

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

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

1. [0:3:09] The meeting was called to order by Ms. Varian at 5:01 pm at the Town Hall. Ms. Varian reported that there was a quorum.

2. [0:3:37] **Consider the minutes of February 8, 2022, regular meeting.**

Ms. Varian reported that the minutes of the regular meeting on February 8, 2022, are not ready and would be considered at the next regular meeting in April.

3. [0:3:51] **Wayne and Gina Elowe, 0 Cold Spring Farm Road, Tax Map 05, Lot 25-1, Represented by Timothy Forrester of Atlantic Environmental, LLC, Woolwich – Replace existing 5’x 32’ dock, 3’x 40’ ramp, and 10’x 24’ float – same dimensions, same location in the Resource Protection District of the Shoreland Zone. Application #2022-08**

Mr. Forrester explained that at the time that the applicants acquired the property it had the existing dock on it. This dock is in a bit of disrepair, so they are planning to replace it in kind. The process by the state is simply a permit by rule, which was submitted and received. There was no prior record of a permit from the Army Corps of Engineers, so a permit was issued by the Corps as well.

Ms. Varian reported that she has received the Harbor Master’s report of non-objection. She also reported that there is no building structure on the property, but a permit to build a house was issued last year. This fact is not pertinent to the application under consideration; Ms. Varian was just reporting it for information purposes. With regard to the fact of no prior permits for the dock, Ms. Varian noted that years ago the Town of Phippsburg did not tax private docks. When the revaluation was done, it was recommended that, from that point on, private docks be put on the tax roll. Permits have been applied for since then, but this probably explains why apparently no permit had been issued for the existing dock.

Ms. Varian stated that this application was considered under the Town of Phippsburg Shoreland Zoning Ordinance Section 14, *Table of Land Uses, Item 17, Piers, docks, wharfs, bridges, and other structures and uses extending over or below the normal high-water line or within a wetland*; Section 15.D—same language as in Item 17 in *Table of Land Uses*, above; Section 17.B, C, and D, *Permits Required, Permit Application, and Procedure for Administering Permits*.

She reported that the application was for a seasonal dock. The main section connected to the land is year-round, but the ramp and float will be moved upland during off-season.

She reported that the applicants have submitted photographs, and she stated that the applicants are responsible for obtaining any and all permits necessary to complete the project. She stated

that the application was complete. She also confirmed that Mr. Forrester had written permission from the applicants to represent them in this matter.

Ms. Varian then referred to Section 17.D, *Procedure for Administering Permits*, in the Town's Shoreland Zoning Ordinance. She noted that there were several things that the Planning Board is required to consider under Section 17.D.3 in order to give permission. She noted that not all of the conditions pertain to this application.

The Board must find that, as far as it can tell, the project will:

- a. Maintain safe and healthful conditions.
- b. Not result in water pollution, erosion, or sedimentation to surface waters.
- c. Adequately provide for the disposal of all wastewater.
- d. Not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat.
- e. Conserve shore cover and visual, as well as actual, points or access to inland and coastal waters.
- f. Protect archaeological and historic resources as designated in the Comprehensive Plan. [Ms. Varian noted that there are none there.]
- g. Not adversely affect existing commercial fishing or maritime activities.
- h. Avoid problems associated with flood plain development and use.
- i. Conforms to the provisions of Section 15, *Land Use Standards*.

Ms. Varian stated that the Board finds that all of these standards have been met.

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

Mr. Forrester paid the fee of \$100 by check #1748.

Ms. Varian reminded Mr. Forrester that the applicants are responsible for submitting photographs of the completed project within twenty days of completion.

4. [0:16:20] Foxy CEOs, LLC, 126 Parker Head Road, Tax Map 08, Lot 18, Represented by Christopher Fox – Continuation from January and February meetings. Amend covenants of the Cooley Estate Kennebec River Minor Subdivision. Covenants also govern Lot 16 owned by the Donna D. Dillman Living Trust. Application #2022-02

Ms. Varian reviewed the revisions presented by the applicant:

Covenant 1: to be removed

Covenant 2: Addition of 2.a: "Unless approved by the Town of Phippsburg." Ms. Varian stated that she believed it should say, "Town of Phippsburg Planning Board." The applicant said that was fine with him. There was then further discussion about what should actually be

permitted and prohibited in connection with further subdivision of the lots. Ms. Varian decided that the Board should consult with the Town's attorney to assure that the language that they come up with is correct, both in terms of accurately addressing the applicants' intentions and also complying with subdivision law.

Covenant 3: New ¶ a – “recorded in the Registry of Deeds.” Ms. Varian suggests adding “*Sagadahoc County Registry of Deeds.*”

Ms. Varian stated that she had no other comments on this document. She said that she would contact the Town's attorney to see what can or cannot be done in the event that a future owner of one or two of the parcels would want to be able to subdivide it.

Board decided that this discussion would be continued at the April regular meeting if possible, or later, if more time is needed.

5. [0:47:21] Foxy CEOs, LLC, 126 Parker Head Road, Tax Map 08, Lot 18, Represented by Christopher Fox – Continuation from January and February meetings. 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

Ms. Varian asked if there were any questions in connection with the proposed *Easement Relocation Agreement*, which relocates the existing easement referenced above.

Ms. Varian confirmed with the Board members that their consensus was that a site walk was not necessary and with Mr. Fox and Ms. Dillman that they were still in agreement as stated in earlier Board meetings.

Ms. Varian stated that the proposed agreement would take the place of the *Certificate of Approval of Easement/Driveway Location, Cooley Estates, Phippsburg, Maine*, from the Phippsburg Planning Board and dated June 13, 1990.

Mr. Hawkes made a motion to accept the *Easement Relocation Agreement* between Foxy CEOs, LLC and Donna D. Dillman Living Trust. Mr. Totman seconded the motion, which was passed unanimously.

Applicant paid the \$100 fee by check #137.

6. [1:11:11] Hawkes Tree Service, Inc., 78 Main Road, Represented by Jarrod Hawkes, Owner – Restart former custom saw mill business at his 20 Mill Road site in the General Development District of the Shoreland Zone, Tax Map 01, Lot 28. Application #2022-09

Mr. Hawkes, father of the applicant, recused himself from consideration of this application and stepped down.

Ms. Varian explained that the business under discussion is already at the location. It has been sold to the applicant. She asked the applicant whether he requested a change of business permit,

given that the ownership has changed. Mr. Hawkes responded that he was waiting to learn what the Planning Board felt he should do.

Ms. Varian explained that, according to the Town's Land Use Ordinance, Section 15.G.1.a, a change of ownership of an existing business without any change requires a review within ninety days by the Planning Board for a Transfer of Permit.

She then noted that the same section of the Town's ordinance states that any cessation of use exceeding two years, expansion, or change of use of an existing business will be considered a new business and requires a new business permit for the purposes of the ordinance.

Mr. Hawkes stated that the prior owner had sold a few things in the past year and run the planer, so there was some activity connected with the business.

Ms. Varian responded that Mr. Hawkes' application stated that "John Morse & Sons had a custom sawmill business and we would like to do the same." She confirmed that Mr. Hawkes wants to pick up where the prior owner left off. He confirmed that was so.

Ms. Varian explained to the applicant that they needed to hold a public hearing on this application. The date was set for Tuesday, March 29, 2022, at 5:00 pm.

Ms. Varian described the process: at the public hearing, the applicant describes what he plans to do, and the public has an opportunity to ask questions and make comments. When that portion of the meeting is completed, the Board deliberates and decides, on the same evening, to approve, approve with conditions, or deny the application.

Ms. Varian noted that the applicant had submitted signatures from two abutters. She explained that abutters include those across the street from the business, as well as those whose property touches the property on any side. She cautioned that abutters must also print their names legibly, not just sign.

The issue came up of whether Mr. Hawkes had received a permit for his acquisition of Hawkes Tree Service, Inc., from his father. Mr. Hawkes reported that he had not. Ms. Varian then suggested that Mr. Hawkes (applicant) complete an application and combine a request for a Transfer of Permit for his acquisition of Hawkes Tree Service with the request for a Transfer of Permit for the sawmill business discussed above.

Accomplishing all of these approvals after a public hearing would ensure that anyone interested would have all the information at one time.

Ms. Thayer moved not to do a site walk in connection with these applications. Mr. Totman seconded the motion, which was passed unanimously.

Ms. Varian told the applicant that he would need to pay the required fee of \$365 at the time of the public hearing and that he would need to bring the applicable deeds.

Mr. Mark Hawkes rejoined the meeting.

7. [1:29:21] Alex Sulkowski, 28 Lookout Point, Tax Map 32, Lot 12 – Replace impervious material (crushed stone) with 16 cubic yards of pervious material (loam) extending outward from house toward water in the Resource Protection district of the Shoreland Zone. Application 2022-10

The applicant showed the Board a Preliminary Landscape Plan, dated February 10, 2022, prepared by Great Works Landscape, and pointed out the area that currently has crushed stone to be replaced by loam and plantings.

Mr. Sulkowski reported that he has not yet applied for the required DEP permit, but has the forms to do so.

Ms. Varian noted that this application is being considered under the Town's Shoreland Zoning Ordinance: Section 1, *Purpose*; Section 14, *Table of Land Uses*, Item 31 – “filling and earth moving of over 10 cubic yards in the Resource Protection District in the Shoreland Zone”; and Section 15.R, *Erosion and Sedimentation Control*; Section 17.B, C, and D, *Permits Required, Permit Application, and Procedure for Administering Permits*.

Ms. Varian stated that, per Section 15.R.6, Ryan Grover, Great Works Landscape, Dresden, Maine, is the person certified in erosion control practices and carries ID #2244 and will oversee the project. The project will use 16± cubic yards of pervious (loam) material.

Ms. Varian noted that the applicant is responsible for obtaining any other permits necessary.

There was discussion about whether other changes proposed that were not included in the application were permitted. Ms. Varian also confirmed that the required setbacks were 125' Resource Protection (not 75') and 125' Residential.

Mr. Hawkes suggested that it would be advisable to table this discussion until the applicant obtained a DEP permit. Ms. Varian told the applicant that they had, within the past month, been advised by the DEP to suggest to applicants to get the most difficult permit first. She suggested that the applicant wait to get the results of the DEP application and then come back for the Planning Board permit.

The applicant told the Board that he was about to combine several lots. He asked them, if he did that, would it be a problem to create a subdivision at a later date. Ms. Varian suggested that he consult with a land use attorney to see if what he is planning to do is the right way to accomplish it.

Ms. Varian asked the applicant to send her, for the file, the name of the person doing the work and either his, or his company's, certification number.

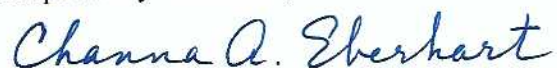
Mr. Hawkes moved to table this discussion until April, assuming that the applicant has received a permit from the DEP by that time. Ms. Thayer seconded that motion, which was passed unanimously.

8. [2:05:03] Other Business. None.

9. [2:05:07] **Announcements.** Member Tip Newell is compiling the Board's 2021 Annual Report. The Board is working on State-required and other changes to the Shoreland Zoning Ordinance, and is reviewing the Historic Preservation Commission's draft of a proposed Historic Preservation Ordinance.

10. [2:05:37] **Adjourn.** Ms. Thayer moved to adjourn. Mr. Totman seconded the motion, which was passed unanimously. Meeting was adjourned at 7:03 pm.

Respectfully submitted,



Channa A. Eberhart
Secretary