

December 10, 2003

Phippsburg Planning Board

REGULAR MEETING

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

The Board first heard from Bob Smith, owner of Kennebec Landing Subdivision (Map 3, Lot 47). He was accompanied by Kevin Clark of Sitelines in Brunswick. They presented an Amended Subdivision Plan and Planning Board Application for the Amendment. This amendment called for the change of sections of roads and hammerhead turnarounds. These modifications were made due to ledge outcroppings. Lot 5 has been reduced to 2.02 acres and new test pits are in progress. The information regarding those test pits will be submitted to the Board as soon as it is available. The area for Lot 13 has been increased to 2.10 acres. All other lot areas remain the same. The Board conducted a site walk on December 4 and viewed the turnarounds and revised lot lines.

The Board unanimously approved the application and the modified plan was signed by all members. The \$20 fee was paid.

The Board next met with Bob Smith, Manager of Sebasco Harbor Resort (Map 30, Lot 11), accompanied by Steve Mohr, Landscape Architect. They approached the Board to continue the discussion of the relocation of Long Cove Road which would facilitate the addition of one lot to the Sebasco Fairway Cottages Phase 11 Subdivision. They met with the Board on October 8 and a Public Hearing was held on October 28. The relocation of the road is being met with opposition from one resident and is delaying that process.

Mohr presented a plan for the relocation of the road, identical to what has been presented to the Board during the October meetings. The addition of a note on the plan reflecting correspondence between the Resort's Attorney, Larry Clough, and the Town's Attorney, Richard Hornbeck. The note states that: "In approving this plan, the Planning Board is not rendering any decision on the rights of the applicant to relocate Long Cove Road." A letter from Hornbeck dated December 9 gave a lengthier version of this decision. Mohr explained that they would be in favor of adding the version rendered by Hornbeck as a condition of approval of the plan.

Varian pointed out various correspondence between the two Attorneys and stated that, as of this date and in response to Hornbeck's letter of December 9 to Clough, Clough replied to Hornbeck stating that the Planning Board does not have the right to resolve real estate issues. She advised that the Board is not trying to resolve any issue, but is trying to come up with some end to the application.

She further explained that, although many residents of the area were originally against the plan for reconfiguration of the road, during the year everyone has come into agreement with it with the exception of one party, Nancy Keefe/Richard Eaton. Varian stated that she has tried unsuccessfully to reach Keefe via FAX and telephone to notify them of tonight's meeting..

Kaake advised that he approves of the decision between the two Attorneys. Hebert agreed.

Varian asked Smith why he didn't just go ahead and do the road and then come back before the Board for the Amendment. Smith answered that he would not like to expend a large amount of money and then being denied. He further stated that it is a major capital investment and that, at this point, he feels there is nothing he can do to change Keefe's mind on the issue.

Varian replied that the Board should act on an application made in good faith. If the Board delays too long, she explained, the Board could be sued because it didn't act. On the other hand, if the Board acts incorrectly, a lawsuit could be brought from the other interested party. The Board does not settle land disputes although the application could be denied by the Board because the interest of the other party may not be taken care of. The application could be approved with conditions stating that nothing can actually be constructed until a civil matter is worked out between the Resort and the opposing party.

She asked Smith if this decision was put off until January, would it be a big holdup. Smith answered that it would not, that there would be a minimum of two weeks before they could legally move forward with the establishment of a rights-of-way owners association since a needed Justice of the Peace has not been appointed for Sagadahoc County. He added that he is more than willing to wait another month to see if things will change, although he doesn't expect them to. He is in hopes that things can move forward in January.

Storrs Bigelow, spokesman for the citizens group of Long Cove Road, stated that he has not seen an opinion from either Attorney regarding the right to move the road. He added that it has been assumed that the road cannot be moved without approval of all the people who have a right-of-way over it. He stated that this road passes through his property and asked if he is being told that he cannot make any change or move this road without getting all the other property owners to approve it. He told the Board that, in his opinion, the Board has the right to say that the plan is acceptable. He added that his deed says nothing about where the road is over his property other than that he has a right-of-way over it.

Bate suggested that the last sentence of Hornbeck's letter be added to the plan as a condition of approval.

The sentence reads:

“In approving this plan, the Planning Board is not rendering a decision with respect to the rights of the applicant to relocate Long Cove Road and is not rendering a decision with respect to the rights of others to use the current or relocated Long Cove Road.”

Varian advised that she would notify Keefe tomorrow of this meeting and inform her that a decision will be made one way or another in January.

The Board was next approached by Lawrence Scott, Jr. and Mark Hawkes to continue discussion on a proposed four lot minor subdivision on the Main Road (Map 42, Lot 14). They had appeared before the Board in October and had presented a Sketch Plan at that time. The name for the proposed subdivision is Red Oak Acres Subdivision. Varian announced that a site walk is scheduled for December 14 at 9:00am, weather permitting.

They provided the Board with a draft of the Declaration of Easement Rights, Protective Covenants Restrictions and Reservations along with a revised Preliminary Plan. Hawkes explained that the road has been moved so that it will go straight through the development to the westerly boundary line. He pointed out the proposed turnaround and stated that the acreage of some of the lots have been reduced slightly. The Test Pits were noted on the plan. He explained that part of the verbage in the Covenants regarding Trailers and Temporary Structures will be revised as both he and Scott feel it is too restrictive. There will be a 40 foot no-build zone along a stream on the westerly boundary of the subdivision.

The Board referred to Section 6 of the Subdivision Ordinance regarding Minor Subdivisions and Scott was advised that Items 1 through 10 under Section 6.3 would have to be complied with, most of which have been taken care of at this time. The name of the Subdivision Road, Scott Lane, will be cleared with Town Hall for 911 purposes.

Several abutters to the proposed subdivision were in attendance. Hawkes answered questions regarding maintenance of the road and a discussion regarding a Homeowners Association and covenants took place.

Scott Miller of the Stoneybrook Road (Map 41, Lot 28) presented the Board with an application to build a 9 x 22 deck on the side of an existing front porch and put a roof over all of the deck. This is an after-the-fact situation and is a non-conforming structure. The deck is parallel to the road. The permit was approved with the comments: “Permit

given after the fact. Total existing square feet - 1757; Allowed expansion - 527.1; Permit will use 198.0 square feet; Balance of square feet on reserve - 329.1.” The \$40 fee was paid.

Glen Theall of Popham Beach (Map 14, Lot 21), owner of Spinney's Restaurant and Guest House, approached the Board with an application to replace a 10' x 16' cupola on the Guest House roof. A sketch was also provided. The proposed cupola on the non-conforming Guest House (too close to the road and too close to the water) would not exceed the 35 foot height restriction as spelled out in the Shoreland Zoning Ordinance Section 12.C.1.A and Land Use Ordinance Section 2.11.

The application received unanimous approval with the additional comments: "Maximum height 35' per Ordinance. Total allowable square feet: 1293.52 - Permit will use 160 square feet. Total allowable cubic feet: 10,535.8 - Permit will use 1280 cubic feet." The \$20 fee was paid.

The meeting adjourned at 8:20pm.

Respectfully submitted,

Marion J. Hebert
Recording Secretary/
Planning Board Member