

April 19, 2006

PUBLIC HEARING - BENNY'S FOOT LONGS

The Public Hearing was called to order at 5:00pm at the Elementary School. Selectmen attending were Mike Rice and Everett Perkins. Planning Board members in attendance were: Marie Varian, Chairman; Marion Hebert and Robert Smith. Alternate, Josh Bate was appointed to serve for Clifford Newell. Lee Rainey, Codes Enforcement Officer, was also in attendance.

The Boards accepted an application from Benjamin Burden of 28 Knotty Wood Drive. The application requested permission to open a mobile food stand on land owned by Gene A. Coffin (Map 1, Lot 26) at 129 Main Road. The business will be known as Benny's Foot Longs. The application contained a letter of notification to abutters as well as proof of receipt, a letter of authorization from the landowner, a site plan, a Driveway/Entrance Permit from Maine DOT, and a list of items that will be served.

Burden advised that the business will be open from 5:00am to 8:00pm from May thru October and on weekends in the winter months from 5:00am to 2:00pm. He added that there will be two picnic tables on the property and they also plan to sell gift shop items and campers firewood.

Burden further stated that there will be parking for approximately 25 vehicles and that the visibility for access/egress will be 300+ feet in either direction.

David Barnes voiced concern that trucks entering or leaving Coffin's present excavation/construction business area might interfere with the proposed food stand.

Burden explained that land used for each operation will be clearly separated by the time Benny's opens.

Abutor, John Morse stated that he has no opposition to the proposed business but stressed that the business have sufficient trash containers.

The gray water tank has been approved by the DEP. A portable toilet will be on site.

Varion advised that the Hearing was properly advertised in the local Times Record and that notification went to all abutters.

Varian motioned to approve the application, it was seconded and unanimously voted with the following notations: Applicant's proposal complies with Sec. 1.6a, Sec. 2.3, and 2.4a through f of the Phippsburg Land Use Ordinance. Hours of operation and proposed:

May thru October: 5:00am - 8:00pm daily. November through April: 5:00am - 2:00pm on weekends, business permitting, on proposed hours.

The \$95 fee was paid.

The Public Hearing closed at 5:25pm.

Respectfully submitted,

Marion J. Hebert

April 19, 2006

PUBLIC HEARING

BRUCE POLIQUIN - POPHAM BEACH CLUB (TAX MAP 14, LOT 43)

Selectmen present were Mike Rice and Everett Perkins. Planning Board members present were: Marie Varian, Chairman; Marion Hebert; Clifford Newell; Robert Smith and Alternate, Josh Bate appointed to serve for Steve Thayer. Codes Enforcement Officer, Lee Rainey, was also in attendance.

BACKGROUND:

On March 22, the Planning Board recessed until site walks could be conducted which were done on April 8 and 9. Tonights meeting reconvened at 5:30pm.

Poliquin advised the Boards that he has had a certified boundary survey done by Leighton and Associates. The survey was requested on March 22 and during a site walk on April 8 and Poliquin agreed to have one done. Poliquin stated that a previous survey been done for abuttor, Charles Konzelman, and had awarded Konzelman a paper street. The current survey awarded Poliquin one half (20') of the paper street. Otherwise, there was no issue on the Konzelman side of the property. Poliquin was further awarded the same amount on the Donald Hall side. The survey showed that a small portion of the Wyman driveway is on Poliquin's lot. There were no other changes in the lot lines.

Roger Therriault, Attorney for the abuttors, stated that none of the abuttors have seen the survey and felt that it is extremely premature for the Board to take any action at this time. Poliquin advised that he had put a copy of the survey at Town Hall and then gave a copy to each of the attending abuttors.

Abuttor, Jean Wyman, stated that, during the site walk, the question of the water source was discussed. She asked Poliquin whether the water source would be from points or a drilled well. Poliquin referred her to Sections 10 and 14 of his application which includes a Hydrogeological Report prepared by John Sevee. He added that is has been recommended he use the point system because there is sufficient water to do so. Wyman stated her disapproval of this system. Poliquin answered that he has received approval from the Department of Human Services for the system.

Wyman further pointed that Poliquin's application stated that his water supply would be for an average of 40 people per day or a maximum of 150 people. She asked Poliquin if he plans to use the Oxy-Pro system (septic). Poliquin answered that the filter system has not yet been selected.

She told Poliquin that the stairway to the proposed Beach Club would be across from her bedroom on the Wyman property. Poliquin stated that the Fire Marshall has pointed out that an access for ADA is required as well as two points of access and egress which will be on the front and back of the building. The stairway pointed out by Wyman will be an emergency exit as required by law.

Wyman asked what the hours of operation would be for the Club and Poliquin advised that the normal operating hours would be 10am - 9pm from May 1 to October 31. A manager and other necessary employees will be on the premises from the Friday before Memorial Day through Labor Day and as needed before or after those dates.

Wyman asked if the 37 space parking area will be monitored and how it, as well as the beach, will be controlled prior to 10am and after 9pm. Poliquin stressed that there will be no parking on adjacent properties and that the club grounds will be gated if desired by the Boards. Wyman again stated her concern with what people would do at high tide when there is very little beach space and would, perhaps, cross the dunes. Poliquin advised that he plans to build steps if DEP approves over the dune to the beach area and that he further plans to implement a very strict set of rules for the Club members.

Claudette Gamache asked how many showers will be available in the Club. Poliquin answered that there will be one basement for changing which will contain one toilet and shower(s), two toilets on the first floor and one on the second floor. There will be one kitchen on the first floor.

Rice asked Poliquin if there is any way of isolating the existing proposed walkway to the beach to prevent destruction to the dunes. Poliquin answered that the DEP is very strict regarding what can be put in a dune and they would consider the walkway as a structure. At Varian's request, Poliquin will look into the matter of roping/fencing/signing of the path.

Leila Percy asked what kind of a permit Poliquin received for the Beach Club. Poliquin answered that there were several permits needed; one from the DEP, one from the wastewater and plumbing people at DHS, and another from the DHS was the Public Drinking Water Program. Another permit was from the Department of Transportation.

Jean Wyman stated her concerns with dust, buffers, and traffic. She further asked that, if her water supply is depleted or contaminated, who would be responsible. Poliquin replied that for many years there were six cottages on his property which used

approximately 1,170 gallons of water a day per the State Plumbing Code. He is currently permitted for usage of 945 gallons per day on peak business days.

2

The Public Hearing comment session closed at 6:15pm. The Planning Board and Board of Selectman came back into the decision making session at 6:21pm.

Newell questioned Poliquin about the monitoring of people accessing the Club. Poliquin answered that people not using the building, but using just the beach, counts toward the 150 maximum people allowed on the property at any one time. Newell asked Poliquin to explain how people coming from the satellite parking area would be accounted for. Poliquin replied that personnel will be provided to make sure a head count is taken. He added that he doesn't expect a 150 person maximum will happen very often.

Robert Smith referred to the DHS Preliminary Approval regarding water supply which was issued to Poliquin on January 10, 2006. The approval refers to a "drilled well" and stated that because the proposed well location does not meet the required 300 foot setback from septic systems, the well will require increased monitoring for bacteria if granted final approval.

Wyman advised that she has spoken with someone at DHS and was told that the well has to be drilled and not a well point driven in the sand.. Poliquin stated that he would call DHS to verify and, if that is the case, he will abide with what the DHS Permit allows.

Varian stated that there are several Sections of the Land Use Ordinance that refer to water supply and wastewater disposal.

She also pointed out that Page 1, Section 1.1 of that Ordinance addresses smoke, fumes, pollution, etc. Poliquin read from Section 11 of his application, which addresses these issues.

Varian referred to Section 2.4 referring to parking and advised that these issues have already been addressed. Illegal parking on Route 209 will become a police enforcement issue. Still referring to Section 2.4, she advised that during the site walk conducted on April 8, the existing trees were noted and stated that the applicant intends to keep every tree possible. Poliquin confirmed this and pointed out that a couple of trees would have to come down in the area of the leach field and where a telephone pole will have to be moved. He added that he doesn't have an exact count but hopes to keep vegetation where vegetation now exists.

Varian pointed out that Poliquin plans to remove an existing small shed now on the

property and replace it with a new building. The replacement shed will be up to 30% larger, but still occupy the same location, some six feet from the Konzelmans campground line. She asked about Poliquin's proposal to put up more fencing between his property and that of the Wymans and discussed whether the Wymans want the fence.

3

Poliquin stated that any fencing would be at the height and/or length that the Wymans desire and added that a buffer of vegetation would be added. Varian also said the proposed fence and green buffer was designed to equate to a 100' buffer zone.

Varian advised that all letters/emails that have been received are part of the record. She further referred to the site walks (notes are on file) conducted at low and high tides.

She discussed the law regarding lesser buffers and added that if any approval is made for this application, the lesser buffers would be a condition of that approval.

Authority for granting lesser buffers was discussed at the March 22 Hearing session.

Attorney for Poliquin, Jim Hopkinson, advised that Planning Boards are permitted to grant waivers for lesser buffers. Roger Therriault, Attorney for Konzelman and Wyman, stated that by granting a waiver or variance, the Planning Board is permitting the situation to become more non-conforming.

A motion was made by Varian that the application be approved and that everyone know that the Board has considered all the supporting documents, the written testimony and verbal and the investigation of the site walks. She added that conditions be put on the approval such as the gate to the property, have the applicant apply to the DEP regarding the steps to the beach, check with the DEP regarding signage or roping off of the beach pathway, to have the applicant decide on the shed situation (whether to move it 20 feet or go to the Planning Board for another permit), the applicant will find out in his application if "drilled" means a machine drilled well or just a well point. Also, if the Boards think that any monitoring of wells needs to be done, it should be discussed. She added that the State Assistant Attorney General has already stated, regarding another case, that one person's digging of the well on his property was totally allowable.

Newell seconded the motion and spoke to some conditions that he would like added as part of the approval: no pre or post season activities within the proposed building, a vehicle turnaround within the parking lot, a maximum of 150 persons per day, and a fence and buffer along the Wyman property. He further stated that the fence/buffer is something that should be worked out between the applicant and the abuttor. Further discussion resulted in the gate issue being withdrawn from the motion and was seconded.

Rice asked for a vote from the Boards. Rice, Varian, Hebert, Newell and Bate voted as approving the application with conditions. Smith and Selectman Perkins were opposed to the application. The majority vote carried. Findings and Conclusions of Law will be typed and submitted for the Boards' signature.

4

The Hearing adjourned at 7:20pm.

Respectfully submitted,

Marion H. Hebert
Recording Secretary/
Planning Board Member

