

**MINUTES OF MEETING
PHIPPSBURG PLANNING BOARD
February 9, 2021**

It should be noted that, due to restrictions about public gatherings in force at the time of this meeting in response to the Coronavirus outbreak, only persons connected with the item under discussion were present in the meeting room during the discussion. Others were able to observe via Zoom.

MEMBERS PRESENT: Joshua Bate, Mark Hawkes, Clifford Newell, Stephen Thayer, and Marie Varian, Chair.

1. **[1:10:09]** The meeting was called to order by Ms. Varian at 5:51 pm at the Town Hall. Ms. Varian announced that there was a quorum. She noted that, in the event that anyone on the Board needed to step down for any of the issues, it would be handled at the time it came up.

2. **[1:10:27]** **Jeremy Doyle, Jeremy Doyle Concrete Foundations, #TBD Meadowbrook Road, Tax Map 36, Lot 17-TBD (split) – New Business application to relocate existing home business, to a new lot across Meadowbrook Road. Application #2021-03**

Ms. Varian reported that there is no action because the application was handled at the public hearing today at 5:00 p.m.

3. **[1:11:11]** **Sebasco Harbor Resort, 29 Kenyon Road, Tax Map 29, Lot 11 – Represented by Robert Smith. Replace and expand existing laundry building on rear of Main Lodge using the 30% Rule in the Village District of the Shoreland Zone. Application #2021-02**

Ms. Varian reported that the Board did a site walk on the property on January 31, 2021. Board members saw the condition of the building, they saw where the new building would be, and the CEO measured from the building to the edge of Wah-Tuh Lake. As it is now, the distance is 6'; with the new building it will be about 10'. There is an old concrete foundation wall running east-west near the edge of the lake. This wall will stay. She reported that the CEO questioned the flood plain elevation level and will check State rules on footages. Height of proposed building may need to be increased.

Mr. Smith then submitted to the Board a copy of the elevation certificate, which he had just received, for the building. He stated that they are currently about a foot underneath the flood level, so they have to build up to one foot above that, which they are prepared to do. He then referred to the question of whether the pitch of the roof needed to be redesigned, which would have a very minor, inconsequential (to the Resort) impact on the total volume. However, it appears that the current, proposed pitch is satisfactory and does not need to be altered. He reported that, when they are ready to start construction, Sitelines is prepared to come down and get the property elevation set for them so that the foundation is at the right level, the slab is poured at the right level, and they're a foot above the flood zone.

Ms. Varian stated that this application is considered under the Phippsburg Shoreland Ordinance, Section 12.C.1.a, “Non-conforming Structures – 30% Rule,” and Section 17, “Permit Administration and Procedure.” Non-conformance is due to the fact that the present structure is too close to the normal high-water line of Wah-Tuh Lake (pond).

There was discussion about the possible impact on the building design due to the change in the elevation required. Mr. Smith committed to the Board that there would be no change that would increase volume, square footage, or roof pitch. Any changes that had to be made would be a decrease in volume, square footage, or roof pitch, and he would inform the CEO if such changes did have to be made to ensure the figures accurately represent what was actually constructed.

Ms. Varian reported the existing and proposed area and volume measurements, resulting in the following:

	<u>SQ. FT.</u>	<u>CU. FT.</u>
Existing	10,445.0	111,501.0
Allowed expansion (30%)	3,133.5	33,450.3
Permit will use*	--	3,895.0
Remaining for future use	3,133.5	29,555.3

*Reported square footage of new building is 9,981 SF, a reduction of 464 SF from the area of the existing building

Mr. Newell moved to approve the application using the figures as reported in the building plan submitted. Mr. Thayer seconded the motion, which was passed unanimously.

Fee of \$85 was paid by applicant with check #21989.

4. [1:48:01] Joanne Thompson, 28 Cold Spring Farm Road, Tax Map 04, Lot 17 – Demolish existing ell on historic farmhouse, replace with expansion using the 30% Rule in the Resource Protection District of the Shoreland Zone. Application 2021-08

Ms. Varian stated that the Board has received authorization from the applicant for David Matero Architecture of Bath to represent her. Sophi Swaim and David Matero of this firm were both in attendance.

Mr. Matero reported that the historic 1774 house that is there will remain. In the 1940s and in 1987, additions were built as an ell to the side. These additions are in much poorer condition than the main house. The goal is to provide a year-round living connected to the historic house and not really to have to change the main house at all. The way the Shoreland Zone cuts through the house complicates the square footage and volume calculations. He then turned it over to Ms. Swaim to explain the details.

Ms. Swaim showed the plans indicating where the 125’ required setback in the Resource Protection District fell in the existing and proposed structures. The plans also showed the area

and volume measurements both within and outside the setback for the existing and the proposed structure. These measurements were also provided by the Town’s CEO. The CEO’s measurements were relied upon by the Board in making their determination and are provided in the table below:

	<u>SQ. FT.</u>	<u>CU. FT.</u>
Within Setback		
Existing	2,200	16,576.0
Allowed expansion (30%)	660	4,972.8
Permit will use	485	4,921.0
Remaining for future use	175	51.8
Outside Setback		
Existing	2,838.0	25,375.0
Allowed expansion (30%)	851.4	7,612.5
Permit will use	840.0	7,597.5
Remaining for future use	11.4	15.0

Mr. Newell moved to approve the application. Mr. Hawkes seconded the motion, which was passed unanimously.

Fee of \$40 was paid by check #1259.

5. [2:04:00] Sidney R. Rogers, 39 Maple Street, Tax Map 40, Lot 01 – Discuss New Business of a junkyard.

Applicant did not appear.

6. [2:04:18] Glen Theall, 960 Popham Road, Tax Map 14, Lot 18 – Demolish existing non-conforming garage and replace with 22’x 30’ garage in the Village District of the Shoreland Zone. Application 2021-07

Applicant did not appear, but Ms. Varian reported that the Board could consider the application in his absence since it was for a renewal of the permit of his project previously approved on May 8, 2018, and currently expired. There are no changes to the project as it was previously approved.

Mr. Newell moved to approve the application. Mr. Bate seconded the motion, which was passed unanimously.

Fee was paid by check #9392.

7. [2:13:06] Joshua Bate, 24 Ruth Deck Landing, Tax Map 07, Lot 12-01 – Replace 12’x 16’ float with either four 8’x 20’ floats or five 8’x 16’ floats. Application 2021-09

Ms. Varian noted that, because Mr. Bate is a member of the Planning Board, he will step down during the consideration of his application. Ms. Varian appointed Alternate Ashley Thayer to take his place.

Mr. Bate explained that his goal is to expand the float to 8’x 80’, which would overhang only by 8’ the distance (72’) between the ramp and the strut that he plans to put in where his northern cable is now.

Ms. Varian asked if the float is part of his business. Mr. Bate responded that it is used in his business.

There was a question as to whether the float permit is tied to Mr. Bate’s business, or is separate. Both Ms. Varian and Mr. Bate believe that the business permit did not include the float permit, which appears to have been issued separately. The issuance of the float permit predated the business permit, and there are no specifications or restrictions about float size included in the business permit.

Mr. Bate stated that he has spoken to the Harbor Master about it and he didn’t have a problem with it, although Mr. Bate has not gotten anything in writing from the Harbor Master yet. Mr. Bate stated that there was plenty of room for the floats.

Mr. Thayer asked if this marine-related business has been ongoing for the last two years. Mr. Bate said that it has. Mr. Thayer asked if he had any documentation of that, because he thinks it is important that the Planning verify that the business been active during that period. Otherwise, according to Section L.1.a of the Town’s Land Use Ordinance, “any cessation of use exceeding two (2) years, expansion or change of use of an existing business” would be considered a new business for the purposes of the Ordinance and would require a new business permit.

Mr. Bate responded that it has been in constant use since the permit was issued and that he does not believe it is a reasonable burden of proof for an applicant, but he would leave it to the Board to determine.

Ms. Varian asked Mr. Thayer what he would suggest that Mr. Bate turn in for reasonable proof. Mr. Thayer responded, “receipts from clients.”

Mr. Newell stated that it was quite a change—from a 16’ float to an 80’ float—, and he wondered if it should go before the DEP and the Army Corps of Engineers as would be required if it was a brand new float. Mr. Bate responded that he wrote to Alex at the DEP and also left her a voice mail message. He reported that he hasn’t heard back from her yet. He would be fine if they issued the permit pending a DEP approval, which he noted has been done before with

other applications. He doesn't believe there is any environmental impact: it's seasonal, removed from the water, not going to have any moorings.

Ms. Varian noted that Footnote 10 in Section 14 of the Shoreland Zoning Ordinance, "Table of Land Uses," item 17, "Piers, docks . . ." states that a "permit shall be issued only after written approval from the Harbor Master."

Mr. Bate reported the Harbor Master told him that there was a form he had to fill out. Mr. Bate couldn't find the form on the website and the CEO told him there wasn't a form [online]. Ms. Varian then went to call the Harbor Master to speak with him directly. She called and left a message.

Ms. Varian then asked the Board whether this was just an application for floats, regardless of what else was going on there, or is the Board assuming that this is part of Mr. Bate's business.

There was then discussion about whether the need for these floats was due to an expansion or change in the business for which a permit was issued in May of 1999, or if there is no change in the business. In 1999, the principal business was described as "boat rentals and charters." Rental of moorings was not prohibited, but the number of moorings was limited to 8. Ms. Varian noted that adding rental of moorings to the business activities specified in the permit—boat rentals and charters—creates more traffic to and from the site and increases the demand for parking beyond what was anticipated when the permit was issued.

Ms. Varian stated that it was abnormal to have this amount of floats for one person, but that doesn't mean that it cannot be done. Mr. Bate explained that the reason for the 80' of floats is due to geography, not the need for 80 feet. He can't expand on the design unless he goes up to the northern anchor point and put a strut. He really should have more floats to have a better design, but he can't afford more.

Mr. Hawkes and Mr. Thayer both stated their concern that the Board not overlook anything on this application, since Mr. Bate is a member of the Board. They want to be sure to avoid any suggestion or impression of preferential treatment for Mr. Bate due to his position on the Board.

There was discussion about whether the permit can be issued without written approval from the Harbor Master, pursuant to Section 14 referenced above, or would it be acceptable to have the permit be contingent upon receiving a letter of non-objection from the Harbor Master.

Mr. Newell moved to table consideration of the application until the Board has received the paperwork from the Harbor Master. Mr. Thayer seconded the motion.

Ms. Thayer asked if it would be possible to delay issuing of the permit until the Board had received the Harbor Master's letter, but not have to convene a meeting to sign it. Rather, the permit could be available in the Town Hall for Board members to come in and sign it. Ms. Varian responded that it would be the same to have the permit signed in advance of receiving the Harbor Master's letter, but not issued until receipt.

A vote was taken on the motion made and seconded. The motion did not pass.

Mr. Hawkes then moved to sign the permit and hold it until the Board receives a letter on non-objection from the Harbor Master and then issue it. Ms. Thayer seconded the motion. The motion was passed. Mr. Newell abstained.

The permit signed stated the following restrictions: (1) that the applicant secure all other permits necessary from all other persons or agencies; and (2) that he must secure a letter of non-objection from the Harbor Master and deliver same to the Planning Board within five days.

Ms. Varian reported receipt of an e-mail from Mr. Hubbard, a neighbor to the applicant, stating that he did not object to this request.

Ms. Varian told Mr. Bate that if, in fact, he was changing the activities of his business, he should come back to the Board and get an expansion of business permit.

Fee of \$40 was paid by check #6213.

Mr. Bate did not return to the Board for the remainder of the meeting and left the meeting during the votes on the minutes. Ms. Thayer remained.

8. **[3:08:35] Consider minutes:**

- Site Walks: Jeremy Doyle Concrete Foundations and Sebasco Harbor Resort on January 31, 2021.

Mr. Hawkes moved to approve the site walk minutes of January 30, 2021, as corrected. Ms. Thayer seconded the motion, which was passed unanimously.

- Regular meeting on January 12, 2021.

Mr. Newell moved to approve the January 12, 2021, meeting minutes. Mr. Hawkes seconded the motion, which was passed unanimously.

- Public Hearing Sessions on June 23, July 7 & 28, August 31, and September 11, 2020.

Mr. Newell moved to approve the minutes of the public hearing. Mr. Thayer seconded the motion, which was passed unanimously. Mr. Hawkes did not vote, as he had recused himself from the Riverside Camping case.

9. **[3:11:30] Election of Chair and Vice Chair.** Tabled. To be done at March regular meeting.

10. **[3:12:43] Other Business.** None.

11. **[3:12:47] Announcements.** The Board of Appeals will meet on February 23 for final vote on the Percy case, after review of findings.

12. [3:24:00] **Adjourn.** Mr. Thayer moved to adjourn. Mr. Hawkes seconded the motion, which was passed unanimously. Meeting was adjourned at 8:03 pm.

Respectfully submitted,

Channa A. Eberhart

Channa A. Eberhart, Secretary