

**PHIPPSBURG PLANNING BOARD**  
**FEBRUARY 8, 2006**

**IN THE MATTER OF:**

Subdivision review of Timothy and Michelle Lewis' Whispering Pines Subdivision - A Minor Subdivision containing three single family lots and one parcel conveyed by prior owner (within 5 years) located on Tax Map 39, Lot 15

and a

Decision of the Planning Board

**Pursuant to the provisions of the Town of Phippsburg Subdivision Ordinance and the standards of 30-A MRSA, the Phippsburg Planning Board has considered the application of Timothy and Michelle Lewis, including supporting data, site walk evaluation and related materials contained in the record. The Planning Board makes the following Findings of Fact and Conclusions of Law for the Whispering Pines Subdivision.**

**FINDINGS OF FACT:**

The applicants propose to split their 20.8 plus or minus acre lot by (1) selling an existing dwelling with 2.869 acres, (2) creating a lot containing 2.187 acres, (3) reconfiguring the boundary lines benefitting the Lewis' and abutters Rice, Skillin, Meese and Dooley, and (4) retaining the remainder of 15 plus or minus acres.

The former owner had sold a parcel (containing less than one acre) a few days prior to selling the rest of Lot 15 to the Lewis'. That lot is not subject to subdivision conditions but is included for cumulative impact only. There are no buildings on this lot.

Past use of the entire parcel has been a one family dwelling and a wooded area.

The present driveway will be reconstructed to Minor Road Ordinance specifications and will be named Lewis Way. The subdivision will have this one access/egress point (Lewis Way) onto Loop Road which accesses Clifford Road which accesses the Main Road (Route 209). Lewis Way will be private and will be maintained by the lot owners per Covenants. A turnout area for mailboxes will be constructed off Lewis Way and a turnaround area will be constructed near the driveway entrances of Lots 2 and 3. No construction is presently planned on Lot 4 and the Board has not required a turnaround on that lot.

The Lewis' submitted a Sketch Plan on December 14, 2005. A complete application was submitted on January 11, 2006 and a receipt was given. A site walk was conducted on February 5, 2005. The Board voted that a Public hearing was not necessary as no objections had been raised by either the abutters or Town department heads. The Board agreed that existing Town services are sufficient to service the proposed Subdivision. The Board voted that an escrow account per Section 12.3 was not necessary, as it was not necessary to hire outside expertise.

The Board voted to accept the Findings of Fact and Conclusions of Law per Section 8.3.B. The Board voted on February 8, 2006 to approve the Final Plan with conditions.

### **CONCLUSIONS OF LAW:**

#### **GENERAL REVIEW STANDARDS PER TOWN OF PHIPPSBURG SUBDIVISION ORDINANCE**

##### 10.1 Conformance with Comprehensive Plan

- A. The Town does not have a state-approved Comprehensive Plan. A 1991 draft approved at Town Meeting designated the area as a Growth Area.
- B. The proposed Subdivision will conform to Town Ordinances. With respect to the Town Subdivision Ordinance, the Planning Board granted a waiver to Section 12.3 to allow a letter from the Midcoast Federal Credit Union Bank as evidence of the Lewis' ability to fund the estimated \$9,000 cost of Subdivision road expenses, the only Subdivision bill remaining to be paid.
- C. The proposed Subdivision will comply with all State Laws and Rules, including Subsurface Waste Water Disposal Rules and Stormwater Management Practices.

##### 10.2 Retention of Common Land

- A. Not applicable. Common land is not required in a Minor Subdivision.
- B. There are no known historic attributes or significant wildlife habitat on the parcel.
- C. Not applicable. Subdivision is not located on a waterfront.

##### 10.3 Land not suitable for development

- A. Land is delineated on the map.

#### 10.4 Skyline Building Height

- A. No building shall be higher than 35 feet and all shall comply with Section 10.4 which regulates height.

#### 10.5 Lots

- A. All lots will meet or exceed the one acre minimum lot size.
- B. Lots are designed for off-road parking for a minimum of two vehicles.
- C. There will be one access/egress road off Loop Road. The Subdivision Road, Lewis Way, is beyond the 20' minimum setback from the property line of Meese.
- D. Not applicable. All lots meet or exceed minimum lot size.
- E. Not applicable. There are no "spaghetti" or odd-shaped lots.

#### 10.6 Required Improvements

- A. 10.6.A.1, 2, 3, and 4. Monuments (pins) will meet criteria of these sections. No lots will be sold until permanent pins are in place.
- B. Water will be from private wells.
- C.1 Sewage disposal will be in private subsurface disposal systems. Test pits have been dug on each lot and soils are suitable as verified in written reports by William Maier, Licensed Soil Evaluator (#32).
- D.1,2,3,4 Subsurface Drainage. Construction work on this Subdivision will conform to the Maine DEP Best Management Practices Handbook. Erosion and sedimentation devices will be used throughout.

- 10.7 A. Topsoil removed for road excavation will be minimal as there is already a driveway that will be enlarged to service Lots 2 and 3. Topsoil removed during all excavation will be utilized on the site as needed. No other removal of topsoil is proposed.

- B. The bulk of the parcel is a wooded area. Commercial tree cutting is prohibited by covenants. Cutting and trimming to accommodate building sites is allowed, but requires adherence to Erosion Control rules.
  - C. Not applicable. Subdivision is not located in the shoreline of a waterbody.
- 10.8 Not applicable. This is not a cluster subdivision.

10.9 Dedication and Maintenance

There is no common land. This is a Minor Subdivision and no common land is required. The Subdivision road, Lewis Way, will be owned and maintained by the lot owners per covenants. All lot owners will be members of the Homeowners Association.

10.10 Flood Areas

Not applicable. This Subdivision is not in a Flood Hazard Area.

**STATE SUBDIVISION LAW 30-A MRSA SEC. 4404  
(TOWN SUBDIVISION ORDINANCE, SECTION 1)**

1.1 Pollution

The proposed residential development will not result in undue water or air pollution. Air emissions will be those typically associated with residential properties, such as furnaces, vehicles, and lawn and garden equipment. Septic systems will be designed and constructed in accordance with all State regulations. Runoff from roadway and properties will filter through vegetated area prior to entering surface waters, providing for settlement and absorption of suspended solids, phosphorous, etc. Drainage will adhere to Best Management Practices of the DEP. The Subdivision is not within the 100-year Flood Plain.

1.2 Sufficient Water

The lots exceed the two acres recommended in the Town's recent hydrologist study. Lots will be serviced by individual on-site wells. The proposed Subdivision will have sufficient water for its reasonably foreseeable needs.

1.3 Municipal Water Supply

Not applicable. Water will be from private wells.

1.4 Erosion

The applicant will implement the DEP's Best Management Practices for both road construction and driveway entrances. Proper implementation will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water.

1.5 Traffic

The Subdivision would generate approximately 10 trips per day from each inhabited lot. It is noted that Lot #3 already contains a dwelling and would therefore not increase the traffic count. The Subdivision will not cause unreasonable public road congestion or unsafe conditions.

1.6 Sewage Disposal

Subdivision lots will have approved sewage disposal systems. Test pit data has been provided by Licensed Soil Evaluator, William Maier (SE #32) and criteria of Maine Subsurface Waste Water Disposal Rules will be met. Each lot will contain an adequate sewage disposal area

1.7 Town Solid Waste and Sewage Disposal

The proposed Subdivision will not cause an unreasonable burden on the Town's Transfer Stations ability to dispose of normal household waste. Each lot will have its own sewage disposal system.

1.8 Aesthetic, Cultural and Natural Values

The proposed Subdivision will utilize the one access point on Loop Road and development will occur internally. Existing vegetative screening is expected to remain to maintain the rural character of the area. No known historical sites or endangered botanical species are on the parcel.

1.9 Conformance with Local Ordinances and Plans

The proposed Subdivision will be in conformance with State Laws and duly adopted Town ordinances.

1.10 Financial and Technical Capacity

The applicant has already paid all Subdivision costs except road construction and that cost is estimated not to exceed \$9,000. The applicant has adequate financial capacity to meet this cost as evidenced by a February 8, 2006 letter to the Board from Midcoast Federal Credit Union.

The applicant has retained the services of John Wood of Island Surveys of Arrowsic (Registration #1327) and William Maier LSE (SE #32) to assist in the design and approval process. Both entities have long-term reputable standings.

#### 1.11 Surface Waters

The Subdivision is not located in the Shoreland Zone. There are no rivers, lakes or ponds on the site. One stream has been delineated on Lot 4. General surface water flow pattern will be maintained to the greatest extent possible. Best Management Practices will be observed in all construction.

#### 1.12 Ground Water

Information written in preceding Sections 1.2, 1.3, 1.4 and 1.5 show that all water supplies and sewage disposal systems will be located and constructed adhering to all Town Ordinances and State Law.

#### 1.13 Flood Areas

The proposed Subdivision area is a Zone C under the Flood Insurance Rate Map (FIRM) (published by the Federal Emergency Management Agency (FEMA) which indicates the area is outside the 100-year floodplain and is an area of minimal flooding. The site is not designated as a Special Flood Hazard Area.

#### 1.14 Freshwater Wetlands

Wetlands have been delineated and are depicted on the Final Plan.

As the proposed impacts will be less than 4,300 square feet, no Natural Resources Protection Act (NRPA) permits are required from the Maine DEP.

#### 1.15 River, Stream or Brook

There is no river located on or abutting the property. There is one stream on Lot #4 and it is delineated on the Final Plan.

1.16 Storm Water

Runoff will be shed to the surrounding vegetated areas and will filter through same prior to entering surface water or leaving the site, providing for settlement and absorption of suspended solids and nutrients.

1.17 Spaghetti Lots Prohibited

None of the lots within the Subdivision will have dimensions that would classify them as spaghetti or other odd-shaped lots.

1.18 Lake Phosphorus Concentration

Not applicable. The parcel is not within a direct watershed of a Great Pond.

1.19 Impact on Adjoining Municipalities

Not applicable. The parcel does not abut or cross any municipal boundaries.

1.20 Lands Subject to Liquid Harvesting

Neither the owner nor the former owner has conducted any liquidation timber harvesting on the parcel. Subdivision Covenants prohibit commercial liquidation harvesting.

**THEREFORE**

The Phippsburg Planning Board hereby approves with the following conditions the Final Plan of Timothy and Michelle Lewis to create a 4-lot residential Subdivision known as Whispering Pines on Town Tax Map 39, Lot 15, and such approval of this Subdivision will not unreasonably compromise the comfort, convenience, safety, health and welfare of the people of the Town of Phippsburg.

**CONDITIONS OF APPROVAL**

1. The Subdivision road will remain a private road to be maintained by the developer or the lot owners and shall not be maintained by the Town.

2. The developer shall install a private stop sign on Lewis Way at the intersection with Loop Road.
3. There will be no further subdivision of Lots 2 and 3.
4. No lot may be conveyed until an approved road is completed to that lot.
5. Before any building construction is done on Lot #4 (the lot retained by the Lewis') an approved road and turnaround will be constructed to that lot.
6. No lot may be sold until all monuments marking the boundaries of that lot have been set.
7. All lots except Lot 1 shall be subject to the protective covenants. All lots except Lot #1 shall be subject to the road maintenance agreement.

Dated at Phippsburg, Maine February 8, 2006

\_\_\_\_\_ Marie Varian, Chairman  
\_\_\_\_\_ Marion H. Hebert  
\_\_\_\_\_ Stephen Thayer  
\_\_\_\_\_ Clifford Newell  
\_\_\_\_\_ Robert Smith