

APPLICANT: LIVE LOBSTER CO., INC, 59 Wallace Circle, West Point, Tax Map 27, Lot 48-01

REQUEST: Building Addition to House Lobster Tanks (on Wharf)

PRESENT: Planning Board: Marie Varian, Chairman; Clifford Newell; Robert Smith;
Joshua Bate

CEO: Lee Rainey

Applicant's Reps: Carlos Aragon; Peter Fisher; Granville Wallace

Neighbors/Interested Parties! Richard Gallagher; Scott Michaels; Brian Beckman; Edward Hunt; Robert Cunnings; and several others

The above application was presented at the May 18, 2005, Planning Board Meeting (see Minutes). The proposal was discussed and plans were viewed. The project is a "Functionally Water Dependent Use" in the Village District. The Board voted to hold an on-site inspection at approximately 6:30 PM (immediately following a prior site inspection), on Thursday, June 2nd, to verify the requirements of the project and Hear public comment; the Board would then render a decision at the site. This site inspection was advertised, timely, in THE TIMES RECORD and was posted in Town.

Attendees gathered on the eastern end of the wharf of Live Lobster Co., Inc.

At 6:40 PM, discussion was re-opened on a motion by Newell, second by Smith, and unanimously voted.

Varian reported on discussion of the application at the May 18th meeting. E-mails that had been presented at that meeting and one received since were passed around for reading. Jeff Knoop, Kathleen O'Rourke, Dick Burhoe, and Roger Herrigal e-mailed but did not attend. They had concern for either loss of view, devaluation of surrounding property and/or impact on the villagers and tourists. Dick Gallagher and Scott Michaels gave their opinions in person.

Varian asked Carlos Aragon to show the location of the proposed lobster tank housing. Aragon stated that the building would be on the south side of where the group was standing and would cover the tank that was there and three others (which would stack two high) and pointed out the proposed construction area. The proposed lay-out is 30' long (west to east and will be attached to the existing wharf building) by 14" wide, located on the southeast section of the wharf. The roof would be shed-type, 15'2" at the highest point, starting about 1' to the right of the cable attached near the present roof line and sloping to the south to 10' in height. The highest roof point would be 2' lower than the existing building and 5'- lower than the maximum footage allowed in Sec. 15-C of the Phippsburg Shoreland Zoning Ordinance.

This section of the wharf has been replanked and sheathed with plywood. Aragon reported that J. P. Marine Co. of South Bristol had done some general reconstructive repairs to the wharf in 2004, including installing 22 Pressure-treated pilings for stabilization.

The existing building has a concrete floor and discussion with J.P- Marine and other wharf builders had determined that it was too risky to cut the concrete to add pilings to accommodate added weight. It would be neither safe nor logical. The best area for this added weight would be on the shore side of the facility on the shorter pilings instead of out on the water side on long ones. Also, there would not be enough room inside the existing building as space is taken up with present needs. Existing tanks can hold only about 4000# of live lobsters which is not enough enclosed capacity for the business. Heretofore, excess lobsters have been floated overboard in crates on lines, but that system is open to bad weather and thievery and resulting loss of lobsters.

Hunt asked for an added-weight estimate of the four tanks when filled with water and lobsters. Newell measured and estimated 35,000#. Hunt also emphasized the need to keep lobster dealers in Town for the support of the lobster harvesters.

Michaels spoke in favor of keeping the business running and asked if there was any other way to get the same results without blocking any view.

Gallagher is in support of the business but is very concerned with the loss of view stating that the view is a Town treasure and loss shouldn't be taken lightly. The beauty of the area and the "wow" factor is important to the tourists as well as to the villagers. He stated that the Town's Comprehensive Plan called for furthering tourism. Varian clarified that the Town does not have an approved Comprehensive Plan. One is being drafted and surveys have been made. The draft calls for upholding both the tourist industry and the fishing industry.

The Board viewed the existing building, inside and out; members walked along Wallace Circle to determine the impact on houses to the north, south and west of the wharf; and viewed the wharf from inside Scott Michaels' restaurant (to the north - not open at the present time).

Several traditional lobster industry needs were mentioned: empty lobster crates are usually piled on a wharf as high as a person can reach; other gear and equipment is apt to be on the premises; trucks (on land side) may be loading or unloading; and boats (on water side) may be unloading lobsters or traps or taking on fuel, bait and/or other supplies, it was mentioned that West Point, historically, has been a fishing community for well over one hundred years.

The Board referred to the "Functionally Water Dependent Uses" sections and other sections of the Town's Shoreland Zoning and Land Use Ordinances.

In the Village District, Commercial Uses are allowed under Sec 14-Item 15.C. with a Planning Board Permit; structures accessory to allowed structures are allowed under item 16 with a Codes Enforcement Officer permit; wharves are allowed under item 17 with a Planning Board permit; and Item 32 grants Uses Similar to Allowed Uses with a Planning Board Permit. However, it was evident that no one questioned the validity of the existing business under Sec. 14.

Functionally Water Dependent Uses are covered in several sections of the Shoreland Zoning Ordinance. Sec. 15-B.1.a. gives waterbody setback exemption. Sec, 15.C.5. gives access to the water in the case of operational necessity. Sec. 15.C.7. limits the height of a structure to 20' above a wharf. Sec. 17 describes Functionally Water Dependent Uses and mentions among other uses the need for large volumes of processing water, which, specific to this case, would mean water flowing in and out of the lobster tanks.

The Board judged that the application is not an expansion of business under Sec. 2.3. and Sec. 5.2 definitions of New Business in the Town's Land Use Ordinance. The whole wharf has been in the lobster/seafood business for decades and the total wharf area has been used for various needs along the way. Live Lobster, Inc. is primarily a wholesale business. The Board also judged that the application is not a non-conforming situation under Sec. 12 of the Shoreland Zoning Ordinance as Functionally Water Dependent Uses take precedence.

Gallagher presented the statement of "Scenic Quality" in Sec. 15.U. of the Shoreland Zoning Ordinance and questioned the section's value. Varian acknowledged Sec. U. and drew attention, also, to Sec. 1, the "Purpose" of the ordinance, which gives weight "to protect commercial fishing and maritime industries" as well as "to conserve natural beauty." The Board felt the stronger directive was to protect the fishing industry.

Discussion centered over and over on the view vs. the applicant's request. The Board gave very serious consideration to the objections to the application. The Board felt the view is not being destroyed - it is not changed at all from several vantage points and, because of the hill to the north, in most instances the houses look out over the top of the facility. Discussion mentioned that the previous wharf building that had been destroyed by fire several years ago was higher than the existing replacement. A working wharf has long been an acknowledged tourist attraction - however, there is no designated spot in West Point for the public's appreciation of scenic views.

Discussion ceased and due deliberation was given. Motion made by Smith, seconded and unanimously voted to approve the application and construction plans as presented. The permit was signed by the Board. All correspondence will be kept on file.

Adjourned at 8:35 PM.

Notes taken and prepared by:

Marie Varian, Chairman, Planning Board;
Secretary, Pro-tem

(NOTE: The foregoing is a draft. These Minutes will be presented for approval at the July 13th Planning Board meeting.)