

March 22, 2006

PUBLIC HEARING
re
PROPOSED POPHAM BEACH CLUB - PROPERTY OF BRUCE POLIQUIN

Selectmen present: Michael Rice, Chairman; Alan Douglas; Everett Perkins

Planning Board members present: Marie Varian, Chairman; Marion Hebert; Steve Thayer; Robert Smith; Clifford Newell; Mark Hawkes and Josh Bate, Alternates

The Hearing convened at 5:00pm. Selectman, Rice advised that the purpose of the Hearing was to hear the application of the proposed Popham Beach Club. Some 30+ people of the Popham area and the Town in general were in attendance.

The applicant, Bruce Poliquin, was accompanied by Terrance Dewan, Land Use Architect, Steven Theodore, Building Architect, John Sevee of Sevee and Maher, consulting engineer on water and septic issues, and Atty Jim Hopkinson, Counsellor on the project.

Poliquin thanked the Selectmen and Planning Board for the opportunity to present his plan to the Town of Phippsburg. He further thanked the many people who have sent letters and emails regarding the project. He advised that he will address their concerns and stated that there have misunderstandings regarding the proposed Beach Club and that he hoped to clear them up during this meeting. He added that the content of many of the letters/emails received do not represent what he hoped to present at this Hearing.

Poliquin: What is being proposed at this Hearing and what will be proposed to the Town with supporting documentation is a private recreational facility. What is being proposed to the Town is totally separate from the Popham Woods Development. The private clubs and associations in the Town offer specific services to the members for a fee. The Club will offer two services: private access to the beach and a place to socialize quietly. The Club will be a managed facility with limited hours. The people that will go to the Club will enjoy it quietly as a protection for, not only the members, but for the abutters. There will be no lodging, no dining or bar service, no grocery business, and no public parking. There will be two services, private access to the beach and a place to socialize quietly. We are proposing that the Beach Club be situated on my beach lot on Popham Beach. It is a 1.74 acre lot. The commercial lot line is the Ocean View Campground owned by the Konzelman's to the west. To the east I have two abutters, Terry and Jean Wyman, which is a residential line on the back dune and, on the front dune, I have the Hall family.

We have had rental cottages on this property since 1968. There used to be six. There are now two. The activity for a rental cottage business and a proposed Beach Club is going

to be essentially the same location, consume the same footprint area as the last two cottages we have. As I said, there used to be six. There are two left. It is all taking place beyond the Shoreland Zone in the back dune area, beyond the erosion hazard area. It has absolutely no impact on any nesting birds, piping plovers or least terns. In the application, in the documentation I have submitted to the Town, there is a determination by the Inland Fisheries and Wildlife that verifies that.

My proposal is to replace the last two cottages with the same structure - the Beach Club. There is also a small shed on the property against the commercial outline of the Campground that I would hope to be able to replace with a storage building. Again, the Beach Club would be, essentially, the same footprint in roughly the same location as the two cottages that remain. I know that one of the concerns that the Wymans have is the buffer. Currently, there is almost no vegetation along the Wymans/Poliquin lot line. There is a 65, 7 foot high fence that the Wymans put up years ago. Besides that, there is no buffer. One of our rental cottages is 20 feet from that lot line. Before I started taking down the other four cottages, there were four cottages 20 feet away from that lot line. Terry DeWan will talk about the buffer. What I am proposing is to increase that buffer from 20 feet to 65 feet. I am also proposing to add a vegetative barrier along that whole lot line until it gets down to where its already quite dense. In addition to that, I would propose to erect a fence along that entire line. So, Terry will talk about this again, but I would argue that the buffer that we are proposing is much greater, much more effective than what is there today. John Sevee will talk about the water situation. This is another issue that has been sensitive. We have heard concerns and John has...I'm not sure how many other people have done this at Popham....but John has done a hydrogeological study at the site. He will report those findings to you which, by the way, are in submission to the Town. John will also go over the fact that the septic system for the Beach Club that I am proposing is much more effective that what is in the ground now. Currently there are two septic systems that serviced the six cottages that we had. Now there are two remaining. What I am proposing is to remove both of them and replace them with one septic system with the best technology we can find. For example, I think the best thing to do, even though it is not necessary, is to put in a pre-treated component, so we are going to add that. This is something that the current septic facilities do not have.

I am proposing to the Town through our submission, that there be strict size and operational limits to the Beach Club. For example, I am proposing that the Club be open from 10:00 in the morning until 9:00 at night, from the first of May until the 31st of October. From the Friday before Memorial Day through Labor Day there will be a manager on site. If necessary, there will be a manager on site before or after those dates. I am also proposing a limited number of memberships, 25 new memberships per year phased in over six years, totaling 150 memberships. Now, I know one of the discussions or questions I will get is what is a member. A membership would be a husband and/or wife and their kids that are under 21. No cousins, no grandparents, no uncles, no aunts,

etc. That would constitute a membership. But the most important thing I think there is to determine usage on this lot is the fact that even though the Beach Club would have a legal limit, because of the way it is designed, the septic is for a maximum of 183 people. I would like to limit that to 150 people per day maximum. That means that once you go to the property, whether or not you use the facility or just park and walk down to the beach, that's one person, unlike the rental cottage business that our family has had since 1968 or a campground. I expect this facility to be used on warm, sunny days for several hours a day. We do not have people there 24/7 all summer. There will be a very clear code of conduct for members. For example, only members and their invited guests will be allowed. They will have to sign in. There will be no pets. No smoking. No fishing. There will be proper beach attire. We won't have little kids running around with their bathing suits off. There will be no music outside the facility unless you are wearing headsets. No boom boxes. There will be no trash on the beach. If members cannot abide by these very clear rules, they will be asked to leave and there will be a manager 24/7. There will be a grievance procedure that says any membership can be terminated. When I rent the cottages on our lot, we have a code of conduct for our members. Not only to protect those that are renting, but also for the abutters. We have been here since '68 as I mentioned. Paul Kelly, the Konzelman's at the campground - I cannot think of more than a handful of times when there has been a problem with campers next door and, when there has been, the Konzelman's have taken care of it. Those people are there 24/7 all summer and they have 48 sites, they have permanent trailers, they have a grocery business and they have beach parking. This is beach access and a place to socialize quietly.

Another concern that I have heard is parking. We propose space for 37 cars at that part of the lot towards Popham Beach road, Popham Road, Route 209. There will be no off-site parking along Route 209. It is not allowed anyway and we are certainly not going to allow it and there will be somebody there to enforce it. Now, the question comes, what happens if it is a Saturday in August at 2:00 on a sunny day and the 38th car arrives. Two miles away I am retaining land that I own an easement on that will provide satellite parking, if necessary. So, if someone shows up from Small Point, from West Point or from Bath or from Phippsburg and they want to go to the beach with their grandkids and those 37 spaces are taken, they have the option to go a couple of miles away to a satellite lawn and we are intending to pick them up. There will be no off-site parking along the road.

I have been discussing and planning for this new business in the Town of Phippsburg for quite some time. During November of last year we had a workshop with the Planning

Board. We got their input on how to do this correctly and, since that time, I have worked on the permits that are needed from the State. All State Permits have been received. The Maine Department of Environmental Protection has examined this site in great detail with input from the Maine Geological Society and the Department of Inland Fisheries and Wildlife. They have concluded, because the activity in the back dune section of the lot, where the rental cottage business has always been, that this activity presents no

3

environmental harm. As a result, the permit from DEP was included in the submission to the Town. The Maine Department of Transportation has issued a driveway/entrance permit for the lot. One of the key concerns that they have is visibility, for safety reasons. There is about 800 feet of visibility looking to the west, towards the State Park, and there is about 450 feet of visibility looking towards the east towards Fort Popham. In addition, myself and Steven Theodore, the building architect, met with Jim Totman, the Fire Chief and his assistants in December or January and they gave us their input with respect to safety and access for fire equipment, etc. As a result, we have suggested and it has been approved for a 22 foot wide entrance/exit, not 24 as per the application. The building will be sprinkled. There will be a sprinkler in the building and it will be designed such that emergency personnel can go in and out of the facility easily. The Maine State Drinking Water people have come down to the site and examined it and they have been very helpful in helping me to determine, that the professionals here, to determine maximum separation between the septic facility and the new well that I propose to drill. We received a permit from them. The State Wastewater and Plumbing Program people have also examined the septic facility that is proposed and they have issued a permit for it. So, I have received all the State permits for this facility. Now I would like to turn it over to Terry DeWan.

DeWan introduced himself and advised of his credentials in the State. He stated that, in working on the Poliquin project, it is his opinion that his firm can come up with the needs of the Town and address the concerns that have been raised by the people in the audience as well as the criteria of the Land Use Ordinance. He referred to Section 1.6 regarding buffer zones in the case of commercial and industrial development. He read this section of the Ordinance as well as Section 1.7 which states that the Planning Board may approve lesser buffer zones. He presented a series of slides depicting the existing Poliquin cottages and the abutting Ocean View Campground. He advised that letters received from the State show that, as long as the development was kept back from the erosion hazard zone, there would not be any effect on the sensitive wildlife habitat. He spoke of erosion patterns and noted that the construction will be on the back side of the erosion hazard area and, therefore, the project will be "in good shape." He further advised that the 2,000 foot square Beach Club will be constructed approximately in the same area as the two existing cottages. He pointed out the seven foot high fence between Poliquin's property and the Wyman property as well as the Ocean View Campground and existing buffers next to Route 209. He added that the total square footage of the existing cottages

is approximately 1950 square feet and that the proposed building is approximately 2000 square feet. He referred to Section 2.4 of the Land Use Ordinance regarding Standards for Commercial and Industrial Uses and added that there are very specific standards that have to be met in that section of the Ordinance.

DeWan presented a diagram of the proposed Beach Club which was submitted as part of the application. He explained that there will be a grass over gravel parking area behind

4

the Club and that the access to the beach will remain exactly as it currently exists. He advised that Poliquin and his associates are working with the abutting Wymans to make sure that any any landscaping or fencing that is put in would be of a style and design suitable to both parties. He asked for a variance regarding the existing storage shed on the property and is proposing a replacement shed measuring approximately 425 square feet which will be in the same position as the existing shed which does not sit back 20 feet from the abutting property line. He referred to the proposed parking area and stated that it is proposed to retain the existing vegetation as much as possible. It was pointed out that native vegetation would be planted along the Wyman property line. The existing fence is currently on the Wyman property. DeWan proposed to extend the fence, the extension to be on the Beach Club property, or to erect a new fence totally on Poliquin's property. He added that, in addition to the fence, there would also be landscaping for the entire length of the fencing. DeWan turned the Hearing over to Architect Steven Theodore.

Theodore advised that one of the things his firm tries to do with buildings is to make them fit in. He presented a slide of the proposed Beach Club. The slide depicted a 31 foot elevation as well as the elevation from the beach. He stated that the building will be passive solar. He further said that they have met with the State Fire Marshall's Office and it was determined that the Club would be a place of assembly, therefore sprinkled in accordance with the State standards. A 2400 gallon cistern below the porch area will be installed that will provide water for the sprinkling system. Theodore turned the Hearing over to John Sevee, Certified Engineer and Hydrogeologist.

Sevee advised that he has been hired by Poliquin to look into the potential issues of impacts on groundwater associated with the septic system and potential impact on groundwater levels associated with the use of groundwater on the site. He pointed out leach fields that currently exist on the site as well as the existing water supply wells on abutting properties. He stated that he has looked at the wastewater disposal system which is proposed. The wastewater flow rates are prescribed by the Maine State Plumbing Code. A pre-treatment system is being proposed, although it is not required by the State or by the Town. Sevee advised that Poliquin feels, given the size of the lot and the use of the property it would be sensible to put in a pre-treatment system which would, basically, eliminate the microbes, nutrients and nitrates. The well will be situated along

the Popham Road, remote to existing wells. He referred to the potential impacts on abutting wells and whether their supply would be decreased or diminished. An analysis showed that the maximum drawdown would be less than an inch. He added that, based on their examination, the conclusion was there is adequate location and space and, with the pre-treatment system, to not have an adverse effect on any groundwater qualities on neighboring properties. He concluded by saying that there is adequate water on the site and turned the Hearing over to Poliquin.

Poliquin: To summarize, we are proposing to the Town that this Beach Club is a private, recreational facility. It is quite similar to the other private clubs and associations that

5

have existed in the Town for a very long time. The services that we are proposing to offer to members are private access to the beach and a place to quietly socialize. It will be managed for limited hours with a limited number of memberships. We are proposing to replace the final two cottages on the site with one structure that will occupy approximately the same location and approximately the same footprint area. We are proposing a limited amount of parking in the back lot and, if necessary, off-site parking such that there is no parking on Popham Road. We have received all the State permits to proceed and have, hopefully, demonstrated tonight and with the applications we submitted to the Town with the supporting documentation that we meet the standards. With that, we are through with our presentation.

Board of Selectmen Chairman, Michael Rice, opened the meeting to the Board of Selectmen and Planning Board for questions. Planning Board Chairman, Marie Varian, advised that notices were sent to abutters. Poliquin provided proof of receipt of those notices from abutters. Rice suggested that the Hearing be opened up to questions/comments from the many abutters and/or interested parties in the audience.

Planning Board member, Robert Smith, asked Poliquin if a survey has been done of the property. Poliquin answered that one has not been done and pointed out that a survey was done of the Konzelman property in 1999. The Halls have also had a survey done. Smith advised that before the Board makes a decision on granting a variance, he would like to know where the boundaries are. Poliquin replied that if a survey is necessary, that would be done. Newell asked what would be done regarding parking if the facility is open before or after the dates Poliquin has outlined. Poliquin advised that, if it is the pleasure of the Planning Board to have the facility gated, he will do so. He further stated that there will be no weddings or catered events; the Club will be designated for access to the beach and to socialize quietly and that there will be no post season functions in the building.

Poliquin's Attorney, Jim Hopkinson, spoke to the separation of the applications for the Subdivision on the Popham Road and the Beach Club. He stated that there is no commonality between the two applications. He advised that there will be an easement on

the Brooks property that will be used for satellite parking.

Attorney Roger Therriault addressed the audience and stated that he represents two of the abutters to the proposed Club - the Konzelmans and the Wymans. He discussed the impact of the Club and the request by Poliquin for the reduction of buffers from 100 feet to 65 feet from the Wyman property. He advised to the Planning Board that the reduction of that buffer is against State Law. He cited the Sawyer vs. Cape Elizabeth case and advised that there are many similarities in the two cases. He further stated the connection of the Club with the Popham Woods Subdivision and said he felt that the two proposals should be considered as one because the memberships will be available to the buyers into the Subdivision and that adds more value to the lots in that Subdivision.

6

Therriault also said that the property line between the Poliquin property and that of the Konzelmans' is, in several locations, somewhat different than that which has been identified by their surveyor. He addressed the impact of the proposed Club on the area, stating that this would bring an entire change in character, that all other structures are residential in nature and that this is not a residential use. He spoke further to erosion and advised that there has been 67 feet of frontage lost to erosion, that there is not much beach at times of high water. He stated that the parking needs to be set back and added that he wants to be sure all letters/emails are part of the record.

The emails and letters were accepted as part of the Public Record. Varian advised that several of the letters/emails asked who would get the memberships to the Club and if memberships would be set aside for buyers into the Popham Woods Subdivision.

Letters/emails were received from the following:

Elizabeth Reid	Ida Levine	Steve Norris
Barbara/Donald Follett	Marty Levin	John McCarty
Jonathon/Linda Day	David Endahl	Lisa Maitson D'Alessio
Tom/Karen Tappen	Gail Colls/Vernon Mattson	
Leonard Hoagland	Amanda/Kathryn Tappan	Ellie Brown
Adelle Rubin	Janet/Ralph Gilnack	Martha Streeter
Peter Tappen	Alvin/Phyllis Gediman	Richard Tappen
Paul Gamache	Charles Norris	Donald Hall
Bette Hartzband	Richard Tappen (to Gov. Baldacci)	

Those who spoke and wrote against the project cited invasion, erosion and water supply. Some four of the attendees spoke in approval of the project. Popham resident, Steve Norris, asked that approval of the Club be prolonged until seasonal residents can attend. He stated his concern over the high density of so many people in a small area and invited people to visit the beach and see what remains of the beach area due to erosion.

Cox's Head resident, Caroline Hutchinson, addressed the Popham residents and said that wouldn't people who don't live at the beach would be able to go if they bought a membership.

Long-time summer resident, Dick Hill, stated that, in his opinion, the number of people on the beach might amount to 30-40 cars which would not be a problem.. He added that he is willing to be realistic and open minded and suggested that other people should be also.

Popham property owner, Paul Gamache, stated that he is troubled over the possible amount of 37 parking spaces with the potential for many more memberships. He further stated concern that Poliquin might sell the property and it could be poorly managed.

7

Selectman Rice advised that the State has said that the Park is not at capacity and can take many more people. The parking, water and septic are the issues of the Park's concern as they don't have enough room in their beach access area.

Popham resident, Pat Percy, did not oppose the proposed Club and advised that people can decide whether or not they want to buy a membership.

Leila Percy asked if the piping plovers were a concern and if there would be a lifeguard on duty at the Club. She suggested that one be hired.

Poliquin responded that his State Permit shows no problem with nesting piping plovers or terns. He will later determine if a lifeguard is necessary.

Both Terry Wyman and his wife gave emotional testimony as to their attachment to Popham and Phippsburg as a whole. Wyman cited a meeting he had with Poliquin last fall, voiced concerns with the increased intensity of the usage of the property and stated that he doesn't feel Poliquin cares about the beach community. He added that a lot of people will be adversely affected by Poliquin's personal gain.

Mrs. Wyman asked why the Club is being put there and the effect on the neighbors. She raised many issues including boundaries, etc. She concluded by saying it is a business for Poliquin. That it's "all about money." She further addressed the problem of overcrowding and stated that 75 feet of beach is not large enough for 150 people. She called the proposed Club a "full blown invasion" and added that she fears condominiums in the future.

Diane Marchetti called Popham "Eden on earth" and added that she feels the change will be bad for the Popham area.

Popham resident, David Wade, advised that he wants to preserve the quality, openness, beauty and tranquility of Popham. He added that he would like Poliquin to use his skills to do something else.

Selectman Douglas suggested that, before Poliquin goes further, a survey be conducted. He also advised that the property be gated and addressed parking spaces directly abutting the Wyman property.

A motion was made by Selectman Michael Rice and seconded by Planning Board Chair Marie Varian that two site walks be conducted, one at low and one at high tide. It was unanimously approved.

Newell asked that some markers be set so that the Board knows what they are looking at. Poliquin advised that that has already been done.

8

Douglas' motion to notify the three abutters of the site walk met with unanimous approval.

The Hearing recessed at 8:10pm. The date for a continuation of this Hearing will be announced after a site walk has been conducted.

Respectfully submitted,

Marion H. Hebert

Recording Secretary/
Planning Board member

