

**MINUTES OF MEETING  
PHIPPSBURG PLANNING BOARD  
JULY 15, 2008**

**MEMBERS PRESENT:** Mark Hawkes, Clifford D. Newell, Robert Smith, and Marie Varian, Chairman.

Meeting was called to order at 6:03 pm.

**1. Seena and Sandy Stein, 122 Old Ferry Road, Tax Map 4, Lot 20.**

Continuation of the discussion at the June 17<sup>th</sup> Planning Board meeting about the non-conforming expansion. Applicants represented by Justin Knowlton of TMS Architects. Varian referred to the Site Walk on July 13<sup>th</sup>, notes from which were distributed to the members. Knowlton submitted to the Board a letter from the owners giving TMS Architects permission to represent them in this application and revised plans.

Knowlton reported that the only changes between the revised plans and the plans submitted at the last meeting were: (1) the two sides of the deck are 10', rather than 12', and (2) they took out the volume from the entry, as had been recommended by the CEO. Smith asked Knowlton what the expansion percentage was now. Knowlton reported that it was 29.66%. Varian asked whether the footages had been verified by the CEO. Knowlton said that they were. Hawkes asked whether Knowlton was putting the deck on the back side with the roof over it. Knowlton confirmed that that was the case. Hawkes asked whether the members of the Planning Board had decided on the height? Varian reported that they had discussed it, that no decisions had been made on the site walk, but that the general idea was that the roof level would not change.

Varian reported that the existing square footage is 5,610 and the volume is 49,384 c.f. The allowed expansion is 1,683 s.f., and 14,815 c.f. Applicant is requesting 1,664 s.f. and 11,435 c.f. He would have left over 19 s.f. and 3,380 c.f. for the future. Varian said that the Planning Board has seen it and they understand what he intends to do to stay within the 30% Rule.

The added volume is 22.8% of the existing volume, and the added square footage is 29.66%. Varian reported that the application front page doesn't have square footages on it. It's backed up by plans.

Newell moved to accept the application. Smith seconded. Motion was approved unanimously.

Varian instructed Knowlton to record the application at the courthouse and bring it back to the CEO for the building permit. Knowlton paid \$20 cash.

**2. Gregory and Kathleen Gensheimer, 98 Newbury Point Road, Tax Map 27, Lot 20.**

This is a continuation of the June 17<sup>th</sup> discussion about construction of an overhead walkway from the house to the barn/garage. Varian started out by saying that she had talked with Susanne Pilgrim, the attorney for the Maine Municipal Association (MMA). Varian distributed notes from her telephone conversation with Ms. Pilgrim. Ms. Pilgrim's opinion is that if the walkway connects from the house to the barn, it's all one structure. The 30% Rule would then affect expansion of the barn. Ms. Pilgrim questioned the actual use of the structure, and, if it is to be living quarters in any part of the immediate plan, whether the ordinance would allow two principal structures on the lot. Ms. Pilgrim didn't feel that taking the shed's footages and putting them on the house, which has already used its 30%, would really change the use. If the Planning Board did interpret it that way, it must have some valid reason. Ms. Pilgrim checked with another MMA attorney and she advised the Planning Board to check with the Town's attorney, which, Varian reported, she had not yet done.

Varian also reported on a conversation with Mike Morse of the DEP. He brought the property up on his aerial photos so he could see what the structures looked like. He could see the shed. His opinion was that if the applicant wanted to do anything with the shed, it should be moved out of the Resource Protection Zone. Varian explained that the shed was not the point of action. The intent was to trade the shed's SF for SF on the house. Varian reported that the barn is totally doable, the addition is totally doable. The problem comes when legality hits non-conformity. Varian reported that she didn't think the Planning Board has gotten clear direction from DEP on it.

Varian reported that the DEP always wants everything to go back to the greatest possible extent. That's not the point of this case. The house is totally non-conforming in the Resource Protection Zone, and we're trying to get footage from something here that is too close to the water by itself. It can stay there; it's been there; it's grandfathered there. But to trade it and put it on a structure that's already used its 30% -- that's where Mike balked. Up until then, he thought the DEP could treat it as a principal structure, a walkway, and an accessory structure (meaning the barn). And he thought that there would be no way really to deny such a thing if there were just enough SF somehow in the house itself to take and get that beginning walkway. The rest of it is fine. He is willing to come down here and look at it.

Varian asked the applicant if he wanted her to set up a site visit with Mr. Morse, and, in the meantime, Varian could get an opinion from the Town's attorney and see if he had anything different to say. The DEP visit could be scheduled here before the next meeting. Gensheimer responded that he would like to have the DEP visit the site. He recognized that they were operating in unchartered territory and wanted to be sure that everything was done correctly. He understood that his plan to demolish the shed and use its square footage in the walkway might not work.

Varian reported that Mr. Morse asked what was the intended use of the barn upon completion of the expansion and renovation. He was clear that if the barn area is connected to the walkway and the house, there would be no way in the future that the house itself could siphon SF away from the barn area.

Gensheimer said that he would accept that as a concession in writing. He had no intention to expand the house square footage or volume. His intention was to try to move the expansion away from the water and to be able to get from one structure to another with protection from the weather.

Varian explained that the fallback position is to build a non-enclosed walkway with a roof. That would add square feet, which they have available in the house, but not cubic feet, which are not available. The walkway could have rails, but not walls.

Smith expressed his feeling that it was important to get a legal opinion on the expansion plan. Newell moved that the application be tabled. Motion was passed unanimously.

**3. Frank Roberts, representing Wynburg East Community Association, 156 Pasture Road, Tax Map 35, Lot 12.**

Varian reported on Site Walk, July 13<sup>th</sup> and distributed notes from the Site Walk. The feeling as far as the parking area is concerned is that it would be going too close to the water and could not be done. The Board did suggest that the applicant check with the CEO about removing two trees that would give more space to the present parking space. Varian reported that the Board stated last month that building the boat house was not able to be done, and confirmed this at the Site Walk. The area on which it was proposed to be built is only 40' from the water. The launch/haul ramp is in a gully with trees, undergrowth, at the bottom of a steep hill. The existing growth that is protecting the river from the runoff is probably doing its job reasonably well. There is also a culvert that runs right in the beginning of the gully. During the Site Walk, there was a discussion about the fact that fill could not successfully be hauled in to take care of runoff, because a lot of it would end up in the river.

They identified another site close by—a natural beach, a little cutaway area in the trees big enough to haul their float if they use that area without needing to use any fill.

It was clear that none of the requests made by Mr. Roberts on behalf of the Community Association would be approved. However, it appeared that there was a simple and satisfactory solution to the boathouse and the haul out problem, using the alternative site identified. Use of that site would not require a permit from the Planning Board, nor would the removal of a couple of trees from the parking area—if approved by the CEO.

Mr. Roberts reported that everyone in the community that he talked to was very happy with the alternative that was suggested. He'll discuss trees with CEO. The alternative suggested is both better and substantially cheaper.

Newell moved that the application be denied. Smith seconded. Motion passed unanimously.

**4. Loren Becker, represented by Larry Mosier, 66 Water Cove Road, Tax Map 28, Lot 15. After-the-fact application for expansion of a non-conforming building, using the 30% Rule.**

The application was considered under Section 2.5 of the Phippsburg Land Use Ordinance. The structure is non-conforming in that it is closer than 20' to the abutter's property line. The expansion is an expansion of the decking/catwalk. The decking brings the setback to within 4' of the abutter's property line. The Planning Board concluded that it does not have the authority to grant a permit for a non-conforming structure to become more non-conforming. Newell moved to deny the application; Hawkes seconded the motion. Passed unanimously.

The Board advised the Applicant's representative that it was possible that the Applicant was eligible for ADA walkway grant. The Planning Board is not authorized to do this either, but an appeal can be made on this basis.

**5. Consideration of Minutes of June 17, 2008.**

Smith moved to accept minutes with minor corrections. Newell seconded. Passed unanimously.

**6. Consideration of Notes from Site Walks on July 13, 2008.**

Newell moved and Smith seconded the motion to accept the Site Walk Notes as corrected. Site Walk for Pendleton Woods has one minor correction. Passed unanimously.

**7. Pendleton Woods Subdivision, Fiddlers Reach Road, Tax Map 4, Lot 34.**

Smith, as the developer for Pendleton Woods, recused himself. Varian reported the results of the Site Walk on July 13 and distributed the notes. At the Site Walk, members checked the proposed roadway and reviewed the center line as it was staked and flagged. Members walked the length of the roadway and viewed the proposed turnaround area. They discussed with the abutters who were present the method of storm water runoff and those abutters had no objections to the roadway. Test pit flags on all lots were viewed, as well as the property line flagging, the rear property line, and the slope along east boundary. The land is presently wooded and is fairly flat in expected house site area. Lot#1 does contain ledge outcroppings and might require blasting. Blasting would be at the discretion of whomever bought that lot.

Board considered the developer's request for 6-month extension on submitting final Subdivision plan, which request was submitted by letter to the Board dated July 14, 2008,

and signed by Robert Smith and Kevin Clark. Varian asked Smith to explain reason for request.

Smith replied that they had several abutters approach them with interest in small pieces of the property. He's talking with them about the price and what they're interested in. It will take some time to do the surveying and correct the subdivision maps and sewer and water, etc. Hopefully, it won't be six months.

Newell quoted Section 6.2(a) that they had 6 months anyway from the site review. Varian quoted Section 6.2(f) which said that it had to be "within 30 days of public hearing" or "within 60 days of receipt of a complete application if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Planning Board and the subdivider." Varian explained that, with this extension, the Board had the opportunity to have a mutually-agreed extension. Varian distributed a letter that she had drafted for the Board's signatures if they approved of it.

Newell asked whether the sales could amount to a subdivision as well. Smith replied that it would not if it were to an abutter. Varian said that was correct, so long as the abutter held it for five years.

Newell moved to grant the extension as described in Varian's proposed letter. Hawkes seconded. Passed unanimously.

Varian reported that she received a letter from an abutter who objected to the subdivision. She will hold it in the file until later. If there is a public hearing, she will read it at that time.

Varian reported that she had no announcements and no further business.

Newell moved to adjourn. Hawkes seconded. Passed unanimously.

Adjourned at 7:20 pm.

Respectfully submitted,

Channa A. Eberhart