

**MINUTES OF MEETING  
PHIPPSBURG PLANNING BOARD  
July 12, 2022**

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

1. **[0:50:06]** The meeting was called to order by Ms. Varian at 5:46 pm at the Town Hall. Ms. Varian reported that there was a quorum and full board.

2. **[0:50:20]** **Consider the minutes of June 7, 2022, public hearing and June 7, 2022, regular meeting.**

Mr. Newell moved to approve the minutes as written. Ms. Thayer seconded the motion, which was passed unanimously.

3. **[0:51:08]** **Foxy CEO's, 126 Parker Head Road, Tax Map 08, Lot 18, Represented by Christopher Fox – Continuation from January through May meetings – Review covenants and new wording relating to the lots in Cooley Estate Kennebec River Minor Subdivision. Application #2022-02**

Ms. Varian distributed to the members of Board the final version of the *Release of and Amendment to Deed Conditions and Restrictions*. This document is a revision of the document reviewed at the May meeting. Revisions are based on the discussion and decisions made at that meeting, which were reviewed, proof-read, and finalized by the applicants' attorneys.

Mr. Newell asked Mr. Fox if the document now said what they wanted it to say. Mr. Fox said that it did. Ms. Dillman said that it was fine with her.

Mr. Newell asked if the requirements of the Town's ordinances are covered by what is in the document. Ms. Varian responded that they are.

Mr. Newell moved to approve the document as written [with the addition of a comma between "constructed" and "or" in paragraph 2.b on page 3]. Mr. Hawkes seconded the motion, which was passed unanimously.

Ms. Varian read the comments that are included in the permit issued:

"Considered under Town of Phippsburg Subdivision Ordinance adopted May 4, 2015, and subsequent amendments; Appendix A, 30-A M.R.S.A. Section 4407, "Revisions to Existing Plat or Plan." This permit amends the existing covenants governing the subdivision. The *Release of and Amendment to Deed Conditions and Restrictions* approved this date shall be part of this approval form and both shall be recorded at the Sagadahoc County Registry of Deeds. There are two Parties involved in the change of Covenant (Conditions) wording: Foxy CEOs, LLC, and Donna D. Dillman, as "Trustee of the Donna D. Dillman Living Trust dated April 15, 2015." Four complete copies of all recorded pages shall be delivered to the Town of Phippsburg within forty-five (45) days of this date of approval."

Mr. Fox paid the \$100 fee by check #652.

**4. [1:02:11] Adam and Tiffanie Lopatin, 319 Meadowbrook Road, Tax Map 37, Lot 17, Represented by Timothy Forrester of Atlantic Environmental, Inc. – Recreational temporary (seasonal) 3’W x 40’L ramp and 10’W x 20’L float located via easement on Tax Map 37, Lot 16 owned by Christian D. and Christine R. Ruppel. Application #2022-18**

Ms. Varian asked Mr. Forrester to explain the application. He stated that the dock will provide recreational water access to the New Meadows River, and all structures will be removed in the off-season and stored in an off-site upland location. Because it’s fully seasonal, it only needs approval from the Army Corps of Engineers. There is no permit necessary from the DEP, except for the access path, for which the DEP accepted a Permit-by-Rule.

Ms. Varian asked how the applicants intend to get to the access trail easement on the Ruppel property. Mr. Forrester stated that the easement includes land along the property line that extends from the applicants’ parcel and runs between the property owned by the Ruppels and that owned by the Hutchins to the northeast.

Ms. Varian asked what the plan was for removing the ramp and float off-season. Mr. Forrester responded that, at high tide, they would drop the ramp onto the float and haul it to the Town landing and pull it out of the water. Either they will store it on their lawn well outside the setbacks, or bring it to the marine contractor.

Ms. Varian stated that the application is complete. She stated that the application is considered under the Town of Phippsburg Shoreland Zoning Ordinance, Section 14, “Table of Land Uses,” Item 17, “Piers, Docks, Wharfs . . .”; Section 15.D, “Piers, Docks, Wharfs . . .”; Section 17.C, “Application”; Section 17.D, “Procedure for Administering Permits.”

Ms. Varian reported that a letter of non-objection from the Harbor Master has been submitted.

The ramp and float system will be attached to adjacent Lot 16 via an easement from Christian D. Ruppel and Christine R. Ruppel, dated March 30, 2022, and recorded on April 6, 2022.

Pre-construction photos have been submitted. Post-construction photos of the same area shall be submitted to the Planning Board no later than twenty (days) after completion of the project.

The applicant shall secure any and all permits from any and all other persons or agencies necessary to complete the project. Copies of such permits shall be forwarded to the Planning Board.

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

Fee of \$100 was paid by check #1810.

**5. [1:12:59] Andrew Page, 62 Water Cove Road, Tax Map 28, Lot 14, Represented by Timothy Forrester of Atlantic Environmental, Inc. – Recreational permanent 6’W x 80’L dock, temporary (seasonal) 3’W x 36’L ramp, and a temporary (seasonal) 10’W x 20’L float. Application #2022-19**

Ms. Varian stated that all the sections that would be addressed in consideration of this application are nearly the same as the last application considered.

Ms. Varian noted that, as reported on the application, the lot is non-conforming. As it is only 0.27 acres, it does not have the land area to be conforming. She reported that she added the following note to that section of the application: “This lot is an existing non-conforming lot of record per Section 12.E.1 of the Shoreland Zoning Ordinance.” She also added a note that the lot is in the 250’ Village District.

Ms. Varian stated that the application is complete and asked if there were any questions.

Ms. Varian asked Mr. Forrester how he addresses eelgrass: does it simply depend upon whether he sees it, or is there something else he does? Mr. Forrester responded that there are a couple of things. One is that whenever anybody calls, he collects all the data he can online. The State mapped this area in 2008 and the data is available online. He said he would never attempt to estimate the density percentage during the off-season. That can only be done in the summer. But presence or absence can be fairly successfully determined outside of the off-season. If he doesn’t see any, he will always come back during the season to confirm that the eelgrass is or is not there. Sometimes he dives or snorkels close to shore. Drones actually work very well.

Ms. Varian stated that the application is considered under the Town of Phippsburg Shoreland Zoning Ordinance, Section 14, “Table of Land Uses,” Item 17, “Piers, Docks, Wharfs . . .”; Section 15.D, “Piers, Docks, Wharfs . . .”; Section 17.C, “Application”; Section 17.D, “Procedure for Administering Permits.”

She reported that a letter of non-objection from the Harbor Master is included.

This is a recreational, seasonal dock system: the 6’x 80’ dock is permanent; the ramp and float are temporary and will be removed to upland during the off-season.

Pre-construction photographs have been submitted. Post-construction photographs of the same area shall be submitted to the Planning Board no later than twenty (20) days after completion of the project.

The applicant shall secure any and all other permits from any and all other persons or agencies necessary to complete the project. Copies of such permits shall be forwarded to the Planning Board.

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

Fee of \$100 was paid via check #1811.

**6. [1:22:57] Irl and Gail Rosner, 6 Kennebec Lane, Tax Map 14, Lot 104, Represented by Joel Trotter of Trotter Contracting – Extend existing screened porch and deck on a non-conforming structure in the Resource Protection District of the Shoreland Zone.**

**Application #2022-20**

Mr. Trotter submitted an e-mail authorizing him to represent the applicants in this matter. He also submitted a copy of the deed.

Ms. Varian asked Mr. Trotter about the discrepancy between the Town's property record card and the map in the application regarding the width of the existing deck. The property record card says that the width is 8' and the map says that it is 7'. Mr. Trotter responded that, with the overhang and railings, the width could extend to 8', but the deck itself is 7'.

Ms. Varian stated that this application is considered under Town of Phippsburg Shoreland Zoning Ordinance, Section 12.C.1, "Non-conforming Structures"; Section 17.C, "Permit Application"; 17.D, "Permit Procedure and Fact Finding"; and Section 18, "Definition of increase in non-conformity of a structure."

She reported that the application is to infill the open porch area on the east (water) side of the house. Infill will use 91 square feet (7' x 13'). The main structure contains 1,160 square feet. The existing deck area is 148 square feet. The existing open porch area is 140 square feet.

She stated that the application is complete.

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

Ms. Varian told Mr. Trotter that the permit must be recorded at the Sagadahoc Registry of Deeds prior to applying for a building permit.

Fee of \$100 was paid by cash.

**7. [1:40:29] Kennebec Shores Subdivision, Parker Head Road, owned by Maine Woodland Properties (MWP), Tax Map 09, Lot 03, Represented by James A. Boyle, Technical Agent/Project Manager – Discuss: (1) Completion of roads' base construction expected by end of July – wait until cooler fall temperatures to apply finish road surface; (2) Allow MWP to start selling lots in August; and (3) Change from individual to shared driveway on Lots 7 and 8 to avoid blasting.**

The discussion began with item #3 above, the question of installing a shared driveway on Lots 7 and 8. Ms. Varian reported that the July 1<sup>st</sup> report of the inspector stated that the shared driveway had been installed. Mr. Boyle and Jamie Hill of J.R. Hill & Sons, Inc., the road contractor, both said that was incorrect. The inspector might have thought that work that had been done at Lot 8 was the driveway, but it was just a means to get lumber out.

The next question addressed was item #2: start selling lots in August.

Ms. Varian confirmed that the road would not be done. Messrs. Boyle and Hill said it would be, except for the finish road surface. Ms. Varian pointed out that the Ordinance talks about the road being *completed* before any lot is sold [emphasis added]. Ms. Varian quoted the Ordinance's official dictionary definition of "complete" and "modify":

*Complete*: "Having all parts or elements; lacking nothing; whole; entire; full . . . ."

*Modify*: "Alter in one or more particulars, generally in the direction of leniency or moderation."

Ms. Varian then quoted Section 10.A.3 of the Town's Subdivision Ordinance: "If at any time before or during construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the subdivider shall obtain permission to modify the plans from the Board."

She next quoted Section 8.A. 4: "No lot in a subdivision may be sold, leased, or otherwise conveyed before an approved road is completed to that lot."

Mr. Boyle stated that they are ready to request a release of all the escrow for funds that have been spent, after a satisfactory inspection by the third party inspector, but propose to hold back an amount equal to the cost of finishing the road, plus 10% of that amount, until the final surface coat is completed in the fall.

There was a long discussion about the desirability of delaying the installation of the final surface of the road till the fall—cooler temperature, less traffic on Parker Head Road, other work would not be interrupted in order for the road to be worked on, base gravel would have time to settle, etc. On the other hand, if no lots can be conveyed until the road is actually completed (as defined above and required in Section 8.A.4), then a delay in finishing the road would cause a delay in the sale of the lots till mid-fall, which is after the prime marketing season for these lots.

The idea was proposed that the subdivision plan could be modified consistent with Section 10.A.3, to remove the final surface of the road, making it complete when the base construction is complete.

Mr. Boyle said that he would discuss this with Michael Emmons, owner of MWP, and Mr. Hill.

In the meantime, the Board informed Mr. Boyle that they see no problem with the proposed plan modifications for the shared driveway and possibly changing the material for the final road surface.

It was agreed that this discussion would be continued on August 9<sup>th</sup>, the next regular meeting of the Board. By that time, the applicant will have their modification proposals prepared for the approval of the Board and a possible plan for resolving the problem of the most desirable marketing schedule conflicting with the most desirable road completion schedule.

8. [2:56:02] **Other Business.** None.

9. **[2:56:04] Announcements.** Ms. Varian announced that the Shoreland Zoning Ordinance rewrite was approved at Town Meeting, and a certified copy has been forwarded to the Department of Environmental Protection for their approval. The Board will operate under the 2009 Ordinance as amended until such approval is received.

10. **[2:57:33] Adjourn.** Mr. Newell moved to adjourn. Mr. Totman seconded the motion, which was passed unanimously. Meeting was adjourned at 7:54 pm.

Respectfully submitted,

A handwritten signature in blue ink that reads "Channa A. Eberhart". The signature is written in a cursive, flowing style.

Channa A. Eberhart  
Secretary