

July 13, 2005

Phippsburg Planning Board

REGULAR MEETING

The meeting was called to order at 6:03pm. Members in attendance were Marie Varian, Chairman; Marion Hebert; Steve Thayer; Clifford Newell, Robert Smith, and Mark Hawkes, Alternate. Codes Enforcement Officer, Lee Rainey, was also in attendance.

POPHAM WOODS AND BEACH CLUB SUBDIVISION

The first order of business was to hear from Bruce Poliquin, developer of the Popham Woods and Beach Club Subdivision (Tax Map 45, Lots 49 and 51 and Popham Beach Tax Map 14, Lot 43). Poliquin has formed a Limited Liability Corporation. A letter has been received from Les Smith who is on the Phippsburg Road Committee regarding the impact on the Popham Road, which will be kept on file.

Poliquin stated that the only thing of significance which has transpired is a site walk by a representative of Pinkham and Greer, two representatives of the proposed landscape artists, the building architect, Bill Maier (a soils evaluator from Bath) and himself. He advised that they went over the land in great detail and collected the field data that they need to go back and do their respective work for the most optimal way to use the land, specifically where the best position for a roadbed would be and the positioning of the planned units. Otherwise, he stated, he doesn't have anything further from a month ago.

Varian stated that the letter has been received regarding the formation of the Limited Liability Corporation called Dirigo Holdings. She added that all the assets of the project will be transferred into the Corporation and all business matters will be conducted through the Corporation. Mr Poliquin will be the managing partner. She advised that the forming of this Corporation does not interrupt the sequence of the project. The Board will need a document verifying the transfer of assets.

Richard Nichols asked what the Board intends to do regarding his letter requesting that a socio-economic study be conducted. Varian answered that this be addressed in August. She reminded Nichols that an application has not yet been received from Poliquin. Bob Butler of Popham asked if an impact study would be conducted regarding the Beach Club. Varian stated that it is premature at this point because no application has been received and that this is all in the conceptual stage.

SYDNEY SMITH - SMALL POINT

The Board was next approached by Sydney Smith of the Clubb Road in Small Point (Map 21, Lot 17). Her application requested a 20' x 35' (700 square feet, 7700 cubic feet) addition to her mother's house where Smith lives. The Board denied the application because this is a non-conforming house located too close to the property line. A portion of the allowed expansion footage has already been used by the addition of a garage a year ago so there is not enough footage left for the requested 700 square feet. All Board members signed the application with the following comment "Per Sec. 2.11 of the Phippsburg Land Use Ordinance. There is only 307.2 sq. ft. available. The Planning Board does not have the authority to grant over 'up to 30%.'" She will go before the Board of Appeals.

GRETCHEN SIBLEY - FIDDLERS REACH ROAD

Mrs. Sibley approached the Board with an application requesting an addition to her home at 53 Fiddlers Reach Road (Map 4, Lot 25). The project was described as a two bedroom addition to the home off the south side of the structure. Total 1,000 sq. ft. new. Existing structure 700 sq. ft. Final structure will be 1700 sq. ft, 2 bedroom, 2 bath. The building is non-conforming as it is approximately 72 feet from the roadway. The Board denied the application with the comment "Per Sec. 2.11 of Phippsburg Land Use Ordinance house is too close to the centerline of Fiddlers Reach Road. The Planning Board does not have the authority to grant over 30% expansion of a non-conforming structure." The application was signed by all Board members. Sibley will go to the Board of Appeals for a variance.

MARY O. BABIKIAN - HARBOR ISLAND

Ms. Babikian of Harbor Island (Map 30, lot 18.01) next approached the Board. She was represented by Andrew J. Perkins of Perkins Engineering, Inc. Babikian is requesting the installation of submerged utility cables from the Sebasco Harbor Resort property to the island. The Resort has agreed to this installation. Some ten Federal, State and Indian Affairs Departments have been notified and Varian asked if any one of them had voiced concerns. Perkins answered that, as of this time, no one had contacted him.

Harbormaster, Doug Alexander asked Perkins if the Department of Marine Resources or the Inland Fish and Wildlife have signed off regarding their concerns over the eel grass. Perkins answered that they have not signed off. Much discussion ensued regarding the possibility of the cable being pulled up accidentally by fishermen pulling up traps and it was also discussed where the responsibility would lie if that happened. Babikian would own the cable, but anyone damaging the same would be responsible for the cost of repair estimated by Perkins at \$3,000 per splice. It was determined that over eight acres of bottom would be

involved as the cable path will be 300' wide and 1200 feet long. Alexander says that, in effect, it would be a "no fish" zone as fishermen would fear the penalty. The area is productive lobster bottom.

Varian referred to the Shoreland Zoning Ordinance Section 14, Item 21, which is the Table of Land Uses. That section lists essential services being allowed with a Planning Board Permit. She also read a portion of Section 15 L and Section 17 both of which speak to Essential Services and stated that the waters in Phippsburg are a resource and are of a big concern to the fishing and lobster industry.

Hebert stated that she felt the members of the fishing industry should come before the Board and relate what their feelings are on this matter. She added that the Board cannot impact that industry. Newell advised that a topographical survey of the ocean bottom should be conducted. Perkins stated that he would have a diver go down and take pictures of the ocean bottom in that area. The Board tabled the issue until August when information is available and the people in the fishing industry can be notified of the meeting.

HAMELIN - POPHAM

An application from Theresa Hamelin was presented to the Board requesting a 10 x 20 addition to an existing cottage along with a 12 x 20 enclosed porch. The cottage is in Popham at 41 Surf Street (Map 14, Lot 94) and is non-conforming because it is too close to the centerline of the road. The Board denied the application with the comment "Per Sec. 2.11 of the Phippsburg Land Use Ordinance, structure is within 42' of centerline of Surf St. Planning Board does not have authority to grant over 30% expansion of a non-conforming structure. Application would exceed allowed footage by 193.5 sq. ft. and 1658.25 cu. ft." It was signed by all Board members.

LUCRETIA AND D. MICHAEL WOODRUFF

The Board accepted a sketch plan from Lucretia and D. Michael Woodruff of 411 Parker Head Road (Map 43, Lot 27). Woodruff explained that, although they have moved to Brunswick, they want to retain approximately 25 acres of the land on the Parker Head Road as a wood lot. He told the Board that they are applying for a three lot minor subdivision. He pointed out the house lot on the sketch plan and advised that Ken Cotton has done soils tests on the 25 acre lot. One test has already been conducted on the 3.5 acre lot. The 8.9 acre lot has a house, guest house, shed and workshop on it. He further stated that he and John Morse are negotiating an easement for a 50 foot right-of-way. Woodruff sold an adjoining piece of land to Timothy Blair and Catherine Dempsey in 1999.

Varian questioned whether the 3.5 acre lot has yet been sold. Woodruff advised that it has not. She further explained that there is a difference of opinion among the Attorneys

as to whether or not the five year rule regarding subdivisions pertains to certain situations. Varian has spoken to a representative (Becky Seel) of MMA and Seel does not believe

that Woodruff's situation, if he sells the 3.5 acre first, then sells his homestead and retains a piece, would not be a subdivision. If he sells his homestead first, then it would be considered a subdivision. She added that this is a case of interpretation. Seel agrees that if anyone has a question they should be cautious because even though the applicant may decide that it is not a subdivision situation, maybe years from now someone searching titles will find this and question it and someone will be held up from purchasing the property. She further stated that it is up to the applicant to do what they have to do to protect themselves and the Woodruff's have decided to go with the advice of their own Attorney who has advised to go with the subdivision.

The Board referred to Section 2.5 of the Land Use Ordinance and Varian advised Woodruff to read Section 6 and Section 10, General Standards. Once an application has been received, a site walk will be conducted. Abutters will be notified.

ALVIN DAVIS - WEST POINT

Alvin Davis of Wallace Circle in West Point (Map 27, Lot 36) next approached the Board with an application requesting permission to construct a shed roof over the deck on the back of the first floor of the house. The floor space is 8 feet by 30 feet. The height will be approximately 8 feet at the junction with existing roof and 7 feet at the outside wall. The application was accompanied by a sketch of the profile of the deck after the proposed construction. The existing building is non-conforming. The Board unanimously approved the application with the comment "Per Sec. 2.11 of Phippsburg Land Use Ordinance. Application will use cubic feet only. Footage available is 1854.00. Will use 1800 cubic feet leaving only 54.00 cubic feet. Structure is non-conforming as it is too close to Gull Lane." The \$20 fee was paid.

WALLES SUBDIVISION

Ron Beal, Surveyor representing Charles and Constance Walles of the Small Point Road (Map 18, lot 12) came before the Board with a Preliminary Plan to discuss the Walles' desire to increase the number of lots in their subdivision which was approved in November 2003. Beals advised Board members that Walles is asking for three more lots. The subdivision now has five lots. Some wetland areas were shown on the plan Beals presented to the Board. He pointed out the potential septic areas and slopes.

Hawkes expressed concern with the size of the turnaround and the Board discussed the possible location for a hammerhead on Lot 8. Section 6.3 of the Subdivision Ordinance

was referred to. Abutters will be notified and a site walk will be conducted on August 7 at 8:30am. Beal advised that the pins are all in. A lot cannot be sold until the present

access road to that lot is up to standard.. The Board unanimously approved the Preliminary Plan.

TIMOTHY LEWIS

Timothy Lewis next approached the Board and presented a letter from Atty. David King. The letter stated that a conveyance from George Bowker in 2003 was to Tim and his wife, Michelle. The deed should have been to just Tim so that it would clearly have been a conveyance to an abutter. The deed was recorded prematurely as a closing had not taken place. Lewis would like to convey that title to just himself so that it will clearly be a conveyance to an abutter. Lewis intends to convey the parcel they received from Bowker back to Bowker and ultimately have a proper closing at which time the property will be conveyed to just Tim. Findings and Certification of Title on Map 41, Lot 47, prepared by King, were presented. Lewis is concerned that without correction this would constitute a subdivision situation. Lewis advised that he wants to make sure that he can sell the new lot, on which he plans to erect a spec house, without creating a subdivision situation. Lewis has owned the original lot longer than five years. It was determined that this was an error in conveyance.

Newell advised that the only thing that would be changing is the names on the lot and doesn't appear that another lot is being established, although another spec house is being created which would constitute another lot. Rainey stated that the lot would be outside of the five year limit.

Board members approved the request pending approval of the Town Attorney.

Varian announced that a position on the Phippsburg Land Trust is open for a Planning Board member. She asked for volunteers. Mark Hawkes stated that he will consider it.

BROCK AND KELLY HOWE

Brent and Barbara Hershey, representing Brock and Kelly Howe of the Parker Head Road (Map 10) next came before the Board. The Howes wish to sell a piece of their land and are concerned that doing so will create a subdivision situation. A Chain of Title was presented to the Board along with a map of the property and several Warranty Deeds. A three lot subdivision was created by George Anestis and Lisa Joyce which was approved the Planning Board in 1991. One of those lots was sold to Orville Mooney in 1991. In August 2000, Mooney split the lot into lots 2A and 2B. Lot 2A was sold to John and Susan Coons on August 28, 2000. Lot 2B was sold to Glenn and Diane Theall on May 24, 2001. Lot 2B was then sold to Brock and Kelly Howe on July 25 2001.

Hershey asked if the subdivision should have been amended in 2000. It was determined that all the land splits have taken place well after the required five year limit and does not

constitute a subdivision situation, it is merely another resale of Lot 2B The Board voted to agree with that.

ANNOUNCEMENTS

Varian announced that a position on the Phippsburg Land Trust is open for a Planning Board member. She asked for volunteers. Mark Hawkes stated that he will consider it.

The minutes of the June 2 and June 8 meetings were read and approved. Varian advised that North Creek is appealing and have retained an Attorney. They are circulating a petition against the Planning Board, the Codes Officer and the Board of Selectmen. The petition states that they have been treated poorly by the offices naming Varian in particular because they think she has a conflict of interest and should not have voted. Varian had made a disclaimer at the onset of that meeting on June 15 and offered to recuse. Selectman Douglas also offered to recuse. No objections were raised in either case.

Because of the increasing workload and length of agendas, the Board discussed the possibility of having occasional workshops and/or having two meetings a month. No decision was made and it will depend on the workload of each agenda.

Respectfully submitted,

Marion H. Hebert
Recording Secretary/
Planning Board Member

