

**MINUTES OF MEETING  
PHIPPSBURG PLANNING BOARD  
November 15, 2022**

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

1. **[0:2:06]** The meeting was called to order by Ms. Varian at 5:30 pm at the Town Hall. Ms. Varian reported that there was a quorum and a full board.

2. **[0:2:24]** **Consider the minutes of the October 11, 2022, regular meeting.** Ms. Thayer moved to approve the minutes as written. Mr. Totman seconded the motion, which was passed unanimously by the members who had attended the October meeting. Mr. Newell had not attended the October meeting and abstained from voting.

**[0:2:53]** **Wynburg East Association, Inc., Pasture Road, Tax Map 35, Lot 12, represented by Norman Wallace or Benjamin Wallace of Redfish & Associates, Inc., of Harpswell – Remove existing 4’W x 150’L dock system and replace with new 6’W x 150’L dock system in the Resource Protection District of the Shoreland Zone.**

**Application #2022-27**

No representative of the applicant was in attendance at this point in the meeting, so the Board went on to Item #4, below.

3. **[0:3:04]** **Riverside Campground, Owned by David and Tracy Percy, 6 Sea Street, Tax Map 14, Lot 22 – Resurface/repair existing driveway with filling and earthmoving of over 10 cubic yards of gravel in the Village District of the Shoreland Zone. Application #2022-28**

Mr. Hawkes recused himself because he is the contractor for the project.

Mr. Percy submitted to the Board a copy of the DEP permit for this project.

Ms. Varian stated that the application is considered under the Town of Phippsburg Shoreland Zoning Ordinance, Section 14, Table of Land Uses, Item #31, “Filling and Earth Moving of Over Ten Cubic Yards in the Village District,” including the repair and grading of the existing driveway under Item #26.

Ms. Varian asked the applicants to describe the project. Mr. Percy stated that they crossed the driveway several times putting in the water, power, and septic lines for the Campground. That stirred things up on the driveway, so now they would like to resurface it.

Ms. Varian referred to Section 17.D.3 of the Shoreland Zoning Ordinance and read the following:

*After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:*

*a. Will maintain safe and healthful conditions;*

- b. Will not result in water pollution, erosion, or sedimentation to surface waters;*
- c. Will adequately provide for the disposal of all wastewater [does not pertain];*
- d. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat [does not pertain];*
- e. Will conserve shore cover and visual, as well as actual, points or access to inland and coastal waters [does not pertain];*
- f. Will protect archaeological and historic resources as designated in the comprehensive plan [does not pertain];*
- g. Will not adversely affect existing commercial fishing or maritime activities [does not pertain];*
- h. Will avoid problems associated with flood plain development and use; and*
- i. Is in conformance with the provisions of Section 15, Land Use Standards.*

Ms. Varian asked the Board members if there was any question about any of these items. None were raised.

Ms. Varian reported that she noted on the application that the Board already has a copy of the deed on file.

Mr. Newell moved that the application be approved as written. Ms. Thayer seconded the motion, which was passed unanimously.

Fee of \$100 was paid by check #11162. Ms. Varian asked Mr. Percy to take pictures of the completed project and submit them to the Board within 20 days of project completion.

Mr. Hawkes returned to the meeting.

**4. [0:12:40] Wynburg East Association, Inc., Pasture Road, Tax Map 35, Lot 12, represented by Norman Wallace or Benjamin Wallace of Redfish & Associates, Inc., of Harpswell – Remove existing 4’W x 150’L dock system and replace with new 6’W x 150’L dock system in the Resource Protection District of the Shoreland Zone.**

**Application #2022-27**

Ms. Varian reported that this application was considered under the Town of Phippsburg Shoreland Zoning Ordinance: Section 13, Resource Protection District; Section 15.D, Piers, Docks, Bridges, etc.; Section 14, Table 1 - #17; Section 17, Administration; 17.B, Permits Required; 17.D, Procedure for Administering Permits.

Ms. Varian stated that a letter from the owner authorizing Redfish and Associates, Inc., to act for them has been submitted. A letter of non-objection from the Town’s Assistant Harbor Master has been submitted. The application is complete.

Mr. Wallace stated that the existing dock system is of significant age, and it requires a significant amount of repair in order to be usable. The owners have requested that Redfish & Associates

remove the existing dock system and replace it, as the new structure will not be significantly more expensive than the repair of the existing system. The current wharf is quite narrow for the owners' use and also has a complicated layout. It has a jog on the end of it and it has two different deck levels with ramps. The new system would have uniform height and width. The direct impact to the shoreline will not be any greater than the existing structure. The indirect impact will be a little larger due to the extra width of the dock itself, but it's still within the DEP's guidelines for maximum width. He stated that they are awaiting final approval from the DEP, but they have a tentative verbal approval. The DEP just has to go through its administrative process and sign off on it.

Mr. Wallace stated that they are hoping that the Town will issue a permit with the stipulation that DEP approves the project prior to starting construction.

Mr. Wallace mentioned that another change in the dock is that they are widening it at the offshore end. The last 10' of the dock will be 10' wide, as compared to the 6' width of the rest of the dock. This widened area at the end will serve as a seating/resting area for those who need a break between walking down the dock and going on the ramp or after coming up the ramp to the dock.

Ms. Varian again referred to Section 17.D.3 of the Shoreland Zoning Ordinance and read the following findings if the application is approved:

- a. Will maintain safe and healthful conditions;*
- b. Will not result in water pollution, erosion, or sedimentation to surface waters;*
- c. Will adequately provide for the disposal of all wastewater;*
- d. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;*
- e. Will conserve shore cover and visual, as well as actual, points or access to inland and coastal waters;*
- f. Will protect archaeological and historic resources as designated in the comprehensive plan;*
- g. Will not adversely affect existing commercial fishing or maritime activities;*
- h. Will avoid problems associated with flood plain development and use; and*
- i. Is in conformance with the provisions of Section 15, Land Use Standards.*

As the Board had no questions or concerns, Ms. Varian stated that the Board finds that the application adheres to the requirements of usage under Section 17.D.3. The applicant shall submit post-construction photos no later than twenty days after completion per Section 14.2. The applicant is responsible for securing all other permits from all other agencies that may be required for completion of the project.

Ms. Varian stated that the application is complete.

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

Fee of \$100 was paid by check #510.

**5. [0:27:07] Popham Enterprises, LLC, dba Spinney's Restaurant, 987 Popham Road, Tax Map 14, Lot 21, Represented by Chris Bartlett – Continue review of business operation regarding a Transfer of Business Permit to a new owner.**

Ms. Varian stated that this application is considered under Town of Phippsburg Shoreland Zoning ordinance Section 15.G.1.a, Business Uses – New Business Permit. The purpose of this permit is to record a transfer of a business to a new owner, with no changes in the business.

Mr. Bartlett submitted, in response to the request of the Board at the September meeting when the review of this application was initiated, a copy of the previous owner's license and a copy of the current license. Mr. Bartlett pointed out that the only difference is that one of the units was an owner-occupied unit and is now an additional rental unit, increasing the number of rental units from 7 to 8. He also noted that the restaurant's seating capacity, inside (88) and outside (42), is unchanged.

Ms. Varian reported that she has gone through the files and reviewed what the prior owner had done in connection with water and sewer and stated that "everything is fine there."

Mr. Newell asked about the outdoor seating that was allowed because of Covid 19 restrictions. Mr. Bartlett showed him the picture of the 42 outdoor seats (7 picnic tables on the deck), consistent with the license.

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

Ms. Varian noted that they did not go through the findings in this circumstance because there is no change in the business.

Fee of \$100 was paid by check #1001.

**6. [0:39:18] Peter and Rebecca Spellios, 46 Indian Cove Road, Tax Map 13, Lot 37 – Demolish existing non-conforming dwelling, replace and expand square footage, relocate with farther setback from the high water line in the Resource Protection District of the Shoreland Zone.**

**Application #2022-29**

Ms. Varian noted that this application is considered under the Town of Phippsburg Shoreland Zoning Ordinance, particularly: Section 12.A through C.4, Non-conformance; Section 13.A, Resource Protection District; Section 15, Land Use Standards; Section 16, General Building Requirements (as is pertinent to this application); and Section 17, Administration. Section 14.1 and 2 are findings of fact.

Ms. Varian asked the applicants to explain their proposal.

Mr. Spellios explained that he and his wife were in the process of purchasing the property; as a consequence they do yet have a deed to it. They have submitted the application in order to clarify what is possible for them to do when they do own the property.

He continued: the existing home is in “difficult” shape. It is located 34’ from the normal high water mark. The septic system, which is of particular concern to them, is waterside, so the septic system is between the house and the water. It has failed the test—it is very old; the leech field is right there. Their hope is to be able to reconstruct the dwelling, but move back about 20%, so they’d be 40’ back. Going back more than 40’ is extremely difficult because of existing overhead utility lines, and there is significant ledge outcropping in that part backwards. Their hope is to not disturb the landscape and go through that difficult challenge of building farther back. The house would meet the dimensional requirements otherwise. It would not be any closer than 40’. It would meet the height requirements. The footprint would be no more than 130% of the existing footprint. The septic would be located out of the Resource Protection district. They would actually be going uphill with the septic, about 100’+ from the water, and pumping. Both the septic and the leech field will be located outside the resource area.

Ms. Varian asked if they had brought a copy of the purchase and sale agreement. He provided a copy to the Board, along with the deed of the current owner.

Mr. Hawkes asked what kind of septic system was there now. Mr. Spellios said that it was a tank. Mr. Hawkes asked if they were going to put in a new tank and whether there was enough depth to put the tank in the location they have identified. Mr. Spellios said that there was, based on the recommendation of Gerry Mitchell.

Mr. Spellios stated that the utility lines go both to the house they are purchasing and an adjacent house, which has both a vehicular right of way through the property, as well as utility access. The utility pole is approximately 20’ from the backside of the existing house.

Mr. Newell asked if the area around the pole is wetland. Mr. Spellios said that it was not; it was on ledge. He said it was clear that they had to drill to put the pole where it is, and he hopes not to have to relocate it.

Ms. Varian noted that she had made a correction on the application submitted. She reversed the name of the primary zone and the secondary zone. The correct primary zone is Resource Protection and the correct secondary zone is Residential.

The consensus of the Board was that a site walk was necessary.

Mr. Spellios informed the Board that his due diligence period was ending at the end of this week, so, while he understands the desirability of a site walk and other deliberations of the Board, he would appreciate it, if possible, if he could get some feedback from the Board tonight, so that he would have the benefit of that while coming to a final decision about the purchase of the house. He stated that he understood this feedback would not be a guarantee of any kind, but it would be helpful.

Ms. Thayer and Ms. Varian stated that, since the plan is to rebuild the house farther back from the water, it would be an improvement over the existing location of the house. Ms. Varian also stated

that she, essentially, agrees with the comparative measurements (existing area vs proposed area), and therefore the expansion appears to be consistent with the Ordinance restrictions on expansions. She referred to Section 12.C.4, Change of Use of a Non-Conforming Structure, and stated that the plan appears to conform to the requirements as stated in this section.

Site walk was scheduled for November 27, at 9:00 am.

Mr. Spellios agreed to confirm by the end of business on Thursday whether the time of the site walk was acceptable to the property owner and also whether the applicants still wanted the Board to continue consideration of his application. This depended upon the outcome of discussions between the applicants and the current property owner in the next few days.

**7. [1:13:14] Kennebec Shores Subdivision, Parker Head Road, Owned by Maine Woodland Properties, Tax Map 09, Lot 03. Review of the change in a section of forested buffer; discuss status of completion of project. Application #2022-24**

No representative of the applicant was in attendance. Ms. Varian reported that the project is complete as far as the Town is concerned, and the only outstanding issue is the release of the remaining funds in the escrow account. Money has been taken out for the payment of the road inspector, as is proper. The inspector has reported that everything is fine. It remains now for the developer to write a letter asking for their money back, and the Town will go through its process to release the balance of the funds back to the developer.

Ms. Varian reminded the members that the funds had come in separately—one check for the fees per lot and a second check to cover the Town’s costs for the inspector. The check to guarantee the construction of the road was \$520,000±. Ms. Varian was not sure whether the developer wanted to keep the funds separate or get them back in one lump sum. She said this is the last thing to be done that she knows about.

**8. [1:15:59] Other Business:**

- Board agreed to cancel the December meeting.
- Ms. Varian also mentioned that the Town Administrator has requested to be informed as to whether any Planning Board members plan to attend the training meetings being held via zoom on 12/13 because he has to inform the Maine Municipal Association and also pay the fee. Ms. Varian, Mr. Hawkes, and Mr. Totman said that they were planning to attend.
- Ms. Varian next brought up the subject of the new Town position of Administrative Assistant to the Boards and Committees. She has now a draft job description for this position. She asked the Board members to review it and make any comments or suggestions to the Town Administrator.

**9. [1:28:52] Announcements. None.**

10. [1:28:58] **Adjourn.** Ms. Thayer moved to adjourn. Mr. Totman seconded the motion, which was passed unanimously. Meeting was adjourned at 6:55 pm.

Respectfully submitted,

*Channa A. Eberhart*

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Secretary