

**MINUTES OF MEETING
PHIPPSBURG PLANNING BOARD
February 8, 2022**

MEMBERS PRESENT: Mark Hawkes, Ashley Thayer, John Totman, Jr., and Marie Varian, Chair.

1. [0:2:23] The meeting was called to order by Ms. Varian at 5:00 pm at the Town Hall. Ms. Varian reported that there was a quorum, which is three members. Ms. Varian introduced John Totman, Jr., a new member of the Board appointed in January.

2. [0:2:53] **Consider the minutes of January 11, 2022, regular meeting.**

Ms. Thayer moved to accept all of the minutes as written. Mr. Totman seconded the motion, which was passed unanimously.

3. [0:4:15] **Robert S. Smith, Pine Drive, Tax Map 29, Lot 11-18. Campground up to nine sites, to be known as Sebasco Camp Retreat. Application 2022-05**

Mr. Totman recused himself from this discussion because he is an employee of Sebasco Resort, owned by the applicant.

Mr. Smith, who is scheduled to present a different proposal as the next item on the agenda, requested that his proposals be reversed, so that Item 4 on the agenda can be presented first. There was no objection, so the Board proceeded to Item 4 of the agenda.

4. [0:6:07] **Sebasco Harbor Resort, 29 Kenyon Road, Tax Map 29, Lot 11, Represented by Robert Smith and others – Discussion only. Ideas for uses of this lot and perhaps other Resort property.**

Mr. Smith introduced: his partner, Rick Holmes, who came aboard a couple of years ago; Steve Bushy, who is new in their organization and has been working on some of the engineering for what they are going to be proposing across the street; and Michael Finch, who has been with the Resort for 15 years.

The first part of the development that Mr. Smith wished to discuss is a campground in Pine Grove, which is across the lake from the Resort, leading the Board back to Agenda Item #3.

3. [0:22:20] **Robert S. Smith, Pine Drive, Tax Map 29, Lot 11-18. Campground up to nine sites, to be known as Sebasco Camp Retreat. Application 2022-05**

Mr. Smith explained that when they first planned the campground project, they believed that the required setbacks were 250', which limited them to the nine sites that they proposed. Now, however, it appears that the required setbacks are 125', allowing them to increase their proposal to 24 sites.

Ms. Varian asked where they proposed to construct the bathroom/shower facilities related to the campground. The response was that, currently, they are assuming that it would be on the easterly side of the site, but that hasn't been definitively determined, nor has there been any determination of where the septic system should be. She asked if there would be washers and dryers. Mr. Smith responded that they haven't decided to do that. It's not a state requirement, and washers and dryers are available at the Resort.

The applicant's primary question for this discussion is how best to interpret the requirement in the Land Use Ordinance that the site must contain 5,000 SF for each campsite, not including roads, driveways, and vegetative wetlands. For example, would it be acceptable to have a 15,000 SF site, which would allow for 3 campsites in a cluster, and then another section on another part of the site, with another cluster of campsites?

Ms. Varian suggested that they double-check any rules and regulations regarding the lake so that they know absolutely what is allowed and what is prohibited and to make sure they're okay on their property lines.

She then asked the applicant where Dam Road stops and Pine Drive starts, but the discussion went in a different direction.

Mr. Smith said that, currently, it is undetermined how many camping vehicles would be provided by the campground and how many would be user-owned, but he expected they would be relatively small, so as not to require significant improvements to the current road and bridge to accommodate current road standards and large, state-of-the-art RVs.

Mr. Hawkes stated that he did not see anything in the Code that would prevent the cluster-type arrangement of the sites as described by Mr. Smith, e.g., if he wanted 24 sites arranged in clusters of 3, total site area required would be 5,000 SF times 24, or 120,000 SF (2.76 acres), net of roads, driveway, and vegetative wetlands. He stated that he believed that the septic system would also be deducted in determining the remaining land available for each site.

Ms. Thayer expressed concern about the neighbors, that their interests be considered and that they be kept informed about the plans. Mr. Hawkes expressed the need for restrictions on noise, drinking, music, etc.

Ms. Varian referenced regulations regarding setbacks and buffer zones, e.g., campgrounds are one of the land uses for which 150' setbacks from the nearest residential lot line are required. She noted that the Planning Board is authorized to approve substitute buffers if the character of the neighborhood is predominantly commercial. It is up to the applicant to prove that to the Board in order to receive approval for a substitute buffer. If surrounding residential properties are for family-use only, then the neighborhood is predominantly residential. If, however, surrounding properties are rented, that use is considered to be commercial in the Town Code.

The applicant was also cautioned about fish and wildlife issues, particularly in connection with the lake. That would have to be addressed prior to the Board being able to approve any plan. Mr. Hawkes stated that they probably would not do a site walk until the snow was gone.

Ms. Varian explained that there would be a public hearing, but the plan is normally complete and all documentation is available at the time of the public hearing. The success of the public hearing is dependent upon the thoroughness of the applicant's preparation.

Ms. Varian asked the applicant if he wanted to be on the agenda for the next regular monthly meeting on March 8th. He said that he did.

5. [1:09:09] Tidewater Six, LLC, 45 Tidewater Drive, Tax Map 26, Lot 08, Represented by Timothy Forrester of Atlantic Environmental, LLC, Woolwich – Seasonal dock consisting of 3'W x 45'L ramp and 10'W x 16'L float. Application 2022-06

Ms. Varian acknowledged that the members of the Board had received an application package from Mr. Forrester on behalf of the applicant, and that the Board had received a notice of non-objection from the Harbor Master.

Mr. Forrester summarized the proposal, describing it as a 45' aluminum ramp and a 16' float. He described the site as containing several homes. Families come, utilizing the area. There's mostly swimming, kayaking, power boating, and fishing. Traditionally, they've had to scramble over a lot of rock/weed-covered ledge and then, once there are out beyond that, there's a sandy substrate. It's a great spot to swim and to recreate, but getting out into the resource was a little challenging, especially as people get older. So, they found a spot where they could just set a couple of bolts in the ledge and secure the ramp and float. The parcel to the south is all the same network of family. This parcel has lawn areas that extend down the ledge, with existing access, and is a convenient spot to store the ramp and float in the off-season and get it out of the resource. Thus, the ramp and float will not sit on the flats.

Mr. Forrester stated that, because this is seasonal, approval is required only of the Army Corps of Engineers. There is no DEP process or approval required. The Corps has issued their permit.

Ms. Varian stated that the application is complete and that it is considered under the following sections of the Town of Phippsburg Shoreland Zoning Ordinance:

- Section 9, *Districts and Zoning Map*;
- Section 14, *Table of Land Use, Item 17—Piers, docks . . .* ;
- Section 15.D, *Piers, Docks . . .* (usage description);
- Section 17.B, *Permits Required*;
- Section 17.C, *Permit Application*;
- Section 17.D, *Procedure of Administering Permits*;
- Section 18, *Definitions*. Definition of *temporary piers, docks . . .* : “Structures which remain in or over the water for less than seven (7) months or more in any period of twelve (12) consecutive months.”

She also stated that the applicant will secure any and all other permits from any and all parties necessary to complete the project. A copy of the permit from the U.S. Army Corps of Engineers is included in the application package.

Ms. Varian also notified Mr. Forrester that there is a further requirement that is in State law, although not included in the Town's Code: photos of the project area after completion shall be submitted to the Planning Board and Codes Enforcement Officer no later than 20 days after completion.

Mr. Hawkes moved to approve the application as presented. Ms. Thayer seconded the motion, which was passed unanimously.

Fee of \$100 was paid [brought in by Mr. Forrester on the day following this meeting].

6. [1:18:46] Foxy CEOs, LLC, 126 Parker Head Road, Tax Map 08, Lot 18, Represented by Christopher Fox – Continuation from January meeting. Remove covenants from Cooley Estate Kennebec River Minor Subdivision. Covenants also govern Lot 16 owned by the Donna D. Dillman Living Trust. Application #2022-02

Ms. Varian reported that she did contact the Maine Municipal Association (MMA) to make sure that the covenants by themselves are addressed legally. She reported that the important question is: were the covenants proposed by the developer or were they actually imposed by the Planning Board? Since this all happened in 1977 and the Board has the map that mentions the approval of these covenants and another condition about the driveway (which will be discussed next), a decision must be made about whether these covenants were part of the original demands of the Planning Board. She noted that they had very little to go by, with the way minutes were made back then, and, even though it does say on the August 3, 1977, minutes that the covenants were presented and the Board approved all of the covenants and the condition that, prior to the sale of Lots 2 and 3, the owners would submit a plan for a driveway and a right of way (which did happen later on).

She noted that the current discussion applied only to the covenants, not to the driveway or right of way.

Ms. Varian stated that it was necessary to decide for sure how they are treating these covenants. Were they—all sixteen of them—a condition of the subdivision? She noted that the Board agreed at its last meeting that at least twelve—or more—are not pertinent because town laws or state laws cover those issues.

Ms. Varian noted that the subdivision map in the Town's file (dated July 24, 1977) includes a statement that the subdivision was "Approved with covenants and the condition that prior to the sale of Lots 2 and 3, a plan of said driveway(s) and/or right of way(s) will be submitted to the Planning Board for approval [in the future]." Therefore, the implication is that the covenants were approved.

Mr. Hawkes stated that his only concern would be if there were a further subdivision of this property. Mr. Fox stated that the only division they were considering in the future is a single

division of Lot #3 into two lots. He understood that, because the result is only one additional lot, it does not meet the definition of a subdivision. They have no intention of ever creating additional lots beyond that.

Ms. Varian then referred to the list of covenants and made the following comments:

1. Regarding restrictions on mining (Covenant #1), she stated that the Town has a pretty good mining law in the ordinance.
2. Regarding restrictions on animals (Covenant #4), she stated that they might decide to prohibit horses. Ms. Dillman and Mr. Fox agreed that such a condition would be acceptable if the Board wanted it.
3. Regarding timing of construction (Covenant #6), Ms. Varian stated that the Board doesn't care how long they take to build on the lot.
4. Regarding 50' setbacks from any property line (Covenant #8), Ms. Varian stated that this setback was more than the 20' setback currently required in the Town's ordinance. Ms. Dillman and Mr. Fox stated that they would prefer the 20' setback requirement in the ordinance.
5. Regarding 50' setbacks from the nearest roadway (Covenant #12), Ms. Varian reported that this is the same as the current requirement in the ordinance, so it is not needed in the Covenants.
6. Regarding the erection or construction of telephone poles or electricity poles (Covenant #15), they are allowed to do whatever they need to do.
7. Regarding commercial or agriculture uses of the land (Covenant #16), she asked the applicants how they felt about that covenant. Neither Ms. Dillman nor Mr. Fox could imagine any commercial use that either family would consider or that would be feasible.

Ms. Varian then asked the Board members if they were leaning toward permitting lifting all the Covenants except for a couple. Ms. Thayer and Mr. Hawkes said they were. Ms. Varian asked the applicants if they would be comfortable if the 50' property line setback were changed to 20'. They said they were. She also asked about the prohibition about horses, which the applicants agreed to. Mr. Hawkes also said there should be a prohibition about further subdivision, which does not prevent a division among family members.

Ms. Varian told the applicants that there needed to be a subdivision amendment written up, signed by the applicants and the Board members, and then recorded. Mr. Fox asked Ms. Varian if the Board could provide what conditions they wanted included in the amendment and then he would have his attorney draft the amendment, which would be given to Ms. Dillman and the Board for their comments and/or approval.

Ms. Varian said that Covenant #2 should be retained and Covenant #4 should be revised to prohibit horses, although as stated in the existing covenant, domestic pets are permitted. The

Board left it to the applicants and their attorney to define domestic pets in a way that is satisfactory to the applicants.

Mr. Fox anticipated that he would be able to send the Board the draft in advance of the next regular Board meeting in March so that the document can be approved and signed by all parties at that meeting and then recorded.

Mr. Hawkes moved to table consideration of this application until the March meeting. Ms. Thayer seconded the motion, which was passed unanimously.

7. [1:58:38] Foxy CEOs, LLC, 126 Parker Head Road, Tax Map 08, Lot 18, Represented by Christopher Fox – Continuation from January meeting. Restate and amend the June 13, 1990, Certificate of Easement/Driveway Location as regards the Cooley Estate Kennebec River Minor Subdivision Lots #2 (Tax Map 08, Lot 16) and #3 (Tax Map 08, Lot 18). Application #2022-03

The applicants submitted an *Easement Relocation Agreement* drafted by Mr. Fox's attorney. Ms. Dillman expressed her concern that the original access point to the Subdivision was from Subdivision Lot #2, which provided access to Subdivision Lot #1 as well as Subdivision Lot #3. The proposed relocation agreement does not include any reference to the existing access to Lot #1. Since Ms. Dillman currently owns both Lot #1 and Lot #2, it is currently immaterial, but she would have to protect the access from Lot #2 to Lot #1 in the event that she sells Lot #2.

Ms. Varian said that the members of the Board would have to review the agreement submitted before they could approve the application. Mr. Hawkes moved to table consideration of this application until the March meeting. Ms. Thayer seconded the motion, which was passed unanimously.

8. [2:15:15] Small Point Club, 64 Club Road, Tax Map 21, Lot 23. Represented by Richard Lee—Continuation from January meeting - Expansion of non-conforming structure for additional deck/dining area located in the Resource Protection/Residential Districts of the Shoreland Zone. Application 2022-04

Mr. Lee stated that he was here to update the Board. He distributed a memo with attachments to Board members and reported that the Small Point Club has continued its planning and research on this proposed expansion and was submitting:

- A letter of support from the owners of the property at 70 Club Road, which abuts the Small Point Club to the south;
- An inspection report indicating a 9,000 GPD flow rate from the property's septic system; and
- Drawing of property showing revised steps.

Mr. Lee also reported that:

- The proposed addition is further back from the property line than the existing building.
- Their surveyor has flagged the southern property line and found more land than anyone realized.
- The Club is not adding any seating or overnight stay space to the club; they're just adding approximately 650 SF to provide more versatile space to allow more people to use the space during high season. They're converting the existing dining room into a library and creating a new dining room outside.
- All of this construction is seasonal; it's still a summer building. It is only going to be in operation for 3.5 months each year.
- All of the life safety improvements they've done inside the building during the last 30 years would be extended out into this new addition; smoke and fire detectors, fire escapes, etc.
- He has a copy of the business application which he understands they have to complete even though they're not increasing their seating.
- He has spoken to 80% of the residents on Club Road and they are all willing to write letters of support for the project.

Mr. Lee's plan is to come back to the Board when the Club is close to within a year of actual construction, bring the completed application, with all the letters of support. Right now, they're not planning to break ground until spring of 2023, so it's pointless to request a permit until mid-summer of 2022 when they've completed all their homework.

His appearance before the Board this evening, he reported, is to "get another nod of approval" and have the Board express a willingness to do a site walk when the snow is gone. They are not in a hurry; they just want to know that they are going in the right direction. With that, they would be able to start on working drawings to figure out the cost of the project and start raising money.

Mr. Lee stated that they have reconfigured the stairs to avoid getting closer to the high tide mark than the current edge of the building. Thus, when the modernization is complete, the building will be less non-confirming than it is now.

Ms. Varian reconsidered the question of whether it was necessary to have a public hearing. They had been assuming that the business was expanding, but it appeared that this was not actually the case. The business application includes a place for abutters to sign, so it is not necessary to get letters from them. While the expansion is unlikely to be controversial, it was wise to complete the process, just so that everything is taken care of. Mr. Hawkes asked whether a site walk was necessary. The consensus was that it was not, so it was decided that there would be no site walk.

Mr. Lee was instructed that a revised survey would be required—showing the actual property lines. He estimated that he would ask to be back on the agenda in June. The consensus of the Board was that there did not seem to be any problem with the plan. No one had any objections. Ms. Varian cautioned Mr. Lee that the members of the Board present could not speak for any

new members that might be on the Board when approval of the actual application was determined.

9. [2:34:50] **Elizabeth and James Heskitt, 29 Shell Road, Tax Map 29, Lot 24 – Tear down 22’L x 20’W non-conforming structure (garage), replace, expand length by 6’6”, replace and raise foundation, relocate new structure 2’ toward the south and 2’ toward the west to lessen non-conformity in the Village District of the Shoreland Zone.**

Application 2022-07

Mr. Totman recused himself, as he is the contractor for this project.

Ms. Heskitt explained that the new structure is intended to be an exercise area, with a spa and a therapy pool.

Ms. Varian reported the footage calculations:

	<u>SQ. FT.</u>	<u>CU. FT.</u>
Existing	440.0	5,734.74
Allowed expansion	132.0	1,720.42
Permit will use	570.0	7,429.10
Remaining for future use	2.0	26.06

Ms. Varian asked the Board members if there was a need for a site walk. The consensus that there was no need.

Ms. Varian reported that the application is complete.

This application was considered under the Town of Phippsburg Shoreland Ordinance Section 9, *Districts and Map*; Section 12.C.3, *Non-Conforming Structure: Reconstruction or Replacement*; Section 17, *Procedure for Administering Permits*. Non-conformance is due to proximity to property line.

Ms. Varian instructed the applicant that the permit must be recorded at the Sagadahoc Registry of Deeds.

Mr. Hawkes moved to approve the application as presented. Ms. Thayer seconded the motion, which was passed unanimously.

Fee of \$100 was paid in cash.

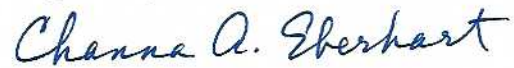
Mr. Totman returned to the meeting.

10. [2:57:26] **Other Business.** Date and time for next ordinance amendment discussion was set for Saturday, February 12, at 8:00 am.

11. [3:01:47] **Announcements.** None.

12. [3:02:10] **Adjourn.** Mr. Hawkes moved to adjourn. Ms. Thayer seconded the motion, which was passed unanimously. Meeting was adjourned at 8:00 pm.

Respectfully submitted,



Channa A. Eberhart
Secretary