that are used in labs getting out into the leach field and eventually into the water table and into the pond. Bates responded that no scientists at any Bates facility are allowed to flush toxic waste into a regular septic system. At this facility, one sink would drain into a special hazardous waste container.

Discussed the septic system as relates to the numbers of persons attending on any given day, numbers staying overnight and for what lengths of time. CEO Lee Rainey explained that the gallons-per-day formula is not the same for residential as for Science/Education use. He feels the presented septic information shows all the proper calculations and that he has no objection to the gallons-per-day as shown.

The Board voiced concern that the facility might be used as a faculty/family vacation spot. Bates responded that will not be the case. However, it is accepted and understood in the field that science projects can take weeks to analyze and write up. Bates' 1998 application did not address people staying at the facility. Neither did the application address abutters across the pond, the nearest of which is 600' +/- away, with a buffer of trees on both sides of the pond.

It was discussed that townspeople have used the land for various outdoor activities in the past. Bates has seen signs of use and would hope that with students and faculty on the premises, people would realize that the property is private and honor that status.

Chairman Varian stated that Changes of Use of non-conforming structures are addressed under Section 12.C.4, in the Town's Shoreland Zoning Ordinance. Section 14, Table of Land Uses, Item 15.F. allows scientific and educational uses in a Resource Conservation District. A permit from the Planning Board is required under both sections.

Bates has not yet decided what to do about the septic system. They need a system large enough for their work, and even though the present proposal will suffice, they are concerned with future needs. The Board advised that a site walk is needed to view the present septic system area and also the surrounding land. In preparation, Bates will flag the present and proposed septic areas and also mark a 150' distance from the pond.

A site walk will be conducted at 8:00 AM on September 9th. Even though the Ordinance does not mandate so, Mr. Newell feels that the abutters should be notified of the application and of the site walk. Bates agreed to notify the abutters. The Board determined there is no need for a Public Hearing.

GREGORY G. AND KATHLEEN GENSHEIMER, 98 Newbury Point, Tax Map 27 Lot 20 – Discuss the Gensheimers' letter of July 25th regarding the decision of the Maine Supreme Judicial Court (Gensheimer v. Town of Phippsburg):

The Board has received a letter dated July 25th from Dr. Gensheimer in response to the Court's finding in favor of the Town in the above mentioned land use case. He also sent copies to the Board of Selectmen and the Board of Appeals. He states, in part, that "No further proceedings are necessary. We, by notice of this letter, withdraw our application from any further discussion." The third paragraph contains subjects that are not pertinent to the Planning Board.

Chair Varian feels that as the letter was addressed to the Board, we should respond even though no direct questions were asked. She has prepared a response dated August 14th, stating in part: "The Board reviewed your letter at tonight's regular meeting and, per your paragraph two, we accept that no further proceedings are necessary. With respect to your paragraph three, the subject matter has been referred to the Town's Codes Enforcement Officer and the Board of Selectmen."

Motion made by Mr. Newell, second by Mr. Smith, and unanimously voted to send the Chairman's letter to Dr. Gensheimer. The Chairman and all members signed the letter. A copy will be given to the Board of Selectmen.

HUBERTUS V. SULKOWSKI, 25 Lookout Point Road, Tax Map 37 Lot 13 – CEO Report regarding tree cutting allowed for house renovation construction:

CEO, Lee Rainey, reported on viewing the above named property in connection with Mr. Sulkowski's July 10th permit to replace a structure on the shore of the New Meadows River. He has placed a benchmark for foundation elevation. He also reported that at least eleven trees need to be cut to accommodate construction. There are firs and birches that are too close and some root systems go under the house; he marked specific trees. The permit stated "3-4 trees to be cut – no clear cutting."

The Board discussed the increase in tree cutting. The CEO assured the Board that removal of the extra trees was necessary. As stated at last month's meeting and reiterated tonight, Mr. Sulkowski will replant with trees indigenous to the area, and may plant more trees than were removed. Mr. Newell said that if replanting is agreed upon, it should be in writing.

The Board discussed amending the July 10th permit to increase the number of trees to be cut. It was finally decided that a Consensual Agreement between the Town and Mr. Sulkowski would suffice. Mr. Sulkowski lives in France, but his contractor, Kevin Moriarty, has Power of Attorney and can enter into an agreement. Motion made by Mr. Newell, second by Steven Thayer and unanimously voted that the CEO, within a few days, will draft a Consensual Agreement allowing 11 +/- trees to be cut with replanting of the same number of trees, each of a type indigenous to the area and of a size reasonable under the DEP's point system (8 points in a 25' square). The CEO will monitor the project. Chairman Varian will notify Mr. Moriarty of the Board's decision and instruct him to contact the CEO. The Chairman will report on the signing of the agreement, for the record, at next month's meeting.

CONSIDERATION OF MINUTES:

Motion by Mr. Newell, second by Mr. Smith and unanimously voted to approve the June 12th Regular Meeting Minutes as printed.

The July 10th meeting Minutes were not ready for consideration tonight.

Motion by Clifford Newell, second by Mr. Smith and unanimously voted to approve the July 9th Minutes as printed of both the site walk and public hearing for the Long Cove Road Subdivision.

ANNOUNCEMENT: The Board is in receipt of materials from the Maine State Planning Office that were created to assist in increasing support for coastal land protection efforts. The CD and text will be kept on file.

As no other business was to come before the meeting, **MOTION TO ADJOURN** was made by Mr. Newell, second by Mr. Smith and unanimously voted.

ADJOURNED at 7:37 PM.

Notes prepared by Marie Varian, Marie Varian, Chairman