

October 8, 2003

Phippsburg Planning Board

REGULAR MEETING

Planning Board Members present: Marie Varian, Chairman; Marion Hebert; Steve Thayer; Bruce Kaake; Clifford Newell; Josh Bate, Alternate; Codes Enforcement Officer, Lee Rainey

The meeting convened at 6:00. A quorum was declared.

The Board first heard from Mr. C. H. Johnson of 10 Island View (Map 6, Lot 14, zoned Resource Protection). Mr. Johnson wishes to expand a one room cabin, which is under shoreland restrictions, to the limits allowed by the 30% rule. The application stated that he would like (a) to create a screen porch by notching into the south end of the existing cabin and (b) add to the north end by extending the present building as allowed.

Johnson provided the Board with photos of the existing and proposed building and sketches of the expansion. Two plans were provided. Rainey provided the following footages:

Existing cabin	=	344.49 total square feet 2346.63 cubic feet
Allowed Expansion	=	103.347 square feet 703.987 cubic feet

The Board referred to Section 12.C.1.a of the Shoreland Zoning Ordinance.

Plan (b) was accepted by the Board with Rainey's notes, stating that this plan will increase the square footage by 99.75, and the cubic footage by 1127. His note added that "this can be done if the Planning Board allows the removed cubic footage from the screen porch to be added to allowed expansion." The application was signed by all members with the comment: "Screened porch will remain as such. Porch cannot be enclosed for living space." The entire 30% expansion will be used. The \$20 fee was paid.

The Board recessed in order to meet with the Selectmen (M. Rice and P. Wells) and Bob Smith, manager of Sebasco Harbor Resort, regarding the parking policy at the Resort. Parking issues that were discussed at the September and October 2002 Planning Board meetings were read. Tonights meeting was held in response to a complaint regarding parking issues in July of 2003 made by Ona Barnet, owner of adjacent Rock Gardens Inn. The October 2002 minutes showed that a written policy for parking should have been submitted to the Board within 30 days which was mandated as part of their Expansion of Business Permit. None had been received prior to the complaint.

Smith provided the Selectmen and Planning Board members with a letter dated July 13, 2003. The letter enclosed a Resort Parking and Traffic Policy. He explained several problems he has encountered during peak times, weddings, etc. and what he has attempted to do to overcome these problems (e.g., roping off certain areas, etc). He advised that, if cars have to be towed, he will have them towed.

Rice pointed out that the Town Road ends at the Ice Cream/Gift Shop area and that the parking beyond that point is a civil issue between the Resort and abutters. He explained that the concerns of the Selectmen on the public way are speed control and signage, and that the situation is being made better by the Resort's handling of public events. He commended Smith for the improved situation.

The Board next heard from Gene Coffin of 129 Main Road (Map 1, Lot 26, zoned Resource Protection/Village District). Coffin desires to remove the present structures from that lot and erect a new building, expanding up to 30%. The Codes Enforcement Officer has visited the site. The Board referred to Section 5 of the Land Use Ordinance regarding New Business and determined that criterias of 5.2 a. through f. do not pertain.

The question was raised whether or not an immovable truck body which has been on the site for years and previously used as a cooler could be used as part of the equation for the proposed building. Coffin advised that this would provide him with more cubic area.

Codes Enforcement Officer, Rainey, provided the following equations:

Total available without truck body	=	1,172.40 square feet
		11,334.60 cubic feet
Total available with truck body	=	1,380.4 square feet
	=	12,894.60 cubic feet

The Board accepted the application using the total available with the truck body as it was acknowledged that the truck body had been used previously as a building. It was signed by all members and the equations were noted on the application.

Sebasco Harbor Resort manager, Bob Smith, accompanied by Steve Mohr, Landscape Architect, approached the Board with a complete application for the amendment of Sebasco Fairway Cottages Phase I and II Minor Subdivision (Map 30, Lot 11). A sketch plan was presented to the Board in September 2003.

The proposed Site Development Plan shows the relocation of Long Cove Road and the

creation of one additional residential lot on the east side of the current road location. The lot addition would be accomplished by relocating and removing a portion of Long Cove Road.

Mohr showed the Board and interested parties a map of the proposed reconfigurations. He explained that, under the Maine State Law, a majority decision regarding the relocation of Long Cove Road is legal, even though all property owners have not signed off. This was substantiated in a letter addressed to Board Chairman, Marie Varian, and signed by Atty. Lawrence Clough representing the Resort. Mohr requested that the Planning Board call a Public Hearing and, in the meantime, contact MMA to assure that they concur with the legal opinion that had been presented. The Chairman will request an opinion from the Town Attorney. Storrs Bigelow will be the spokesman for the citizens group on Long Cove Road. Varian stated that the application includes all documents as prescribed in Section 6 of the Subdivision Ordinance..

It was determined that there is no need for a site inspection as the Board had visited the site in 2002.. The plan was accepted as a sketch plan. A Public Hearing was set for October 28 at 6:00pm. The check for \$50 was paid.

Richard Gallagher of 29 Wallace Circle in West Point (Map 27, Lot 58, zoned Village District) next approached the Board. Mr. Gallagher came before the Board in August and September and the Board has conducted a site inspection on his property. He has a non-conforming lot and non-conforming building with a 50' setback and wishes to construct a deck on the west side of the dwelling.

Varian advised that Gallagher had FAX'd a letter giving a resume of everything he has for paperwork along with a letter dated 1979 to former owner, Albertina Thompson, regarding the location of the lot, a copy of a deed registration dated 1944 and a copy of a drawing that was made by Thompson's Attorney showing clarification of the lot. Varian further presented a letter from DEP dated 2000 regarding lateral expansions which says they are allowed as far as DEP is concerned and that there should be no doubt as to where the DEP stands regarding expansions. She stated that the Town Attorney, Richard Hornbeck, DEP and MMA have all been notified of this situation. Hornbeck advised that, in his opinion, the Ordinance wording does not prohibit lateral expansion in the Shoreland Zone.

The Board referred to Section 15.B.4 of the Shoreland Zoning Ordinance and determined that this case requires the 20% rule. Rainey has been to the site and measured.

Rainey advised that Gallagher's property is comprised of .14 acres (6098.4 square feet), 1,116.00 square feet for the dwelling, existing driveway is 8 ft. by 24 ft. (192 square feet), thus determining that the property is 88.3 square feet over the allowed footage.

Gallagher asked why the proposed open deck would count as square footage when a screened porch is not counted as such. Varian answered that we are now talking about a 20% lot coverage. Gallagher asked if the Board has the ability to make an exception. Varian replied that the Board does not have that ability and, in the case of denial, the applicant would be directed to go to the Board of Appeals. She added that a copy of all the documents regarding this case has been sent to the Town Attorney and he has given an opinion that, as far as the applicant is concerned, he has provided enough documentation for the Board to make decisions that show that Gallagher has sufficient information to prove the right, title and interest. Prior to this, the Board was looking at the case as a straight non-conforming situation rather than the current possible 20% situation.

Gallagher asked about the possibility of allowing the driveway to become a vegetative area and how he would go about appealing that decision. If the driveway were taken out of the equation, Rainey stated, Gallagher would have an extra 103.68 square feet, but cautioned against construction on the west side of the existing dwelling, possibly making a non-conforming structure more non-conforming. Varian advised Gallagher that, if the Board denies his application since it does not look to the Board as if he has enough footage because of the 20% rule, he could take it to the Board of Appeals. He was again advised to have the property surveyed. Atty. Roger Therriault, representing the Wallace family, attended the meeting, but had no input. The Board did not move on the application and Gallagher may come back in November.

Mark Hawkes and Lawrence Scott Jr. of the Main Road (Map 42, Lot 14) presented a Sketch Plan for a four lot minor subdivision to the Board. Scott's uncle, Eldon Scott, is the present owner of the property and Lawrence is in the process of purchasing the land. Hawkes advised that testing has proven excellent soils. The test pits are flagged and property boundary pins are in. Varian advised that lot boundary markers should also be posted and that the Board will need a report of availability and quality of water. She further stated that a list of all abutters will be required and the Board will notify them of the planned subdivision. It was agreed that, unless there is objection from abutters, there will be no need for a Public Hearing.

Section 6.3 of the Subdivision Ordinance was referred to and the applicants were directed to comply with items 1-10 of that Section regarding minor subdivisions. Section 10 of General Standards, was also referred to. Hawkes and Scott will come before the Board again in November and will provide a letter of agreement or intent, a copy of the deed held by Eldon or a copy of the deed to Lawrence from Eldon.

Peter Oceretko, representing John Rhodes of 11 Rhodes Drive (Map 38, Lot 29, zoned Resource Conservation/Residential), approached the Board with a letter signed by Rhodes

authorizing Oceretko to speak for him at this meeting. The letter was notarized. Rhodes proposes to split his land into three lots. He wishes to split off what he considers a “buildable, mortgage lien-free lot.” Plans of the area were provided to the Board. A recorded 1996 Quit-Claim Deed generated as the result of a divorce and a survey, omitted a 30, 278 square foot lot which created two deeds, two ownerships.

It was later discovered that Rhodes ex-wife was still, inadvertently, on the deed. An Attorney in Colorado generated the Quit-Claim Deed to remove her from that and wrote the description for the entire parcel of land. Oceretko provided a survey done by Shirley Beals and recorded in October 1992. He stated that the problem now, according to the Town Ordinance, is that the entire parcel is now contiguous because it is all in Rhodes’ name. Rhodes’ request to the Planning Board is if they would recognize the survey and allow him to build on a lot of 30,278 square feet in the Shoreland Zone.

Varian advised that in October 1992, the Ordinance mandated a minimum of 40,000 square feet and minimum frontage of shoreland lots adjacent to tidal areas be 150 feet. If the lots are in the Shoreland Zone, she added, the criteria in that Ordinance would have to be followed but, in any case the lots would have to be 40,000 square feet. Oceretko acknowledged that there was frontage enough for only one lot. Varian referred to Section 12.E.3 of the Shoreland Zoning Ordinance regarding contiguous lots - vacant or partially built. She advised Oceretko that Rhodes would have to take a portion of land from an adjacent lot to bring the smaller lot to code.

Arthur Reno, representing Arthur Tumolo of the Parker Head Colony Phase II Subdivision (Map 10, Lot 14, zoned Resource Conservation) presented the Board with an application asking the Board to renew approval of 140’ setback from high water for building of a year round home. The application was accompanied by a septic design signed 8/11/03, the original permit which was issued by the Board on 11/8/00 for a 140’ setback, and a letter signed by Tomolo authorizing Reno to represent him. Construction has not yet started and Tumolo requested a renewal of that original permit since it has expired. The Board voted to issue a new permit and it was signed with the comment “The Board conducted a site inspection at the time of original approval on 11/8/2000 and do not feel another is necessary for this approval this date. Septic criteria showing 10,000 sq. ft. is on file. Setback is minimum of 140’.” It was later revised to add “Septic setback is minimum of 150’ per Section 15.B.6.b.” The \$20 fee will be paid to the Town Treasurer.

An application was received from Miguel and Margarita Diaz of 722 Main Road (Map 7, Lot 27, zoned Resource Conservation). The application requested the renewal of a permit issued on September 12, 2001 and renewed on September 12, 2002. The application was for the removal of the existing buildings, replace them with a new dwelling and attached

garage and expand up to 30%. The Board approved the application and it was signed with the comment explaining the original permit and added "All building footages are the same as 9/12/01 and all documents are on file." The CEO will, as agreed to in 2001, verify all footages at regular meetings. The fee was paid.

The September minutes were approved with minor changes.

The Board discussed the current workloads, amounting to four to five hours each month. The discussions ranged from continuing with late adjournments; hold a meeting accepting applications with a workshop to discuss those applications; or to hold two meetings per month. It was discussed that, when warranted, the Board would table the remaining applicants at 9:00pm until 6:00pm the following Wednesday.

The meeting adjourned at 10:00pm.

Respectfully submitted,

Marion J. Hebert

Recording Secretary/  
Planning Board Member

