

May 18, 2005

Phippsburg Planning Board

REGULAR MEETING

The Planning Board meeting convened at 6:00pm. Board members present were: Marie Varian, Chairman; Marion Hebert; Steve Thayer; Clifford Newell and Codes Enforcement Officer, Lee Rainey. A quorum was declared.

POLIQUIN - POPHAM WOODS AND BEACH CLUB SUBDIVISION

The first item on the agenda was to hear from Bruce Poliquin. Poliquin is planning a 70 plus or minus unit subdivision on the Popham road (Lots 49 and 51) and at Popham Beach (proposed planned common land) (Map 14, Lot 43). Poliquin gave a verbal report on the progress made since the April meeting. He stated that he has received a report from the Inland Fisheries and Wildlife and they have determined that there are no essential wildlife habitat on the property and that there are no rare plants. The Maine Historic Conservation Commission has stated that there are no buildings of significance on the property. He stated that he has hired one of the top engineering firms in the State, although a contract has not been signed at this time and added that this firm has had a great deal of experience in soils and hydro work. He advised that the boundary survey has been completed and was done by Brian Smith Surveyors in Bowdoinham. A flyover has been conducted by Bradstreet & Company which has provided a very detailed topographical survey with two foot contours. He will not get the survey until June. He advised that most of the soils on the lots have been mapped, but will not be complete for another week or two. The wetlands mapping will be finished by the engineering firm and will also be ready in a couple of weeks. He added that once the soils and wetlands are mapped, Brian Smith Surveyors will enter the data onto the topographical map and it will be ready to show the Board in July. At that point, he stated, Steven Theodore, architect on the project, a Civil Engineering firm, and a Landscape Architect (not yet hired) will then take the data, go to the site and determine the best locations for the roadbed and location for the homes.

Poliquin pointed out that the Times Record had misquoted him during the April meeting, stating that he had said the subdivision road would be open to the public and added that he clearly did not say that.

He invited the Board to conduct a site walk when the mapping is completed. Varian stated that one site walk would not handle the progress of the whole subdivision and agreed that the Board would wait until more information is available.

Theodore presented a conceptual drawing of what the proposed housing units would look like. He advised that the units would take advantage of the solar orientation during the day. The units would range from roughly 2200 to 3000 square feet. Some units could have a shared driveway with garages on the backside of the dwelling. Existing

vegetation will be taken advantage of and will maintain buffering between the structures. Houses will have a sense of privacy. Theodore stated that the structures would be “low slung” to make this a part of the subdivision community and with cedar shingles and shingled roofs.

Varian stated that a letter has been received from Richard Nichols formally requesting a Socio-economic survey and to determine what the impact of this subdivision would have on the Town. She added that the Board would take this under advisement and that the Board can hire expert help if necessary. She announced that other letters have been received from interested parties. She announced that these comments should be brought up at a Public Hearing vs. at a regular meeting, but the letters are part of the Subdivision file. Mr. Poliquin’s application form, which was submitted in April, was considered to be the start of whether the total application was complete or incomplete, which was not his intention. The form was informational only, she added, so he did not need an extension of time for its completion, so the Board is back to the regular time schedule that is prescribed by the Ordinance.

TIDEWATCH SUBDIVISION

The Board next met with Mike Young, Mark Haskell and Douglas Johnson of Brian Smith Surveying. Young and Haskell, along with Chilloa Young are owners of Tidewatch Subdivision, a 7 lot minor subdivision (Map 10, Lot 4) in Parker Head. A site walk was conducted on May 5 by members of the Planning Board, the Codes Officer, the developers and several interested parties. Varian read a report of that site walk and the report is on file.

A Subdivision Application was presented to the Board. Along with the application, a deed to the property, a copy of the results of the soils tests, a copy of the easement rights and covenants restrictions, a copy of the variance from the Board of Appeals for the septic system on Lot 5, a copy of the USGS map with the site location, and a copy of the Tax Map. Sheets 1 thru 3 of the Preliminary Plan, erosion sedimentation control plan and a detail sheet were also submitted. Varian asked Young if the covenants have been changed and Young answered that he has added the book and page number to the variance given to Lot 5 and on the 50 foot right-of-way that a neighbor has over the common land, a pedestrian easement.

Varian referred to the notes on the map as they relate to the covenants that should be under Planning Board jurisdiction. She pointed out Note 15 as it relates to Lot 7 which is the only lot that can be split, but the note does not state that any split of that lot would have to be at least two acres. The words “minimum of two acres” will be added to Note 15 on the plan and No. 1 in the covenants. Young stated that modular homes and log

cabins may be allowed with the developer’s approval and that will be added to the notes on the plan. Varian questioned the covenant stipulation which states that no business

signs shall be allowed, and advised that this deals with a home business situation. Young explained that home delivery vehicles would be allowed but not tractor trailers, etc. Number 6 of the covenants was discussed regarding building specifications and design and asked who would decide that issue. It was determined that that would be between the developer and the Homeowners Association. Young stated that he would clarify that in the covenants.

Varian advised that Paragraph 3 under Building Specifications and Design should be discussed. That paragraph states that “Each dwelling may also include an apartment or attached wing utilized only by other family members.” She stated that a large apartment or separate dwelling unit will increase the number of dwellings. Young replied that he envisions it as a small apartment with cooking facilities and bathroom, but that it would be part of the same dwelling. Varian advised that she felt this should be written more in depth and that these apartments would not be for rental purposes but that they would be something connected with the primary household. Young stated that he would add the words “ Only by other family members, not on a rental basis.”

Varian questioned Paragraph 4 of that section. Haskell stated that a barn would be used for storage of lawn equipment, boat, etc. The covenants state that a household cannot have animals outside of household pets. The screening of fuel tanks in Paragraph 8 was also questioned. Young stated that if the fuel and other types of tanks are not buried below the ground or placed in cellars, they shall be screened. He will add “or placed in cellars” to the covenants. He will also clarify the construction of a ramp and float and access stairs in the Common Area. Varian advised that this Subdivision was not required to have common land but that the developers opted to do that. She referred to Section 10.9 regarding Open Space (common land) and advised that another note should be added stating that the common land shall not be used for building lots and will not be dedicated to the Town.

The application was considered by the Board to be complete and the Preliminary Plan was accepted. A Public Hearing will be conducted on June 8 at 5:30pm although it is not required by the Ordinance. The Final Plan will be submitted at the June 8 regular meeting session.

ALLEN MILLER REP. BY WATERMAN MARINE

Peter Spencer of Waterman Marine next approached the Board. Waterman is representing Allen Miller of the Fiddler Reach Road (Map 2, Lot 20). Miller is requesting the filling of more than 10 cubic yards of riprap for erosion control on two sites of his property and to add ground cover over the erosion. A letter from Miller giving Spencer the authority to speak for him was presented to the Board as well as a plan for

erosion control, a topo map showing the site, a Tax Map and photographs of the site as well as a Permit by Rule from DEP. Spencer described to the Board what would be

necessary to bring the erosion under control and the excavation that would be conducted. He advised the Board that the riprap used for both sites would amount to approximately 50 cubic feet.

Rainey stated that he had visited the site with Mike Morse from DEP and it was Morse's feeling that no more than two to four yards of stone was necessary and expressed concern that machinery being on the embankment would cause more damage and that it is not critical to do this volume of work. Rainey added that the DEP representative felt that some hand-placed stone in the area would be more than enough to stop the erosion problem. The embankment is well vegetated with trees and the DEP and Rainey both think that the root structure will hold it. Spencer replied that a permit from DEP has been issued.

The Board referred to Sections 14, Table Item 30 and Section 15.Q of the Shoreland Zoning Ordinance and determined that a site walk is in order. The site walk was set for Thursday, June 2 at 5:30pm. A decision will be made at the site.

LIVE LOBSTER CO. INC.

The Board next met with Carlos Aragon and Granville Wallace. Aragon is the manager of Live Lobster Co., Inc. in West Point (Map 27, Lot 48-01). A letter was presented to the Board from Antonio Bussone, President of the company. Bussone, represented by Aragon and Wallace are requesting a 14' x 30' expansion of the existing building on the wharf for Functionally Water Dependent Usage. Bussone's letter stated that the company has entered into a lease associated with the property which pertains only to the land between the road and where the wharf begins, otherwise Live Lobster is the sole owner of the wharf, buildings and business.. Sketches accompanied the letter showing the existing and proposed additions.

Varian stated that she has received several emails and letters from abutters expressing concern that they did not know about this expansion in advance and also expressing concern that their property values would be diminished if this permit is given. Abutor, Richard Gallagher has emailed Varian asking if the issue could be postponed until a later date. Rainey advised that this kind of application does not require abutor notification at this point.

Varian stated that Functionally Water Dependent Usage is handled differently from anything else in the Ordinance. The business is not undergoing expansion or a change in the type of business but would be increasing footage to house lobster tanks.. She referred to the Definitions of New Business. It was determined that none of those criteria apply.

The Board referred to Water Dependent Usage and Varian again advised that abutters do not have to be notified but Aragon stated that some neighbors have knowledge of this application. She referred to Section 14 of the Shoreland Zoning Ordinance, Table of Land Uses, as well as Section 15.B.1.a, Section 15.C.5, Section 15.C.7 and Section 17.

Wallace advised that the construction will be made of the same materials as the existing structure and will be lower by two feet. He added that he does not know of anyones view which would be obstructed.

Varian asked if there is any provision in the land lease that would prohibit this expansion.

Aragon answered that the lease is only from the road to the wharf so the wharf is not included in the lease. The building, wharf and business is owned by Live Lobster. . Rainey referred to Section 15.C.7 of the Shoreland Zoning Ordinance and advised that everything is well below the maximum allowed footages.

Newell suggested that a site walk would be in order since this could be a controversial issue. A site walk will be conducted June 2 immediately following a prior site walk scheduled for 5:30pm - estimated time of arrival in West Point is approximately 6:30pm. Varian will email the site walk information to those who have contacted her.

FRANK & BARBARA ROBERTS - BRIGHTWATER ROAD

Frank and Barbara Roberts of 138 Brightwater Road (Map 35, Lot 25, zoned Resource Conservation) next approached the Board with an application to add 93 square feet to one cabin of two on the site. The cottage is non-conforming because 75' is required from the structure to the center of the Brightwater Road. It is only 35' plus or minus. Drawings of the proposed work accompanied the application. The Board referred to Section 12.C.1.a of the Shoreland Zoning Ordinance. Roberts provided a drawing of the proposed construction as well as photographs of the existing structure. Rainey has visited the site and provided the Board with calculations. A garden shed on the cabin in question will be removed providing Roberts with additional footage. He has notified the Historic Preservation Commission and they have viewed the site.

The Board approved the application with the following footages noted:

	Sq. Ft.	Cu. Ft
Existing Footage	611.04	5105.90
Allowed Footage	183.312	1654.17
Shed Removal	20.40	
Permit Requires	108.6667	1040.00
Footage Remaining	94.6853	614.17

The \$20 fee was paid.

JACK & MARGO CURLEY - SETBACK IN RC ZONE

Jack and Margo Curley of Bowdoinham came before the Board to request a lesser

setback in the Resource Conservation Zone on Lot #1, Phase 1 of the Parker Neck Colony Subdivision on the Captain John Parker Road (Map 9, Lot 5). The Curleys have not yet purchased the property. They wish to construct a home on the property between 125 and

250 feet of high water and are seeking a special use permit. The Board referred to Section 15.6. a, b, c and d of the Shoreland Zoning Ordinance. Varian asked if the Curleys have any paperwork regarding variances issued on this piece of property. Curley provided a 1984 Planning Board decision. Varian read the decision of the Planning Board in 1984 signed by the Chairman, Tom Percy. She advised that a site walk will have to be conducted and it is up to the applicant to demonstrate that there is at least 10,000 of soils suitable for wastewater disposal. A site inspection will be done on June 6 at 5:30pm. In the meantime, Curley will have the property surveyed.

MARTHA SILVER - PARKER HEAD ROAD

John Doyle, representing Martha Silver of 23 Parker Head Road, Map 8, Lot 4 zoned Village District), came before the Board with an application to add four dormers (three doghouse style and one shed style). This would be an expansion of a non-conforming structure. The application contained a letter of permission from Silver allowing Doyle to act in her behalf before the Planning Board, a sketch of what the expansion will look like after completion, various permits issued to former owners Ronald and Betty Pelkey. Rainey advised that he has gone back to 1989 and found what the structure consisted of at that time for square footage and volume. The structure as it existed in 1989 had 1780.00 square feet and 14,030.00 cubic feet. He added a note to his calculations stating that the prior owners of this property did some expansion without the 30% rule being applied. He did not give any credit for those expansions in these calculations. Those expansions totaled 303.00 square feet and 2424.00 cubic feet.

Varian added a statement to the application saying that the Planning Board recognizes there was work done by former owners that was not addressed under the 30% rule. Calculations show that there is still available footage to accommodate this application. She suggested that any further expansion will require investigation into the properties construction history. She added that there is going to be something left over for footage, according to Rainey's calculations. The Board referred to the Shoreland Zoning Ordinance Section 12.C.1.a. and approved the application with the following footages noted:

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	Sq. Ft.	Cu. Ft.
Allowed Footage	534.00	4209.00
Permit Requires	135.00	285.00
Footage Remaining	399.00	3914.00

LES SMITH

Les Smith, spokesman for the Town's Road Committee, asked the Board that if the centerline on the Stoneybrook was moved, would it make somebody non-conforming. Rainey suggested that if a resident was conforming prior to the road being moved it should be documented that their setback was originally conforming.

ANNOUNCEMENTS

The April Minutes were approved and it was noted that a statement made by Richard Nichols was not included.

Varian announced that the Ordinance amendments were passed at Town Meeting and that the Town Administrator has forwarded the Shoreland Zoning Amendments to the DEP for approval.

Rainey reported that he has visited North Creek Farm and has told them that they are operating beyond their permit by allowing sit down eating. Their original Business Permit was off-premise consumption only. He further stated that Kennebec Sporting Clays has opened up a short order grill which is outside the bounds of their current permit. He provided them with an application form and a list of their abutters, several weeks ago as he has with North Creek Farm. Varian advised that both parties have called her and she has advised them to get their applications in immediately and, so far, has not heard anything from either one. Rainey will serve both parties with a Cease and Desist Order. Each party will have to appear before the Planning Board and Selectmen at a Public Hearing for an Expansion of Business Permit.

Setting a time limit for applications to be on the Agenda was discussed. Rainey suggested that five business days would be reasonable. The Board agreed.

Varian announced that the Board has two vacancies, one for a full time member and one for an alternate member. The Selectmen have advertised for candidates in the Times Record and posted a notice on the front of Town Hall. Four applications have been received for the two positions and they are: Mark Hawkes, Gilbert Marco, Richard Nichols and Robert Smith. The Selectmen have asked the Board for recommendations. The Board unanimously agreed to recommend Robert Smith as a full time member and Mark Hawkes as an alternate.

The meeting adjourned at 8:50pm.

Respectfully submitted,

Marion H. Hebert
Recording Secretary/
Planning Board Member.