

Town of Phippsburg  
Planning Board – Regular Meeting  
14 November 2006

Present: Chair Marie Varian, Robert Smith, Clifford Newell, Mark Hawkes, Lee Rainey

**1. CALL TO ORDER AT 6:30 PM**

Chair Varian states the absence of Marion Herbert and Steve Thayer, appointing Mark Hawkes to act in Marion Herbert's place.

**2. MARTHA M SMITH, 442 Sebasco Road. Tax Map 39, Lot 09-01 – Expansion for entry access to non-conforming structure using the 30% Rule.**

Chair Varian states that Martha M. Smith is asking to build two 6x8 sq. foot decks utilizing 96 sq. ft. total. Chair Varian then goes onto state that Martha M. Smith controls an existing 594 sq. ft. and that she is allowed an additional 178.2 sq. ft. With the two decks adding up to 96 sq. ft in total space it is made clear that Martha M. Smith retains another 82.2 sq. ft to utilize for future projects.

Chair Varian concludes by stating that the matter is being reviewed under Section 2.11 of The land Use Ordinance.

Clifford Newell makes a motion to approve the application as written, Robert Smith seconds the motion. Motion is then unanimously approved.

\$20 Fee Paid

**3. SEBASCO RESORT, LLC AND HARBOR ISLAND, LLC, Tax Map 30, Lot 18 – Re-approval of six lot minor sub-division on Harbor Island (Original May 18<sup>th</sup> approval of the Final Plan was not recorded within 45 days)**

Steve Moore and Bob Smith Representing Sebasco Resort and Harbor Island.

Steve Moore begins by stating that the process needs to be gone through once again, giving for reason the fact that because the local ordinance does not make clear any renewal process other than the standard sub-division approval process. Mr. Mohr makes clear that he has returned plans to the board with all original corrections made regarding covenants and restrictions for sub-division. In addition Mr. Mohr also makes it known that there have been no physical changes made to the already approved plans.

Mr. Mohr presents copies of receipts and makes it known that the certified mailing has been completed as well.

Mr. Mohr states that there has been a change regarding the DEP regulation toward the Shore Bird/Wading Bird habitat. Mr. Mohr then makes it clear that since the DEP has stated the change in regulation went into affect in between the submission of plans and the subsequent approval that said regulation would have no effect and cause no alteration to the already-made plans as long the projected constructions are created within the next five years.

Robert Smith (Planning Board) brings up issue with an access road in potential violation of the new DEP regulation.

Mr. Mohr counters by making it clear that Sebasco is granted a temporary NARP permit to construct a temporary access road across the lot in question.

Chair Varian states that since no physical changes have been made to the plans there is no need for a site walk. She poses a motion in favor of no site walk. Motion is seconded by Clifford Newell. Motion is unanimously accepted.

Robert Smith makes motion to accept the application as presented. Clifford Newell seconds motion. Motion is unanimously accepted. A receipt is given to the applicant.

Chair Varian makes motion that the application is complete. Clifford Newell seconds motion. Motion is unanimously accepted. A receipt of complete application is given to the applicant.

Chair Varian presents a document verifying that a line of credit has been extended to Sebasco via the Gardiner Savings Institute and that this credit is to be used for “whatever may be necessary” to complete the Harbor Island Project. Document has been signed by Richard Aldney, Executive Vice President; Gardiner Savings Institute.

Clifford Newell poses a motion that Gardiner Savings Institute is of willing fiscal ability to support the Sebasco/ Harbor Island project. Motion is seconded by Mark Hawkes. Unanimously accepted.

Sebasco pays fee of fifty dollars per lot, totaling three hundred dollars.

Chair Varian suggests that a public hearing be held on Monday, November 27<sup>th</sup> at 5:00pm.

Motion to have a public hearing on aforementioned date and time is put forward by Mark Hawkes. Motion is seconded by Chair Varian. Motion is unanimously accepted.

Chair Varian suggests that a Planning Board meeting be held immediately after the public hearing at approximately 5:30 pm on Monday, November 27<sup>th</sup> to consider the final plan.

Motion to accept Chair Varian's suggestion put forth by Clifford Newell. Motion is seconded by Robert Smith. Motion is unanimously accepted.

**4. POPHAM WOODS CONDOMINIUMS SUBDIVISION, owned by Dirigo Holdings, LLC, Rep by Mark Bergeron, Tax Map 45, Lots 49 and 51 – Decision of completeness of Application for Final Plan.**

Chair Varian states that eight items were missing from the application for final plan submission in June. Chair Varian asks Mark Bergeron to explain the eight missing items.

Mr. Bergeron introduces board to David Brooks; Sevee & Maher Engineers, and lets it be known that it was his company that prepared and carried out tests to the water supply for the facility and that any questions regarding said water supply or well system could be directed toward him.

Mr. Bergeron presents and submits the eight items as follows:

**Item 1-** Pump Test results of facilities four wells: Sufficient quantity and quality of water found to supply the facility. The submission is given 15 GPM and one well is over 70 GPM

**Item 2-** NRPA Wetland Fill Permits: Because of change of roads in design plans to accommodate DEP frog habitat regulations, the Wetland impact is reduced from 8000sq. ft to 2600 sq. ft. therefore the Tier 1 permit is reduced to a Permit by Rule.

**Item 3-** Copy of Insurance Contract for Blasting.

**Item 4-** Name of Contact Person at Blasting Company.

Mr. Bergeron requests that Items 3 & 4 be accepted as a Condition of Approval.

Chair Varian asks for any objection to Items 3 & 4 being named as a Condition of Approval. No objections, Items 3 & 4 are named as a Condition of Approval

**Item 5-** Updated letter of Financial Capacity: Letter From Bank of America, dated November 2, presented. It is made known that Dirigo Holdings will self-finance Phase 1 of projected construction and that any additional funds that may be needed can be provided by Bank of America.

**Item 6-** Updated Letter From Pine Tree Services: It is made known that Dirigo Holdings plans to use Pine Tree Services as the primary construction firm for the project but also would like to reserve the right to change firms if it so chooses.

Chair Varian asks for objections to the right to change firms. There are none. It is made known that the selection of Construction companies requires no approval from the board or the code enforcement officer.

**Item 7-** Shifting of the 10% Common Land: It is made known that 18.4 acres has been shifted on projected construction plans from the north-east to the north-west in accordance with the Board's previous request.

**Item 8-** Full Set of Revised Plans returned to the Board: It is made known that the DEP, Army Corps and Inland Fisheries reviewed the site in June and found that there were sections of intended construction that would have caused significant negative impact to amphibious breeding grounds. It is made known that in accordance with these rulings construction plans have been revised to preserve any areas considered to contain a significant wildlife population. As a result of changes there is total of 800 ft. less road than previous plans indicated.

Mr. Bergeron states that one David Brooks has conducted all necessary well tests and that these tests were in the process of being reviewed by Dr. John Holpeck; DEP. It is also made known that DHHS has given conditional approval to the wells. It is made known that final approval will be given once wells are fully operational.

Chair Varian states that abutter Tom Percy telephoned and faxed that he is experiencing dirty and odorous well water and that due to the proximity of his location compared to the intended construction site location, poses a concern as to his water.

Mark Hawkes questions Mr. Bergeron as to what the date of the last well testing was.

David Brooks replies to question, stating that testing ended in September and that the bulk of equipment was removed on the sixth of October. Mr. Brooks then goes onto state that the well in question was drilled in June and that no problems have been recorded since the original drilling.

It is agreed that Dirigo Holdings will contact Mr. Percy.

Chair Varian asks for any questions or comments:

Robert Smith poses question as to whether or not Wells one and three are connected.

Mr. Brooks replies by stating that there is a slight connection between wells one and three but that there is a difference of depth of close to ten feet making the proximity inconsequential.

Robert Smith states that he is missing some pages from his water report. After some investigation and discussion it is discovered that not every board member is missing the pages in question. Consequently it is held that the missing pages from Mr. Smith's report are the result of a clerical error and a new book will be mailed to him.

Chair Varian states that the information needed from the previous June application for final plan has now been furnished.

Clifford Newell makes motion that the application is complete. Motion is seconded by Mark Hawkes. Motion is unanimously accepted.

Receipt for complete application is given to Dirigo Holdings.

Document is furnished from Bank of America stating:

Phase 1 of the subdivision will cost \$2,335,000 and that it will be self-financed by Bruce Poliquin. Bank of America guarantees Mr. Poliquin's ability to self-finance Phase 1. Document is signed by Patricia Stevens. Reviewed under Section 12 of Sub-division Ordinance.

Clifford Newell Makes motion to accept documents as presented. Motion is seconded by Robert Smith. Motion is unanimously approved

Chair Varian states that there have been two site walks for this project already. She questions the need for another site-walk.

Clifford Newell makes motion that another site-walk is not necessary. Motion is seconded by Robert Smith. Motion is unanimously accepted.

Chair Varian sets date for Popham Woods Public Hearing on Monday November 27 immediately following a 5:00PM hearing and meeting.

Robert Smith makes motion to hold public hearing at this date and time. Motion is seconded by Mark Hawkes. Motion is unanimously accepted.

**5. BRADFORD AND LYNN MILLER, Rep by Arthur Reno, Marsh View Drive, Tax Map 18, Lot 15 – Driveway in Resource Protection Zone.**

Chair Varian states that Arthur Reno has deferred coming before the board until November 27, citing for reason of delay the fact that the DEP has revoked the Millers permit by rule.

**6. WHISPERING PINES SUBDIVISION, owned by Timothy and Michelle Lewis, Loop Road, Tax Map 39, Lot 15 – Amend subdivision to increase number of lots.**

The Lewis' plan in October was for 8 lots but is now made up only of 7. Mr. Lewis presents a new map of the property to the board. Chair Varian makes clear that since Mr. Lewis has opted for 7 lots instead of 8 it is now a minor sub-division as opposed to a major one.

Mark Hawkes questions as to whether Mr. Lewis will have to come before the board again after five years if he chooses to sub-divide once more.

Chair Varian answers question by stating that there can be a note created in the final plan giving specific lots the ability to be split without further consent of the board.

Mr. Lewis poses question as to whether he can apply a note, such as that described by Chair Varian, to lots 4 and 6 of his property.

Chair Varian sees no problem in applying aforementioned note to lots 4 and 6 as long as there is enough land and no change in future state regulation that would prohibit the splits.

Chair Varian states that the map shows wetlands total 2.62 acres on the property and that the new section of road will take .48 acres. The total road occupies 1.25 acres, non-guidable area of wetlands totals 3.78 acres.

Chair Varian asks for questions or comments.

Robert Smith poses question as to Mr. Lewis' ability to split acres after five years time. What is in question is whether or not Mr. Lewis will have to split off 2 acres or have the ability to split only 1 acre for a lot.

Chair Varian replies, stating that it would be up to the board at that time if there is any doubt and that to split a lot there would have to be at least 1 buildable acre.

Chair Varian states that the application form has been received. It is also made known that there needs to be a vote on receipt of application and completion of application:

Robert Smith makes motion that application has been received. Motion is seconded by Clifford Newell. Motion is unanimously approved and a receipt is given..

Chair Varian makes it known that lots 4 and 6 on the final plan will have a note stating Mr. Lewis' ability to split these lots one time if he so chooses.

Clifford Newell makes notion that application is complete. Motion is seconded by Robert Smith. Motion is unanimously approved and a receipt is given.

Chair Varian states that a date needs to be set for a site inspection:

Date for site inspection is set for November 26, 7:30 AM.

It is made known that Mr. Lewis has already paid a \$50 per lot fee for four of his lots and that he now owes that same \$50 fee for each of the remaining three lots. Mr. Lewis pays fee of \$150.

**7. LEDGE-MEADOW-BAY SUBDIVISION, Lots 3, 4, and 5, Abenaki Drive – Discuss recording of letter pertaining to lot 3’s sharing a curb with lots 4 and 4 (July 14, 1999 approval was not recorded)**

Chair Varian states the purpose of this discussion pertains to lot 3 sharing a curb cut with lots 4 & 5. It is made known that on July 14, 1999 an application was made for the sharing of the lots which was approved but not recorded.

The owners of lots 3 & 4 would like the matter to be resolved. Chris Jordan is the owner of lot 3. Robert Fernald is the owner of lot 4.

Both owners have created, and turned over to the Planning Board, a joint application, dated November 15, 2006, in which their intention to join lot 3 with lots 4 & 5’s access point on the Parker Head road is made clear.

It is made clear that the original 1999 application created by the developer of the subdivision did not record the permit allowing the sharing of the curb-cut between lot 3 and lots 4 & 5.

Chair Varian states that in order to resolve the situation it is necessary for the two present-day lot-holders to come forward. It is also made clear that these two lot-holders did not need to be present at the meeting.

Chair Varian presents a faxed copy of the aforementioned application signed by Mr. Jordan as well as Mr. Fernald.

Application is read as follows:

Seeking approval for lot 3 sub-division, Tax Map 12, lot 5. It is noted that subdivision lots go 1-7 south to north, while the Tax Map goes in the opposite direction to utilize common access point from tax map lots 3 & 4 to access Parker Head Road.

It is made known that a non-faxed hard copy will be necessary for final approval.

Chair Varian suggests that under the comment section on the application it reads as follows:

On July 14, 1999 the Planning Board granted a permit to Paul W. Herd I, developer of the Ledge Meadow Bay Subdivision, to allow subdivision Lot 3 to share with Sub-division Lots 4 & 5 the common point of access to the Parker Head Road. The applicant should have then recorded the permit at the Sagadahoc registry of deeds but he did not do so. The permit given here-in re-approves the intent of the July 14, 1999 Planning Board action.

Clifford Newell makes motion that application is approved. Motion is unanimously accepted.

Permit is signed by all the members of the Planning Board. Mr. Jordan will have the permit recorded.

**8. Consider Minutes of Sept. 24 (site walk), October 10<sup>th</sup>, and October 22<sup>nd</sup> (site walk)**

Chair Varian states that the former secretary for the Planning Board has yet to furnish the minutes for the Sept. 24 (site walk). As such this item will be put off to a future time.

Clifford Newell makes motion that the October 10<sup>th</sup> minutes be accepted as written and that the October 22<sup>nd</sup> (site walk) minutes be accepted as corrected. Motion is seconded by Robert Smith. Motion is unanimously approved.

**9. Announcements: (a) MMA Seminar on Nov. 30<sup>th</sup>, (b) Amendment to Section 15.B.6 of the Shoreland Zoning Ordinance approved at October 25<sup>th</sup> Special Town Meeting, (c) Board of Appeal hearing on November 28<sup>th</sup> of Remand of Lesser Buffer Permit for Popham beach Club, (d) Board of Appeals hearing on December 5<sup>th</sup> of Expansion of Business Permit for Sebasco Harbor Resort, LLC.**

Chair Varian states there is a workshop on Shoreland Zoning on November 16 at the West Bath Fire Station.

**10. Other Business.**

**A.** Chair Varian states that Board member Marion Herbert wishes to resign her position and become an alternate. Chair Varian states that Mark Hawkes is willing to occupy Marion's position as a member of the Board. Chair Varian asks for objections. There are none.

Robert Smith makes motion that Mark Hawkes be accepted as a full member of the Board and Marion be appointed as alternate. Motion is seconded by Clifford Newell. Motion is unanimously approved. Chair will notify the Selectmen of this requested change.

**B.** Chair Varian states that one Mary Babikian is asking for an extension of time to report on the status of the power cable running to Harbor Island.

Mrs. Babikian has had Larry Mosier dive to inspect the cable. A report by Mr. Mosier is read as follows:

Both ends of cable have barnacle growth. Cables are fifteen ft. apart in some areas. In sandy bottom areas cables is on top of ground. In muddy bottom areas cable is in and out of sub-strait at a maximum of 2 in. below sub-strait.

Issue is brought up as to whether or not cable is fitted with cement collars as specified by the Department of Marine Resources and DEP permit.

Chair Varian states that she will speak with Mr. Mosier and inquire as to whether or not cable is fitted with necessary cement collars.

It is agreed by Planning Board that issue will be discussed at next meeting.

**C.** Lee Rainey states that Tom Wirth, developer of Stone House Hill Subdivision, is applying for a permit to install a septic tank on one of his lots. Mr. Rainey points out that it was agreed by the Planning Board that no permit would be given to install a septic tank on lot in question until the access road was built. Planning Board is in agreement with Mr. Rainey.

**11. EDWARD KARPINSKI and LESLIE BECKER, 40 Periwinkle Lane, Tax Map 27, Lot 08 – Demolish existing structure, rebuild using 30% rule.**

Mr. Karpinski presents architectural plans illustrating the rebuild.

Issue is brought up as to whether or not the house is seasonal or year-round.

Mr. Karpinski explains to the Planning Board that house is generally seasonal but is still used sporadically throughout the winter.

It is decided that Mr. Karpinski will appear before the Planning Board in January.

**Meeting is adjourned at 7:37 PM.**

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Scot Herrigel, Recording Secretary.