

August 10, 2005

Phippsburg Planning Board

REGULAR MEETING

The meeting convened at 6:00pm. Board members in attendance were: Marie Varian, Chairman; Marion Hebert; Steve Thayer; Clifford Newell; Bob Smith; Mark Hawkes, Alternate. Codes Enforcement Officer, Lee Rainey, was also in attendance.

**POLIQUIN - POPHAM WOODS AND BEACH CLUB SUBDIVISION**

The first order of business was to hear from Bruce Poliquin regarding the Popham Woods and Beach Club Subdivision Tax Maps 49 and 14. Poliquin's company is the developer and is named Dirigo Holdings, LLC. He was accompanied by Landscape Architect, Terrance J. DeWan. Poliquin submitted a new sketch plan. The original plan was submitted in February but was not followed up by a Preliminary Plan within six months. Poliquin explained that the new plan depicts an accurate boundary survey, mapping of wetlands and suitable soil test sites. He further advised that much of the northwest land will be left open and wild. Pinkham and Greer, Civil Engineers from Falmouth, has hired a sub-specialist to do a hydrological study on the 183 acres. He added that he is about to hire someone to do a very detailed, in-depth analysis on the 183 acres to make sure there is sufficient water to meet the needs of the project and also to make sure there is no negative impact on the neighborhood. This analysis will probably, Poliquin added, include some preliminary drilling. Although not required by the Town, he further advised that Pinkham and Greer is in the process of ordering a high-intensity soils survey which is required by the DEP.

DeWan presented a detailed, colored sketch of the proposed project and told the Board that his firm is in the process of collecting data and advised that Land Use Consultant, Bill Maier has visited the site and has done a lot of test pit work which has proven good soils in the area. He presented a revised sketch plan showing the entire 183 acres which, he feels, meets the requirements of the Town. He pointed out where the storm water drainage would flow and added that a buffer will be established around the outside of the existing pond as well as outside of the wetlands. He advised that this will have to go before the Department of Environmental Protection who will be keenly aware of the preservation of natural features and habitats. He further pointed out the proposed access from the Popham Road and stated that he thinks that that is a very critical point. He advised that Pinkham & Greer have inspected the sight distance from that access/egress site.

DeWan told the Board that there will be 70 dwellings, some of them duplexes and some of them single family homes. He advised that Architect, Steven Theodore (in attendance) has drawn up plans which are ecologically "sympathic" to the land. Some of the homes will be arranged in clusters, others would be arranged in pairs to minimize the amount of driveways that would have to be constructed. He added that the road design is still being

worked out by Civil Engineers. He stated that each of the sites has a location for an on-site septic system per Bill Maier and added that water supply is another issue, acknowledging that there are a large number of neighboring wells in the area. Tests will be conducted to identify what the site features are.

Varian referred to Section 7.1.A of the Subdivision Ordinance which states that an applicant has six months between the time he submits a Sketch Plan and when the formal application is given. She explained that in the past six months the developer has found new information which has been spoken to during this meeting and the history of whatever went on before is going to be abandoned. The original Sketch Plan is now obsolete and the one presented at this meeting is the new one and the six month period will start again.

Newell asked if the sight distance at the access/egress point had been measured. Poliquin answered that it is approximately 1200 feet and the line of sight is approximately 500 feet in either direction.

Smith noted that the Beach Club portion of the Subdivision was not part of this plan. Poliquin answered that the instrument that will relate the homes in the Popham Woods area to the beach lot has not been created. He added that the DEP treats the Popham Woods area to the beach lot as two totally separate projects. There is a separate permitting process for the beach lot as compared to the Popham Woods area. He advised that he does not know, at this point, what the time frame will be for the permitting process. He stated that he also does not know what the Town permitting process will be for the beach lot and that it may be different from the DEP process, but that there will be a relationship between Popham Woods and the beach lot. Varian advised that that information is not needed at this point because Poliquin is submitting only a Sketch Plan for the Popham Woods portion of the Major Subdivision. She referred to Section 3 of the Subdivision Ordinance (Definitions), Section 10.8 (Cluster Developments) and Section 11.2 (Road Design Standards). The requirements for roads was addressed and it was agreed that Section 11.2.F (Collector Roads and Minor Roads Criteria) will require more discussion.

Richard Nichols asked if all the mapping is on GIS and was told that it is not at this point. He then asked about the road width and was advised that that subject will be discussed further in accordance with the Subdivision requirements. Regarding the socio-economic study which Nichols has previously requested, Varian stated that Matt Nazar of the State Planning Office has given some good opinions as well as opinions from several other planners, but that the project is not far enough along to address or demand a study.

A site walk is scheduled for September 11 at 8:30am. The purpose is to allow the Planning Board and any others to familiarize themselves with the lay of the land and to view the proposed homesites.

### **KIRK PURDY - WEST POINT**

Kirk Purdy of 26 Carrying Place Road in West Point (Map 27, Lot 83) next approached the Board with an application to take down an existing dock and building and replace using the same square footage and volume. This will be a recreational dock. This is a non-conforming structure on a non-conforming lot in the Village District. The application was accompanied by sketches of the existing structure and dock and sketches of the proposed construction which will be on the same footprint. He told the Board that the height on both the dock and dock house will be lower than what now exists. He advised that the proposed construction has been approved by the DEP. The Board unanimously approved the application with the comment "Dock measurement: 932.7917 sq. ft., Fish House measurement: 305.8333 sq. ft, 3364.167 cu. ft. Construction will be same footages as existing." The \$20 fee was paid.

### **BABIKIAN - HARBOR ISLAND**

Mary O. Babikian of Harbor Island in Sebasco (Map 30, Lot 18.01) next came before the Board. She was accompanied by Andrew Perkins of Perkins Engineering, Inc., and Robert Smith, owner of Sebasco Harbor Resort. Babikian had approached the Board in July requesting the installation of a submerged utility cable from the Resort on the mainland to Harbor Island. Her application as presented to the Board described her project as "Installation of submerged cables to provide utility service to Harbor Island property at southeast end of island. Cables shall tie into mainland cables at Sebasco Harbor Resort provided by Declaration of Easements, Covenants, Conditions, and Restrictions for Harbor Island, dated December 17, 2004".

Perkins addressed the Board and stated that since the July meeting, he had taken the Board's recommendation and a survey has been conducted on the ocean floor. He provided a map showing the two survey lines, one being a curved line and one a straight line. No eel grass was found on the floor which was a question that the Department of Conservation and Fisheries had concern with. He advised that the bottom in the channel (cable path) was mud approximately one foot deep and increased to the middle of the channel approximately two feet deep. The bottom of the channel is very soft. He added that nothing showed there would be a problem with getting a cable installed or with the cable sinking into the mud. He stated that he has been involved in discussions with Babikian and Smith regarding multiple cables in that crossing and added that the proposal, at this meeting, is to ask approval for the cable to lie on the "green line" on the map and that, since the last meeting, he has been in touch with NOAA and the Coast

Guard. He advised that if the Board gives approval for a straight route, he proposed that a positive approval be given for a 100 foot wide cable path, which would involve approximately one and a half acres of bottom (actual figure will be nearer 1.8 acres). A bouy system would be installed which would provide no anchorage signs on each end of the channel, thus warning fishermen from going after lost traps with grapnels. After

consulting with the company, Diver Down from Portland, he proposed that the cable be laid this Fall, and put in as a condition of approval that the cable be surveyed by July 1 of 2006 and if the cable hasn't seated itself the cable will be blown in by August 1 or by using whatever methods the Board's requires.

He feels that the applicant should have a reliable system and added that this system is the least obtrusive to the residents, to the owner of the property and to the fishermen. In response to questions from the Board, Perkins advised that the one cable would be more than ample to provide power to the entire island. The Board referred to Section 15.L.2 of the Shoreland Ordinance and discussed the possibility of alternate power.

Hawkes asked if a waiver would be put in place to protect the fishermen in case of damage to the cable. Perkins answered that, if the cable is put in straight, a lot of liability would be reduced. Signs will be erected on both shores designating the 100' wide cable path's "no anchor" zone. The use of hooked devices used for retrieval of lost fishing gear are prohibited within the cable path and erosion control measures must be installed at each access point prior to the start of construction. He further advised that there have been no negative responses from any other interested agencies thus far although he has not heard from all of them at this point.

Varian referred to Section 1 of the Shoreland Zoning Ordinance (Purpose) which states that commercial fishing industries must be protected. She also referred to Section 14 Item 21 and Section 15.L of the Shoreland Zoning Ordinance regarding Essential Services in the Resource Protection Zone.

After much discussion between Board members, Perkins, Smith, and the applicant, the Board approved the application with restrictions. It was noted on the application that "Interim approval pending a document prepared/approved by the Towns Attorney with the following items covered: Survey by July 1, 2006 to see if cable sunk itself. If not, it will be buried by August 1st. Professional divers will survey cable around August 1st each year for five years - if cable becomes uncovered it will be recovered professionally within 30 days -such survey to be done annually for five years with a copy of the report being sent to the Codes Officer. Any unintentional damage to cable by fishermen will be the responsibility of Dr. Babikian, her heirs or assigns." The document will be recorded at the Sagadahoc Registry of Deeds." Varian will contact the Town Attorney to verify the legality of the wording to show the intent of the approval criteria. The application was signed by all Board members. The \$20 fee was paid.

**MARY O. BABIKIAN - CONSTRUCT ACCESS ROAD ON HARBOR ISLAND**

Dr. Babikian next presented the Board with an application which was described as follows: "Building a rock ramp over a ledge hurdle that runs 70 feet from shore parallel to shore, north to south. This would be the sole access point that would be available to unload equipment and building materials and provide future access for deliveries and

septic pumping, etc. This ledge is 70' from high water line at proposed access site. Three inch crushed rock would be placed on either side of ledge and after construction covered with topsoil and seeded." The application was accompanied by a map of the island showing where the proposed ramp construction would take place as well as photographs of the area. The construction is in the Resource Protection Zone.

The Board referred to Sections 14.26 and Section 15.H of the Shoreland Zoning Ordinance and approved the application stating that "All proper and accepted methods of erosion control will be carried on in this construction." Rainey advised that this road is to be used from the high water line to the proposed house which will be a legal entity and stated that proper erosion control measures are to be in place before construction commences. There is no way to access the house site without going through the Resource Protection area. Babikian stated that she has a DEP Permit by Rule. The Board unanimously approved the application. Babikian paid the \$20 fee.

### **KEYES - WEST POINT**

Robert Keyes of Carrying Place Head Island in West Point (Map 26, Lot 09) came before the Board stating his desire to raze an existing non-conforming structure (too close to the water) and rebuild using the 30% rule and further away from the high water mark. The existing structure is not worthy of repair and the proposed site would be 75' from the high water mark he advised the Board. The building is in the Resource Protection Zone. The Board referred to Section 12.C.1.a of the Shoreland Zoning Ordinance. Varian explained to Keyes that if he went 100' back from the high water line, he would not need a permit from the Board, but only a Building Permit from the Codes Enforcement Officer. He withdrew his application.

### **WALLES - SUBDIVISION**

Surveyor, Ron Beal, approached the Board with a Final Plan for the Charles and Constance Walles Subdivision in Small Point (Map 18, Lot 12). The Walles' wish to add three lots to the existing Subdivision, which will make the total number of lots at eight, but one of the three new lots will go into a family trust and, therefore, that lot will be exempt under the five year rule. The Planning Board conducted a site inspection of the property on August 7. The Subdivision was approved in 2003. Varian produced a letter from E911 Administrator, Douglas Stewart, and the name Marsh Cove Drive has been

reserved for the Subdivision. The plan was accompanied by a Subdivision Application, a Warranty Deed, a Legal Description of the property, a letter from Gerry Mitchell, Jr., Licensed Site Evaluator, a copy of Tax Map 18, a letter signed by Marie Varian to abutters of the Subdivision dated July 18, 2005, a map of the Subdivision, a letter from Ron Beal to the Planning Board stating that the water supply will be from artesian or private wells, guaranteeing the water supply for a period of one year.

Section 11.4.B of the Subdivision Ordinance was referred to. Beal pointed out that a note has been added to the Final Plan stating that all clean up of road clearing debris, boulders and stumps shall be the responsibility of the developer. The developer will also add fill to the 'dips' in the road to relieve slope percentages. The Board reviewed the Record of Application for Subdivision Approval form and the findings on the Subdivision Review Checklist and found all to be in order. The application was deemed to be complete by the Board and the Final Plan was signed by all members. The \$150 fee was paid.

### **WOODRUFF- SUBDIVISION**

Michael and Lucretia Woodruff of the Parker Head Road (Map 43, Lot 27.01) next presented the Board with a Subdivision Application for a three lot Minor Subdivision. Woodruff advised that Board that his own home has been sold. Varian advised the Woodruffs that she has been in contact with MMA regarding this situation and MMA stated that Lot 1 (the homestead lot) is shown but not reviewed for compliance with the Subdivision Standards because it is the first lot gone. Varian advised that it is not a Subdivision situation if a person sells his house, but that when he sells the other two lots within five years, it becomes a Subdivision situation. Woodruff explained that they wish to sell the three and a half acre lot which would require a Subdivision. Varian agreed, since the Woodruff's home was sold first. She added that, because there is controversy over what the five year plan actually says, but where his Attorney has advised him to go ahead with the Subdivision anyway, this is why he should go the Subdivision route. If he had sold another lot first, then his home, it would not be regarded as a Subdivision under the opinion of some attorneys. It was determined that it would be a three lot minor Subdivision.

Names and addresses of all abutters were listed in the application. The name of the proposed Subdivision will be Francis Wyman Farm. A Sketch Plan was also provided as well as preliminary soils tests provided by Site Evaluator, Kenneth Cotton. Varian will advise the abutters and told Woodruff what will be needed when the Preliminary and Final Plans are submitted. She will send a letter to him advising that his application has been received and the items that will be needed before the application is complete. A site inspection will be done in the future, date to be announced.

### **PAQUIN - SEBASCO**

Ronald and Pamela Paquin of 30 Gomez Road in Sebasco (Map 31, Lot 43) came before the Board with an application to remove two existing non-conforming structures and replace them with one less non-conforming two car garage. One of the existing buildings is 18 feet from the centerline of the road and the other is four feet from the property line. The new building will improve the setback situation. A sketch of the proposed building accompanied the application.

The Board unanimously approved the application after referring to Section 2.11 of the Land Use Ordinance. The Board signed the application with the following comment: "Per Sec. 2.11 of Land Use Ordinance. Existing footage both structures: 417.791 sq. ft., 3739.00 cu. ft. Allowed footage: 125,377 sq. ft., 1121.7 cu. ft. New building can be not more than the up to 30% rule: 543.128 sq. ft., 4860.7 cu. ft." The \$20 fee was paid.

### **ED HUNT- CLAYS SHOOTING RANGE**

The Board held discussion on Hunt's telephone inquiry to Varian regarding activities within his clays shooting range in Sebasco (Map 31, Lot 001). Varian explained that Hunt owns the clays shooting range and that the person who has been running it has been doing a paint ball game activity using the same land as the clays shooting. Hunt wonders if this needs a New Business or Expansion of Business Hearing. The Board referred to New Business Definitions in the Land Use Ordinance. It was determined that this is not converting the use to an entirely different use. Rainey pointed out that it is not a grandfathered business, but a permitted business. Newell stated that he would like to go on record that Kennebec Sporting Clays does not need an Expansion of Business Hearing for paint ball games, and made the motion for same. The Board unanimously voted in favor of the motion. Varian will notify Hunt of the decision.

### **ANNOUNCEMENTS**

Mark Hawkes volunteered to serve as a Planning Board member on the Phippsburg Land Trust. Varian will notify the Town Attorney for the appointment.

The July minutes was read and approved with minor corrections.

Officers were elected with Marie Varian named as Chairperson, Clifford Newell as Vice Chair. Marion Hebert will still serve as a Board member and Secretary.

Varian announced that the Board of Appeals at an April 19, 2005 meeting upheld the Planning Board decisions in both the Gensheimer and Gallagher cases. North Creek Farm withdrew their appeal scheduled for August 4, 2005. Gallagher will appeal to the Superior Court.

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The Chairman and four members attended the July 27, 2005 Selectman's Meeting to address the method of conducting Planning Board meetings - public meeting vs. public hearing. This issue was raised by Richard Nichols. Anyone interested may read the Selectmen's Minutes for more information.

The meeting adjourned at 10:50 pm.

Respectfully submitted,

Marion H. Hebert  
Recording Secretary/  
Planning Board Member

