

May 16, 2006

Phippsburg Planning Board

REGULAR MEETING

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

STONEHOUSE HILL SUBDIVISION

The Board first heard from Thomas Wirth of the Parker Head and Cox's Head Roads (Map 13, Lot 22) regarding the Stonehouse Hill Subdivision - a 7-lot minor Subdivision. Wirth was represented by Doug Johnson of Brian Smith Surveyors. Varian announced that a site walk was conducted on April 30. Johnson advised that there have been changes to the road approaching Lot 3 because of a better, more gentle grade and that there will be no blasting necessary. He further stated that there are decent soils on Lot 3 and is waiting for Ken Cotton to do a test pit on that lot. Wirth has determined that there will be no common areas within the Subdivision. All lots will be in excess of the required acreage.

Johnson stated that he has put a 12% grade on the map for 100 feet on the steeper grade of the hill and, as a 10% will require approximately 4-1/2 feet of fill. This will require a waiver from the Planning Board of some 100 feet. The Board referred to Section 13 of the Subdivision Ordinance regarding Waivers and Section 11 regarding Road Standards and agreed that 12% grade was too steep. Wirth advised that he does not want to blast or fill because of esthetic reasons. He added that the safety on the road is not, in his opinion, compromised because of the grade of the road. He further stated that the roadway will not be paved, but will be gravel. Hawkes advised Wirth that if it is not paved it will wash out.

Varian referred to statements made by the Fire Chief and advised that he was concerned about the width of the Subdivision road in emergency situations. Smith motioned that the Board not accept the 12% grade. The motion was seconded and voted by the Board. Johnson stated that the side calls for slope 3-1 under Section 11.3.4 and he asked for a 2-1 slope. Thayer asked how the slope would be reinforced and Johnson replied that rip rap would probably be used. Wirth advised that the stabilization could be done with mesh as opposed to rip rap.

Smith motioned that the Board accept the 2-1 grade as proposed. The motion was seconded and approved.

Varian read two letters from abutters to the Wirth property, one in favor and one opposed. The letters will be part of the record. She asked for clarification on several items in Wirth's Covenants. There will be correction or modification on a number of these items which Wirth will mail to Board members prior to the next meeting.

Varian questioned the shape of Lot 5 and the Board referred to Section 10.5.E of the Subdivision Ordinance. The Board discussed the issue with Wirth and Johnson and determined that there is no objection to the shape of the lot. The Final Plan is expected to be presented at the June 15 meeting.

HARBOR ISLAND SUBDIVISION

A motion was made to table the Sebasco Harbor Resort LLC, Harbor Island LLC application until Thursday, May 18 at which time the Board will reconvene to hear and make a determination on the application regarding a waiver on the road design standards and a permit for filling and earthmoving of over 10 cubic yards. The motion was seconded and accepted by Board members.

HISTORICAL SOCIETY

Varian announced that the Phippsburg Historical Society (Map 8, Lot 30) is requesting a 30% addition to the non-conforming museum using the 30% rule. They were not represented at this meeting so no application was presented. The Society has already taken the allowed 30% expansion so an application would have been denied if one had been presented to the Board.

GILLESPIE - SEBASCO

Floyd and Helen Gillespie of 66 Morrison Pasture Road (Map 31, Lot 81), represented by Brian Doughty, Contractor, were next on the agenda. The Planning Board had denied an application presented by Doughty on March 8 for an over 30% expansion of a non-conforming building. The Planning Board does not have the authority to grant over a 30% expansion.

Doughty then went to the Board of Appeals who remanded the application back to the Planning Board.

Doughty explained that at the Board of Appeals hearing he was told that the proposed porch was considered to be cubic feet, under the 30% rule. Varian advised that the Planning Board considers a screened in porch to be an open porch and is not given any cubic feet. The Board of Appeals considers that anything with a roof on it to have cubic feet.

Rainey advised that the two Boards have a difference in interpretation and that the Planning Board has never credited for volume for a building that has a screened porch and that, if somebody were proposing a screened porch, it was never counted as volume. He added that the Board of Appeals thinks just the opposite. He further stated that Mike Morse, Southern Maine's Director of Shoreland Zoning, interpreted by telephone with Rainey today that if there is a half-wall with screen panels above it is considered square footage as well as cubic feet. He further suggested that the Planning Board and the Board of Appeals get together on this decision.

The Board approved the application with the following comments: "Approved under DEP rule for figuring cubic feet on a screened porch - porch has a half wall and a roof and contains 1017.11 cu. ft. with windows. Existing sq. ft 1245.95, allowed 373.785 - requested 277.5, existing cu. ft. 8642.00 - allowed expansion 3372.00, requested expansion 3216.00, remaining 96.285 sq. ft. Remaining cu. ft. 1180.00".

The \$20 fee was paid.

PHILIP/VALERINA DAY - ADDITION

The Board next heard from Rob Schultz representing Philip and Valerina Day of 6 Sir William Wallace Drive (Map 27, Lot 27, zoned Village District). The Days are requesting the construction of a bathroom addition, a single story only, on the northeast corner of their existing home. This is a non-conforming building and the expansion falls under the 30% rule.

The application contained a sketch of the present home and one of the proposed addition as well as a letter confirming that Shultz is acting as the Day's representative. The packet also contained a copy of the property card and footages as determined by CEO, Lee Rainey.

The Board unanimously approved the application with the following comments:

Approval given under Sec. 12.C.1.a of the Shoreland Zoning Ordinance

	Sq. Ft.	Cu. Ft.
Existing:	2691.0	19,800.0
Allowed:	807.3	5,940.0
Requested	36.0	360.0
Remaining	771.3	5,580.0

All Board members signed the application.

JOHN KROTT

The Board next received an application from John Krott of 128 Wallace Circle (Map 27, Lot 72) requesting the addition of two decks on a non-conforming building using the 30% rule. Krott was represented by Rob Schultz. There will be no roof over the deck. The application included a sketch of the proposed construction, specifications for building materials which included a project quote, a copy of the property card, and footages for square and cubic feet.

The Board referred to Section 12.C.1.a of the Phippsburg Shoreland Zoning Ordinance and unanimously approved the application with the following notations:

	<u>Sq. Ft.</u>	<u>Cu. Ft.</u>
Existing	2086.0	13,312.0
Allowed	625.8	3393.6
Requesting	531.0	0
Remaining	94.0	3393.6

The application was signed by all Board members. The \$20 fee was paid.

BRUCE POLIQUIN - POPHAM BEACH CLUB

Bruce Poliquin, owner of property on Popham Beach (Map 14, Lot 43) next approached the Board with two applications, one requesting a lesser buffer for his proposed Beach Club and the other requesting the replacement of a non-conforming shed with a 30% increase in size and keeping the existing 6 foot setback from the Konzelman property line. The applications were accompanied by a sheet entitled "Project Description" and stated, in part, "I respectfully request a variance for a 65' setback of the proposed Popham Beach Club structure from the Wyman residential lot line instead of the 100' setback standard in the Land Use Ordinance." (Section 1.7) The joint Boards of Selectmen and Planning permitted the application for the Popham Beach Club business on April 19, 2006. Section 1.6.a of the Land Use Ordinance requires a 100 foot setback from residential lot lines for commercial and other non-residential buildings or other commercial or industrial activities. The Project Description also requested a 6' setback of a proposed storage building from the Ocean View Campground commercial lot line

instead of the standard 20'. The application also contained information showing that the area is clearly commercial.

4

Varian referred to the Public Hearing regarding the proposed Beach Club which was held on April 19. At that hearing Land Use Architect, Terrance DeWan, provided information and design that showed a fence and green buffering system that would be equal to a 100 foot buffer space along the Wyman property.

Poliquin advised that a 275 foot wooden fence has been proposed to the height of Wymans liking (8'+/-) and that he has proposed several meetings with the Wymans but has been unsuccessful getting their decision to date. Varian stated that if the Wymans do not reply to Poliquins proposal, he could keep the proposed fence at seven (7) feet high, which is what the Wyman's existing fence is at this point. A recent boundary survey done for Poliquin shows that the existing fence is partly on his property.

The applications were unanimously approved by the Board and the comments on the lesser buffer application read "A 100' buffer for a new business is required under Sec. 1.6 of the Phippsburg Land Use Ordinance. A lesser buffer can be approved under Sec. 1.7 of the Land Use Ordinance. The applicant will construct a 275' long fence by a minimum of 7' high fence (except lower at the Popham Road end) and a 20' wide vegetated buffer along the abutting Wyman property line; such buffer is professionally designed to equate to 100'. The new Business documentation (Sect. 5 of the application) provides detailed plans for this buffering design. The applicant has cited commercial entities along the west property line and in the neighborhood to the east. Also, the applicants existing business is cottage rental as evidenced to the character of the neighborhood being predominately commercial."

The comments regarding the application requesting the replacement of the shed were: "The entire up to 30% expansion allowed is used in this permit." The \$20 fee was paid.

The Board recessed at 9:45pm and will reconvene on May 18.

May 18, 2006

Board members present: Marie Varian, Chairman; Marion Hebert; Clifford Newell, Robert Smith and Alternate Mark Hawkes.

The Board reconvened at 6:00pm and was called to order. This is a continuation of the

May 16 meeting.

PHIPPSBURG HISTORICAL SOCIETY

Varian announced that the Phippsburg Historical Society will come before the Board in June. They had intended to attend the meeting on the 16th to request an addition to the museum, which is a non-conforming structure, using the 30% rule, but were not ready.

5

HARBOR ISLAND SUBDIVISION

Owner, Bob Smith, was represented by Steve Mohr of Mohr & Seredin, Landscape Architects. A Final Plan was presented for a 7-lot Minor Subdivision (Map 30, Lot 18).

Varian advised that they will also ask for a waiver on the road standards. Another application was presented asking for a for filling and earthmoving of over 10 cubic yards.

The permit for Filling and Earthmoving of over 10 cubic yards was given under Section 14, Table of Land Uses Item 30 of the Shoreland Zoning Ordinance. The \$20 fee was paid.

Mohr explained that Lot 1 was sold in 2004 and that Lot 6 will be retained by the owner of Sebasco Harbor Resort. Lot 7 will be an open space lot and will be a non-residential use lot (also retained by the Resort) leaving four lots which will be conveyed and sold. He added that at this point the Resort does not plan to use Lot 6. The Board has previously received the information regarding parking on the mainland and roads on the island. Test pits have been drilled and, Mohr explained, that the water tested very suitable for drinking.

Mohr advised that the Final Plan is being submitted at tonight's meeting and pointed out minor changes since submission of the Preliminary Plan. He further stated that Note 12 on the plan states that all dwelling units will have sprinkler systems conforming to home-use standards of the Maine State Fire Marshal. This subject has been discussed at previous meetings. Although none of the lots can be subdivided, potential owners can have a non-dwelling unit guest house within their building envelope. This is referred to as Note 11 on the plan. Smith advised that he thinks guest quarters should be equipped with kitchen facilities.

Newell questioned whether there would be enough parking spaces on the mainland. Parking is being provided for two vehicles for each lot on the Island and Newell asked about parking for visitors to the Island. The Resort will provide four additional parking spaces for overflow. This was addressed in Item 13 of the Final Plan.

Varian referred to the Articles of Declaration of Easements, Covenants, Conditions and Restrictions for the Resort and questioned paragraph (e) under Building Restrictions which dictates that no portion of any building or structure shall exceed the maximum height permitted by the Town. Smith assured that, even if the Town standards go up in height allowance, the Resort will not. It will remain at 32 feet in height except for chimneys and antennas and a flag pole.

The Board addressed paragraph (f) under the same Building Restrictions which reads, in part, that the “maximum number of bedrooms allowed by applicable subsoil sewage

6

disposal permits which have been issued, but shall not exceed a total of eight (8) bedrooms and that no other buildings may be constructed or occupied on each lot.” Varian advised that if dwelling units are added to the individual lots, the Resort could be pushed into a Major Subdivision situation. It was determined that guest cottages will not have cooking facilities and will not be considered a dwelling unit. Mohr recommended that an amendment be made in the Restrictive Covenants to parallel what the Conditions of Approval states which is that each lot contain only one principal dwelling unit with kitchen and cooking facilities. All accessory structures including, but not limited to, a guest house will be within the building envelope.

Varian referred to Section 2.4 regarding Clearing and Building Envelope. The section will be amended to read in part: “Besides the dwelling and the guest house (ancillary building), no structures of any kind shall be allowed either inside the Building Envelope shown on the Plan or within the remaining portion of each Lot outside of the Building Envelope.

Section 5.2 regarding above Owners Association was next discussed. Smith advised that once there are three different homes on the Island a Homeowners Association will be formed.

Article 6.1(b): The word ‘roads’ will be amended to read ‘access path or temporary construction road.’ Temporary construction access will be across Lot 6. Varian stated that the standards for road are in the Ordinance and the Resort is asking for a waiver from those standards although heavy equipment will be a necessity. On the other hand, she added, in order for the Board to give a waiver of the entire road portion of the Ordinance for Subdivisions the Board has got to have some assurance that this is not going to last for an unreasonable number of years.

Mohr pointed out that in five years the DEP permit will run out. At that time the Resort would have to come back to the Board and the State to renew their permit or ask for a renewal of the waiver. He added that the Resort has to be very specific for what they ask for in the waiver.

Article 6.1(d) “Use of the the Open Space including without limitation the wharf and roads for ingress and egress and for the storage of construction materials and equipment,” will be handled by the waiver.

Article 10.9 Dedication and Maintenance of Common Open Space and Services has been revised to read “This is a Minor Subdivision and no common land is required. Lot #7, consisting of 15.7 +/- acres will be retained by the owner, Sebasco harbor Resort, L.L.C.

s
subject to the declaration of covenants, easements and restrictions.

7

The Board referred to a draft of Findings of Fact and conclusions of Law. Under Conditions of Approval #5, the sentence has been changed to read “There shall be only one dwelling unit constructed inside each building envelope. All guest houses and accessory buildings will be within the building envelope.”

Conditions of Approval #9 was amended to read “The Planning Board granted a waiver from Subdivision Ordinance Section 11.2, Road Design Standards, which will allow a gravel/woodchip pathway to access lots #2 through #7. The path will serve as a 12’-13’ wide construction road but will be properly relaimed to 8’ wide after all home construction is completed or five years, whichever comes first. The 5 year time period for the construction road can be extended upon approval by the Planning Board.

Mohr referred to Section 10.2, Retention of Common Land and Natural or Historic Features, and stated that in the first sentence after the words Sebasco Harbor Resort, LLC the words “or others as permitted by the declaration of easements, covenants, conditions and restrictions” should be added. He further referred to Section 1.4, Erosion, the words “or five years whichever comes first” should be added after the words “all homes are built.”

At Mohr’s request, the words “or 5 years whichever comes first” will be added to the second sentence after the words “home construction is completed. in Section 1.12 regarding Ground Water.

Newell motioned that the application and the waiver be accepted, and they were seconded by Hebert. They were unanimously approved by the Board and the Board members signed the Final Plan with changes noted. A Notice of Waiver will be recorded by the applicant in the Court House in Bath.

The Board signed the Application for the Waiver of Section 11.2, Road Design

Standards, in the Town of Phippsburg Subdivision Ordinance as shown as Note #15 on the Recording Plan.

ANNOUNCEMENTS

The April 12th minutes were accepted by the Board as well as the notes on the April 30th site walk for the Stonehill Subdivision. Varian announced the results of Amendment notes of the Town Meeting: Road Standards passed and Demolition Delay failed. A Public Hearing on the Stonehill Subdivision will be held at 5:30pm on June 15.

8

The meeting adjourned at 8:50pm.

Respectfully submitted,

Marion H. Hebert

Recording Secretary/
Planning Board Member

