

**PHIPPSBURG PLANNING BOARD
PUBLIC HEARING – New Business
Jeremy Doyle Concrete Foundations
Meadowbrook Road, Tax Map 36, Lot 17-TBD (split)
February 9, 2021**

PRESENT: Joshua Bate, Clifford Newell, Stephen Thayer, and Marie Varian, Chair

The hearing was held at the Phippsburg Town Hall and was opened at 5:00 pm by Ms. Varian. Ms. Varian explained that the Planning Board considers all applications for new businesses, expansions of businesses, or expansions of non-conforming structures.

Ms. Varian reported that there had been a site walk on January 31st, and that the site walk and this public hearing were duly advertised in the *The Times Record*.

Ms. Varian then stated that the Board would finish up with what they had learned on the site walk and ask questions of the applicant. First, the applicant would provide a description of his business proposal. Any questions from people present at the hearing, as well as those observing via Zoom would then be addressed. At the conclusion of the question and answer period, the public portion of the hearing will be closed and the board will make a decision—if they are at that point.

Ms. Varian then turned the meeting over to Mr. Doyle. Mr. Doyle explained that he had sold his house, which is the former location of his business. Mr. and Mrs. Doyle have acquired the land on Meadowbrook Road and are attempting to obtain permission to locate the business on an area of approximately 150' x 150' in this new site. This area would be for the purpose of storing materials and equipment for his business. The Meadowbrook Road site is located near the intersection with Stoneybrook Road.

Ms. Varian asked for confirmation that the applicant intended to build a house on the site, but that there were no houses yet. Mr. Doyle stated that was correct, and that the house would be up on the hill, not close to the area selected for the business.

Ms. Varian stated that the site walk showed the site has approximately 200' of frontage along Meadowbrook Road, and then west 1,072.07' to Keewaydin Lane, on which it has approximately 250', a total of 5.28± acres.

Ms. Varian noted that, at the site walk, the planned work area was clearly marked by stakes and ribbons. She clarified that these stakes and ribbons were entirely to serve as visual aids for the Planning Board's use, not to definitively point out the precise locations of various items. She asked Mr. Doyle if the 150' dimension that he noted for the area referred to the area from Meadowbrook and west. He responded that it would be more like 200' back from Meadowbrook and then 150' over toward the Basin.

Ms. Varian also noted other observations and comments from the site walk:

- The work area land is relatively flat with a gentle westerly slope;

- Excessive noise is not expected as no fabrication will be carried on;
- There is a 10'x 20' storage shed on the lot.
- The work area will be a minimum of 50' from the center of the traveled way on Meadowbrook Road, per Ordinance.
- A 40' long culvert will be installed at the entrance to the lot.
- Board viewed the lot's sidelines. There are no residential lot lines. There is vacant land on either side (Mr. Sewall owning to the south and the Kolbes to the north). The Kolbe land is woods; the Sewall land is clear-cut;
- Mr. Kolbe stated at the site walk that they would like at least a 50' buffer along their section of the work area. A stake was viewed showing 80'±.

Ms. Varian asked for questions from the Board.

Mr. Newell asked if it was correct that the applicant owned a lot south of the entrance to the lot being discussed. Mr. Doyle responded that he was in the process of buying that lot, in order to have a buffer in the future between his lot and the potential purchaser of the adjacent lot to the south when it is sold.

Ms. Varian stated that the Board would consider this application under the Phippsburg Land Use Ordinance and noted that the land was not in the Shoreland Zone. Relevant sections of the Land Use Ordinance (with Ms. Varian's comments in italics) are noted are:

- 9.A.6.a.ii (requires 50' setback from traveled way). *Comment: This is taken care of.*
- 9.A.6.b (requires new or relocated structures to be set back 20' from a non-residential property line). *Comment: In this area the sideline setbacks only need to be 20'.*
- 9.J, "Driveways." *Comment: The Board observed the driveway during the site walk.*
- 9.L.1, "New Business Permit."
- 9.L.2, "Home Business." *Comment: This was discussed early on. One of the criterion for a home business is that 75% of the activities take place on the customers' premises. That would probably fit in this case, but the rest of the criteria do not really fit in this situation. It is noted that most of the business activities for this business will take place off-site. This site is to be used nearly entirely for storage of equipment and materials. They aren't making anything there, and there will not be customers there.*
- 9.L.3, "Buffer Zones." *Comment: Not applicable in this case because there are no residential lot lines to contend with.*
- 9.L.4, "Standards." *Comment: This is a list of the required to be met, and, therefore, need to be considered by Board.*
- 12.D, "Procedure for Administering Permits." *Comment: As the Chair of the Planning Board, Ms. Varian declared that the application was complete.*

Ms. Varian asked if there were any questions from attendees or those observing via Zoom.

[8:50] Via Zoom, Mr. Kolbe commented that the land south of them, which Mr. Sewell sold to Mr. Doyle, had a covenant that went with the property that basically said that the operation on Mr. Doyle's land would not be visible from Mr. Sewell's property. Mr. Kolbe stated that he thought this was probably a fair way for Mr. Sewell to assess objectively, given that he had other properties being developed, and that would be adequate. Mr. Kolbe is asking that the Board take this into consideration and consider placing the same restriction in connection with the land to the north—Mr. Kolbe's land—which is vacant at the present time, but could be residential in the future.

[9:53] Ms. Varian asked Mr. Doyle if the land that he was in the process of purchasing from Mr. Sewell extends beyond the land owned by Mr. Sewell west of Meadowbrook Road. Mr. Doyle said that it goes straight up to Keewaydin. He said that it was about 200' wide at Meadowbrook.

[13:50] Mrs. Kolbe then addressed the Board. She referenced Section 1 of the Land Use Ordinance, which states its purpose as, in part, "to preserve . . . the sense of rurality" in the character of the Town. She said that she was aware of the covenant described above that restricted what could be visible on Mr. Doyle's property from Mr. Sewell's property. She believed that a 50' setback was reasonable. She also said that the planned commercial use of the site was not in keeping with a residential neighborhood. She said that the presence of this equipment would have an effect on the perception of the entire neighborhood. Her concern is that, if one lot is used in the way that is proposed, potential purchasers of nearby sites would not be interested in living next door to something that is not residential. Mrs. Kolbe hoped that the Board would take this into consideration in their deliberations.

[16:09] Ms. Varian stated that, at the site walk, someone described the proposed use as "industrial." Ms. Varian clarified that it is not industrial, which is defined in the Ordinance as, "The assembling, fabrication, finishing, manufacturing, packaging or processing goods, or the extraction of minerals." "Commercial Use" is defined as, "The use of land, buildings, or structures, the intent of which is the production of income." Ms. Varian said that, while it is true that the equipment stored on the land is used to produce income, there is to be no income-producing activity that would take place on the land. It is only for storage. This intended use is specifically identified in the deed.

[19:31] Lee Rainey, Code Enforcement Officer, noted for the record that Mr. Doyle is just moving his business a few hundred feet down the road from where it has been for years.

Ms. Varian agreed, stating that the business has been in the neighborhood; just the exact location is changing.

Mrs. Kolbe noted that the abutters in the original location are all members of the Doyle family.

[21:19] Stephanie Doyle, speaking via Zoom, addressed the Board regarding the 50' setback. She said that they wondered if sometime in the future they would decide to build a garage—not for a commercial use, but something appropriate for a residential use—and they believed that

this would be reasonable. Her question was, would the Board consider that commercial and, therefore, if they wanted to put it at a 40' setback rather than 50', would that be a problem?

Ms. Varian responded that the Board was not currently including consideration of a garage in its deliberations. If this application is approved and then, at a later date, the applicants decide to build a garage, they would only need to go to the CEO for a building permit and it would be clear what setback would be required. As the law stands now, 20' is required for a setback. Ms. Varian stated that she understands that neighbors might prefer something different, and it would certainly be attractive for there to be trees between the commercial uses and the property line, but the law requires only a 20' setback from the sideline.

[35:13] Ms. Varian stated her opinion that there was no reason for the Board to consider a wider setback than the 20' required in the Ordinance since there are no residential uses to the north or south. She then asked for any comments from the Board.

Mr. Hawkes agreed that, since there were no residential uses abutting the property, the 20' requirement applies.

[37:30] Ms. Varian then ran down the list of standards for industrial uses in Section 9.L.4, with her comments:

- a. The applicant shall have the burden of demonstrating that the proposed business shall be located and designed so as to prevent unreasonable nuisance to nearby properties, parking on adjacent public road, danger to children, unsanitary waste disposal, noise, vibration, smoke, fumes, dust, noxious odors, heat, glare or radiation that exceeds conditions previously detectable at the lot boundaries of other properties in the general area.
- b. New businesses shall also demonstrate that they meet the following standards and requirements:
 - i. The natural landscape shall be preserved insofar as practical. New landscaping may be required that will define, soften or screen the appearance of the business from adjacent public ways or nearby residential areas. *Comment: There are no residential areas and it is not a retail establishment, so the language regarding retail establishments does not apply.*
 - ii. Businesses shall provide safe access and egress without causing traffic congestion. *Comment: They already have that.*
 - iii. Surface waters shall be drained so as not to damage adjacent lands. *Comment: At this point, there are no surface waters.*
 - iv. Exposed storage areas, fixed machinery, and utility buildings shall have sufficient setbacks and screening to provide a visual buffer sufficient to prevent unreasonable adverse impact on other land uses in the area. *Comment: There are none.*
 - v. *Comment: It doesn't require water.*

- vi. Comment: *It doesn't require sanitary facilities.*
- vii. Comment: *It isn't a junkyard.*
- c. Comment: *It's not a chemical or bacteriological laboratory, and it does not involve the commercial storage of herbicides, pesticides or fertilizers for wholesale distribution.*

[39:30] Ms. Varian asked the Board if they were ready to make a decision. There was discussion about whether it would be wise to specify the dimensions of the permitted commercial area within the required setbacks. The applicants have described the dimensions of the proposed area as about 150' x 150'. However, given the depth of the site, it would be feasible to have a significantly larger area by increasing the dimensions in the east-west direction taking into account the required setbacks from the sidelines and the traveled ways.

Mr. Doyle amended his proposal to extend the commercial area on this site westerly 300' from Meadowbrook Road.

[52:50] Mr. Thayer recused himself prior to a vote on the application due to his family relationship with the applicants. Ms. Thayer could not be appointed to take his place because she, too, has a family relationship with the applicants.

[54:45] Ms. Varian requested a motion. Mr. Hawkes moved to approve the application, permitting the east-west dimension of the commercial area to extend westerly 300' from Meadowbrook Road. Motion was seconded by Mr. Bate and passed unanimously.

Ms. Varian noted that all abutters had signed the application and the record was on file.

Applicant paid fee of \$95 by check #5203.

[1:09:51] Ms. Varian declared the hearing over at 5:50 p.m.

Respectfully submitted,



Channa A. Eberhart
Planning Board Secretary