

October 28, 2003

**PUBLIC HEARING
RE: SEBASCO HARBOR RESORT**

The Hearing was called to order at 6:00pm. A quorum was declared.

Planning Board members present: Marie Varian; Marion Hebert; Steve Thayer; Clifford Newell; Josh Bate, Alternate; Codes Enforcement Officer, Lee Rainey.

Five abutters of the Resort were in attendance. The hearing was held in order to hear the Resort's proposal regarding the relocation of Long Cove Road and the freeing up of some of that land, creating enough land to create one more lot with an amendment to the Sebasco Fairway Cottages Phase 1 Subdivision.

Resort Manager, Bob Smith, referring to the old drawings, pointed out where the reworking would take place and added that the DEP has not yet confirmed or approved the location of the new property lines. He added that he has not been able to reach his Attorney, thus cannot confirm that the County of Sagadahoc has yet appointed a Justice of the Peace in order to finish the final proceedings that are required by the State to form an Owners Association of the road rights-of-way owners. He stated that certified letters were mailed to all abutters and all receipts were returned with the exception of abutters, Nancy Keefe and her brother, Richard Eaton, and that they are the only abutters on Long Cove Road who have expressed concern and made it clear that they are not in favor of the proposed project. He further stated that, nevertheless, they plan to go ahead with the plan and the wishes of the other abutters who will be utilizing the new easement.

Landscape Architect, Steve Mohr, pointed out the proposed changes to the Subdivision Plan and advised that the Board is being asked to consider the creation of a new lot. He added that the lots meet the frontage and one acre requirements.

Varian asked if, with all the proposed changes, there would still be the required 25' around the perimeter of an existing cemetery. Mohr answered that there would be.

The question was raised as to whether the proposed 10' wide access driveway would be adequate for emergency vehicular traffic as opposed to the normal 16' width prescribed for roads. Newell asked if the condos would use that 10' wide access, making three dwelling units being serviced by that roadway. He was told that that was correct. Smith advised that he felt there would be no objection to widening the road. Asked what the width of Long Cove Road is at the present time, Mohr stated that it varies between 11 and 16 feet. He added that it would not be an issue to widen the narrow section of the road.

Rainey stated that it meets all the Town definitions of a road, that it is over 500 feet long

and is servicing over two dwelling units. He added that Minor Subdivision criteria for roads should be met. Varian, citing Section 11.2.f of the Subdivision Ordinance, stated that there is no way to avoid treating the situation as a Minor Subdivision Road. Smith advised that the adjustment would be made and presented to the Board in November.

Varian stated that at the October 8th Board meeting, a written opinion was presented stating that the majority of persons with rights-of-way (in this case over Long Cove Road) could act for the whole. Town Attorney, Richard Hornbeck, via telephone with Varian disputed that opinion and stated that “if all the persons with rights-of-way had a right of way to one lot, the majority could speak. But, if everyone has separate deeds to separate lots, then the majority cannot rule, because rights would be taken away from someone who has a deeded right-of-way.” Hornbeck further stated that the rule in Maine is that “once the right of way is deeded or established it would take all parties to agree to a change.” She advised that, as in this case, it happened to be Keefe and Eaton and Sebasco Harbor Resort and they do not agree, then there could be no agreement. It was Hornbeck’s opinion, she added, that the Planning Board was correct in not allowing this to go forward until all signatures and approvals were received.

Smith stated that all deeds are separate as well as are rights-of-way. He added that these are differences of opinions between two Attorneys which will have to be resolved. Varian advised that, at this point, it is up to the Resort to prove to the Board what kind of deed or what documents are necessary to show that each person involved is giving his approval and that Keefe/Eaton have some kind of deed whereby the majority can speak for them.

Varian stated that she would let Keefe/Eaton know of hearing and inform them also that the Board will next meet on November 12 and will, at that time, again discuss this issue.

The attendees did not object in any way to this proposal. Smith brought up the fact that Keefe/Eaton seem to be the only holdouts. The Board has received a letter of objection from them and it is on file.

The hearing adjourned at 6:55pm.

Respectfully submitted,

Marion J. Hebert
Recording Secretary/
Planning Board Member

