

August 13, 2003

Phippsburg Planning Board

REGULAR MEETING

The meeting was called to order at 6:00pm and a quorum was declared.

Board members present were: Marie Varian, Chairman; Marion Hebert; Steve Thayer; Clifford Newell. Bruce Kaake was absent. Codes Enforcement Officer, Lee Rainey, was also in attendance.

Varian announced that letters have been sent to all the abutters of the proposed Kennebec Landing Subdivision (Map 3, Lot 47), a 14 lot major subdivision on the Fiddlers Reach Road. A Public Hearing regarding this subdivision was conducted by the Board on August 6. She added that those letters were also sent to the Fire Chief, the Road Commissioner and the School Board Chairman. She further advised that a site walk was held on July 13. She provided a copy of the results of that site walk to Board members.

Hydrologist, John R. Rand, gave a comprehensive synopsis of his findings, a complete report of which is included in the Subdivision Application. He emphasized that there is no hazard to groundwater quality or quantity to wells in the region or area of the subdivision site, prevented mainly because of a ledge formation which runs north and south. He provided a visual graph of the layers of soil, explained them, and fielded questions from the audience. One question dealt with salt water intrusion on their shorefront property and Rand explained that there could possibly be a problem with water on shorefront property because of their proximity to the river and abuse of water usage, but otherwise felt that the subdivision dwellings would be self sufficient and will not have any effect on the wells that are there presently.

Pleasant Cove President, Tom Cashman, stated that some of the wells in his area are already "fractured" and stated concerns that any further drawing of water away from that area would have a serious impact on those wells. He asked Rand about the possibility of contamination to the wells on the Pleasant Cove properties. Rand answered that it is a matter of distance and bedrock geology that would determine that.

Peter Roberts, President of the Fiddlers Reach Association, posed questions to Rand and stated that the depth of a well doesn't tell the whole story. Rand explained the thought that goes into well drilling. Roberts stated that it is density of houses that is causing a drop in the rate of water per minute available at his home. It is estimated that there are 80 plus wells in the entire Fiddlers Reach area.

Cashman asked the Board if everything possible has been done to correlate what impact on the groundwater supply that these additional homes might have. Varian replied that the Board has gone in no other direction but that all testimony given to date is on record

and it will be discussed further. She added that there may be a need for additional meetings in addition to the regular monthly meetings to discuss the subdivision issue.

Pat Cahill of Woodland Lane asked about the possibility of obtaining a Performance Bond relative to wells in the Pleasant Cove subdivision.

Varian advised the audience that the Board is not blind or deaf to any of the statements made and that the situation is being approached very carefully and will continue to do so. She added that if additional meetings are necessary, she will notify Cashman. These meetings will also be posted in the newspaper and around town.

Peter Roberts brought up the issue of the impact on the Fiddlers Reach Road. Varian replied that the Road Commissioner gave his opinion, at the August 6 Public Hearing, that the entrances to the proposed subdivision are safe and did not give any cautionary advice regarding the number of car trips having an impact on the road.

Varian closed the question and answer period. She stated that the Board has gone through the application and has several questions. Thayer referred to Section 10.3 of the Subdivision Ordinance which lists the types of land not suitable for development. He pointed out that several lots in the proposed subdivision fall within the 100 year frequency flood plain. He stated that it is his feeling that the developer is not meeting the minimum lot area after deducting the calculations for the flood plan. Kevin Clark of Site Lines pointed out the areas to which the flood plain would be limited.

Thayer stated that his other point of concern was the cemetery easement on Lot 7. He asked how much of that area was exempted when calculating the lot size. He was told that the State requires a 25 foot perimeter around a cemetery and if that 25 feet was not figured in, the line would be changed to meet the requirement. Thayer further questioned the grade of the road intersections, stating that the code requires the maximum grade of intersections to be 3% within 50 feet of the intersection. He pointed out two areas of road in excess of the required 3%. Clark replied that the slopes have been extended out so they are actually at a lesser grade.

In response to Newell's statement that he was having trouble determining the lot lines on Lot 3, Clark clarified those for him. Newell referred to a soils report from Joseph Wayashe regarding test pits on the various lots. Clark advised Newell that Wayashe provided GPS locations and that additional field measurements had been conducted.

Varian asked what kind of use Smith envisions for the common land. Smith replied that homeowners could put picnic tables and recreational items in that area and have a space for children to play. He added that he had spoken to the Fire Chief to determine if it

would be possible to put a fire pond in that space and found it could not be done due to the fact that it is too close to a stream and would not be in compliance with DEP regulations.

Varian referred to Section 10.9.C of the Subdivision Ordinance covering Common Space and Services which requires that the Final Plan reflect that common land will not be used for building lots and that a part or all of the common open space may be dedicated for acceptance by the Town, also that no lot should be sold before construction of the road to that lot is approved.

Referring to the Covenants, Varian stated that Lot 3 is not part of the Homeowners Association. Clark replied that Lot 3 is being retained by Smith, therefore there will be no participation in the Association by that lot. Varian asked if Lot 1 needs to be a member of the Association, as its individual driveway enters directly onto the Fiddlers Reach Road. Clark advised that it had been determined that all lots except Lot 3 should share responsibility for the road as well as the common land.

Varian advised that she felt the Board has everything it needs for the documentation. She requested that the applicants continue to think about the Covenants because they will probably be part of the final approval and if they are not part of the approval and not listed on the map, then they are not binding as far as the Planning Board is concerned. Smith answered that they might discuss taking Lot 1 out of the Association and that, when the lot is sold, the buyers will be informed that they don't have the use or the access of the open space. He added that he had spoken with his attorney regarding this matter and it was determined that, outside of the use of the open space, that owner would have no benefit of being a member of the Association.

Varian brought up the issue of a financial guarantee that any expenses incurred, particularly the road, the developer has the wherewithall to follow through. Several items in the Ordinances cover this guarantee. She read a letter from First Federal Savings and Loan Assoc. of Bath confirming that Mr. Smith has the financial capacity to build the roads at the Kennebec Landing Subdivision. The letter went on to say that a substantial sum of money has been placed in escrow to cover all expenses associated with this project and will be disbursed as the road is completed. That letter is on file. Varian asked the Board for a motion and a vote for acceptance of the letter as a guarantee that Mr. Smith has the means to properly build the road and complete that part of the subdivision project.

She added that the Selectmen have to give approval of this waiver of performance bonds and escrow money. The Selectmen voted a week ago, upon receipt of this letter, to approve this if the Planning Board elected to go in that direction. Asked how much the

road would cost, Smith replied \$150,000. Newell moved that the letter be accepted as an adequate guarantee, the motion was seconded and unanimously approved by Board members.

Varian asked for approval of the Preliminary Plan. The Board unanimously voted for this approval. A check for the 14 lot subdivision and a bill for the advertising will be paid to the Town Treasurer.

Roberts suggested that Lots 1 and 2 be combined if their size is reduced because of a flood plain determination. Varian replied that, if the plan goes forward, this issue could be addressed. It was determined that there will be no further meeting on the subdivision until September 10.

The Board next heard from Richard Gallagher of Wallace Circle in West Point (Map 27, Lot 58, zoned Village District). Gallagher desires to expand his non-conforming structure up to 30%, raise a ridgeline, construct a dormer, and build a 12'6" x 20' deck on the west side. It was determined that Gallagher is asking for 3438 cubic feet and 250 square feet of expansion for the deck and the allowed footage is 3431.6 cubic feet and 485.65 square feet. Gallagher provided photos of the existing structure and pointed out the desired construction. It was determined that Gallagher is 6.4' shy on dormer footage and the expansion of the deck increases the non-conformity.

Varian referred to Section 12.C.1.a of the Shoreland Zoning Ordinance regarding limitations of non-conforming structures. She advised that the Codes Enforcement Officer has received a letter from Merrill Chapin, Chair of the Phippsburg Historical Commission, stating that they have reviewed the planned addition to the Gallagher property. They recommended that Gallagher take photographs of the existing structure.

Michael Therriault, representing abuttor Don Wallace, stated that it is Wallace's opinion that Gallagher's porch is on his property and that any kind of expansion, including the proposed deck would also be on his property.

Gallagher countered that he has had a site survey and a title search done. Varian stated that the Planning Board does not get into lot line conflicts but, in certain cases, would conduct a site inspection before making a decision. Surveyor, Ron Beal, was in the audience and stated that he had surveyed the property in question some two years ago.

Varian asked the Board members if they felt that a site inspection was in order. It was agreed by all, including the Codes Enforcement Officer, that an inspection should take place and will be conducted Sunday, Aug. 17 at 8:00am. The Board recessed this issue until Sunday at which time a decision will be made on site.

The Board next received an application from Jonathan D. Wheeler of the New Meadows River area (Map 36, Lot 20). Wheeler would like to construct an 8' x 16' one story bunk room addition on the back (east) side of the existing camp starting at the southeast corner. The application further stated that this would be standard frame construction with a post foundation and cedar shingle external finish. The application was accompanied by a sketch of the existing camp depicting the proposed addition. Wheeler is asking to add 84 square feet and 1,370 cubic feet. The total existing is 1,217 square feet and 6,036 cubic feet. Rainey's calculations showed additional footage for the screen porch (2,224.8) and determined that Wheeler is allowed 365.1 square feet. After construction Wheeler would be left with 281.1 square feet and 854.8 cubic feet. The Board accepted the application and it received unanimous approval. The \$20 fee was paid.

Janice Wright of Sebasco next approached the Board to discuss whether a swap of land between her and Sebasco Harbor Resort will necessitate an amendment to the abutting Wahtuh Lake Subdivision. Wright owns a garage on the grounds of the Resort and will turn that over to them in exchange for the piece of land in question. Wright provided a map of the area and pointed out the existing subdivision, easements, Resource Protection areas and where she would like to construct a home. Varian advised that a document would have to be prepared by an Attorney and Wright would have to provide the Board with a plot plan and see if it is approved by the Board. Wright told the Board that her Attorney advised her to come before the Board to determine if the Resort and the Dabney's can do this after-the-fact. Varian told Wright that the Board would allow them to do this after-the-fact and advised her to obtain the original subdivision map, show the modification as it is now and that will become an amendment to that map. Wright will attend the September meeting.

Surveyor, Ron Beal, next approached the Board. Beal is representing Charles Walles Jr. of the Small Point Road (Map 18, Lot 12). Beal explained to the Board that Walles is planning a 5 lot minor subdivision. He provided the Board with a legal description map of the area, a Warranty Deed, a Marsh Lot Right of Way and a site evaluation from William Maier, Land Use Consultant. One of the lots was sold a year and a half ago and another last Spring leaving three lots one of which contains Walles' home. Varian stated that the lot sold last Spring is only 40,000 square feet and is non-conforming under Subdivision requirements, but was sold in good faith prior to the Subdivision Application.

She referred to Section 6.3 of the Subdivision Ordinance and pointed out that the proposed subdivision needs to be named, abutters notified, and plan wording requirements and covenant proposals listed. Access and egress issues were discussed. A site inspection will be conducted Sunday, August 17 at 9:00am. Beal advised that the pins have been set. The Board accepted the Sketch Plan. The case has been put on the agenda for the September meeting.

The Board was next approached by Terry Gray (Map 36, Lot 13, zoned RC) who wished to discuss expansion possibilities. Gray has a contract to purchase the former Adeline Black property and wishes to consolidate three non-conforming structures on the shore and make these less non-conforming. Gray asked for guidance from the Board on this project and provided photographs of these structures. He explained that this would be 28-30 feet from the neighbors lot line and no closer to the water. He advised the Board that he has done some calculations on cubic and square footage which would amount to a 12 x 18 square foot structure with a low pitched roof. He provided a sketch that showed where he would like to put a deck on this structure which would be considerably smaller than the existing deck.

Varian explained that the Board has, in the past, allowed consolidation of buildings and that the Board has the ability to make something less non-conforming. She advised Gray that he would probably be allowed an expansion of up to 30%. Gray will inform Varian when he wishes to be put on an agenda for another meeting.

Rainey advised the Board that there is a potential problem at Sebasco Harbor Resort with altering a Subdivision lot line. The Board instructed the CEO to advise the Resort that their plans for the sale of the land and the change of a lot line would be an amendment to the abutting Subdivision.

Board member, Clifford Newell, stepped down and presented an application for Fred Hartman of the Popham Road (Map 14, Lot 3). The application was accompanied by a letter from the Hartmans authorizing Newell to act as their agent. A letter was also attached from Merrill Chapin, Chair of the Phippsburg Historical Commission requesting photos of the outside of the building which is the former Popham School House. The application listed the names of abutters and requested the construction of a 2nd story front and rear dormer and re-roofing of the entire structure. Photographs of the structure accompanied the application. The application showed that the current volume of the existing building is 6,527 cubic feet of allowed expansion; 1,959 cubic feet will be used for the planned addition. This planned addition will not expand the current footprint. A motion was made to accept the application as presented and received unanimous approval.

The minutes of the July meeting were approved as presented.

Varian announced that Sebasco Harbor Resort will meet with the Planning Board and Board of Selectmen on September 10 regarding the Resort's employee parking and traffic policy. Bob Smith was informed of this meeting in a letter, signed by Mike Young, dated August 7, 2003.

Varian further advised the Board that she had written a letter to David Jacobs regarding the dispute listed as Note #9 on the final plan for Washington's Way Subdivision which was approved in 1991. She concluded by stating that the subdivision has been in effect since 1991 and there have been no issues with access to lots 2 or 3 and that the Board no longer considers the access in dispute.

The meeting adjourned at 10:00pm.

Respectfully submitted.

Marion J. Hebert  
Recording Secretary/  
Planning Board Member

