

**MINUTES OF MEETING
PHIPPSBURG PLANNING BOARD**

August 13, 2024

MEMBERS PRESENT: Ashley Thayer, John Totman, Jr., Lori Follett (alt), and Marie Varian, Chair

1. **[5:48]** The meeting was called to order by Ms. Varian at 5:33 pm at Town Hall. She announced that there was a quorum, and appointed Lori Follett to serve for Clifford Newell, who was absent.

2. **[6:18] Consider Minutes of 7/9/24 Regular Meeting.**

Ms. Thayer made a motion to accept the minutes as written. Ms. Follett seconded the motion, which the Board passed unanimously.

3. **[6:39] JENNIFER COHEN AND JASON BELLIPANNI, 18 Birken Drive, Tax Map 17, Lot 24, represented by Tim Forrester of Flycatcher, LLC - construct a recreational dock in Atkins Bay, consisting of a 6'x16' pier, 3'x5' seasonal ramp, and 10'x20' seasonal float in the Resource Protection District of the Shoreland Zone. Application #2024-22**

Ms. Varian introduced the application and gave Mr. Forrester the floor. Mr. Forrester said that the applicants are proposing a residential dock consisting of a short pier, a ramp, and a float. He explained that the dock would be located in Atkins Bay and would include a 6' by 16' pier with a 3' by 5' ramp and a 10' by 20' float, and that those are standard pier dimensions. Mr. Forrester stated that the dock would be elevated well above the highest annual tide. He explained that all but a couple of piling legs would also be above the highest annual tide, and everything beyond that would be temporary. He said that the float would land on the flats at low tide, and that the dock would be as close to shore as possible, as deep water is not accessible at that location.

Ms. Varian stated there was a correction to the original application, and that the project location is on Tax Map 17, Lot 24. She reviewed the Town's applicable ordinances and stated that photographs of the project area would need to be submitted to the Planning Board within 20 days of completion. She restated that this is a permanent dock with a seasonal ramp and float. She noted that the Harbor Master had submitted a letter of non-objection for the project.

Ms. Varian referenced the Findings (Shoreland Zoning Ordinance, Section 17.D.3) and the Board considered the questions. All findings were found positive.

Ms. Thayer made a motion to accept the application as written. Mr. Totman seconded the motion, which the Board passed unanimously.

The applicant paid a fee of \$100 by check #1399.

4. [17:00] DAVID NEWMAN AND DINA CONLIN, 1 Harbor Island, Tax Map 30, Lot 20, represented by Tim Forrester of Flycatcher, LLC - replace dock destroyed in the January 2024 storms that would measure 6'x36' and be elevated an additional 3 feet in height, in the Resource Protection District of the Shoreland Zone. Application #2024-23

Ms. Varian introduced the application and gave Mr. Forrester the floor. Mr. Forrester said that the applicants are proposing a replacement in-kind of an older pier that was destroyed in the 2024 storms. He stated that the DEP has approved the project with a Permit by Rule. Mr. Forrester explained that this process allows for the replacement of the dock with an elevated height, which would require some upland length extension, but that the dock would not be any longer out into the resource. The new pier length would be 6' by 28' with a 3' by 34' ramp and a 10' by 20' float.

Ms. Varian said that this application would be considered under the Town of Phippsburg Shoreland Zoning Ordinance, Section 14. Table of Land Uses, and Section 15. Piers. She noted that the owner's ramp and float are existing and would be reused, and that they do not require an application. Ms. Varian stated that photographs would need to be submitted within 20 days of project completion, and that it is up to the applicant to get every other required permit.

Ms. Varian referenced the Findings (Shoreland Zoning Ordinance, Section 17.D.3) and the Board considered the questions. All findings were found positive.

Ms. Follett made a motion to accept the application as written. Ms. Thayer seconded the motion, which the Board passed unanimously.

The applicant paid a fee of \$100 by check #1398.

5. [24:45] TOWN OF PHIPPSBURG, Parker Head Road, Tax Map 08, Lot 20, represented by Joseph McLean of Acadia Civil Works – extend the current Center Pond fishway entrance to allow safe and effective fish (specifically alewife) movement during the entire tidal cycle, in the Village District of the Shoreland Zone. Application #2024-24

Ms. Varian introduced the application and gave Mr. McLean the floor.

Mr. McLean explained that it had been 10 years since he met in Phippsburg with the River Herring Commission about Center Pond. He described the current Center Pond fishway as a 2-foot wide Denil fishway and noted that a variety of potential fixes for it have been discussed. He stated that at low tide, the fishway is hanging above a pile of rocks, meaning fish can not safely get in or out of the pond. Mr. McLean explained that this project would support the overall health of the fish-run in Center Pond by making the fishway more effective throughout the entire tidal cycle. This in turn would raise the number of fish in the pond, and to bring back a harvest.

Mr. McLean stated that the State of Maine's Department of Marine Resources has put forward a large amount of funding for a targeted approach to allow a safer way in and out for fish, particularly for juveniles on the way out by using a pool step system. He explained that this is the best option with the funding available. Mr. McLean said that the structure is "nature like" and made of natural materials including boulders and gravels and is constructed in a way that looks like a feature that might be found in a stream, though it is not something you would naturally see in a mudflat. He explained that it will be resilient to weathering and that this is the direction that fish passage structure construction is going. Mr. McLean shared that there is a lot of excitement to complete the project with the funding after many years of planning.

Ms. Varian stated that the application would be considered under the Town of Phippsburg Shoreland Zoning Ordinance and that she has elected to call the fishway a "facility". She referenced the Shoreland Zoning Ordinance, Section 1. Purpose and Section 15.D.4 and 5 reading:

- 4. The facility shall be located so as to minimize adverse effects of fisheries.*
- 5. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area.*

Ms. Varian stated that the Town will be using the definition of "facility" as listed in the Webster's Dictionary 2nd Edition, copyright 2001 by Randall Publishing, Inc., as this is the reference source when the Board needs definitions that are not listed separately in its ordinances. She explained that the applicant had provided photographs in their application and that they would need to submit completion photographs to the Planning Board within 20 days of completing the project. Ms. Varian stated that the Harbor Master had inspected the site and submitted a letter of non-objection. She told the applicant that their application was complete.

Ms. Follett asked about the effectiveness of a haybale silt shield, as the hay would degrade quickly. Mr. McLean explained that when dealing with tidal construction that constant flooding is challenging. He stated that during construction, they would take advantage of low tide windows and would be using cofferdams to maximize those windows. To combat flooding, they plan to use pumps. He explained that haybale barriers will help construct a stilling basin for the water that is being pumped out and will be used to filter sediments out of the water, before the filtered water goes back into the Kennebec River. Mr. McLean stated that the fabric and haybales will be replaced as necessary and will only be a temporary measure used during the construction period to capture sediment, rather than pumping that sediment along with the water out into the river.

Ms. Thayer asked if anything is happening on the Center Pond side. Mr. Mclean said no, that this project only focuses on the entrance of the fishway. Ms. Varian asked if the pond is filling in and if that filling would affect the alewives. Mr. McLean said that alewives love freshwater habitats and that at Center Pond, there are more likely saltwater intrusion issues rather than sedimentation ones. Saltwater intrusion impacts the oxygen levels in the water and is the

biggest risk to the pond. Mr. McLean stated that there is a slow infill of sediment, but that removing it would be challenging and that there would be a significant expense for dredging and disposal of that material. He stated that there is plenty of acreage at Center Pond for the alewives to reproduce and that it is a great River Herring habitat.

Ms. Varian referenced the Findings (Shoreland Zoning Ordinance, Section 17.D.3) and the Board considered the questions. All findings were found positive.

Ms. Thayer made a motion to accept the application as written. Mr. Totman seconded the motion, which the Board passed unanimously.

The applicant will send in a fee of \$100.

6. [43:11] CASCO BAY BOATWORKS, 32 Bakers Wharf Road, Tax Map 31, Lot 52, represented by owner, Matthew Brewer – expand business of boat hauling, launching, storage, repair, and associated located at 115 Stoneybrook Road by also utilizing their property at 32 Bakers Wharf Road in the Village District of the Shoreland Zone. Application #2024-25

Ms. Varian introduced the applicant and explained that according to the Town's ordinance, this expansion of business would be considered a new business. She gave Mr. Brewer the floor.

Mr. Brewer asked what the Board needed from him. Ms. McIntire stated that they had closed on the property and provided the Board with a copy of the deed and Purchase of Sale. Mr. Brewer said that the property has never been anything but commercial property, and that it has a boat launch and dock that will be good for his business. He stated that he follows the rules and keeps things clean and organized at his current location. Ms. McIntire explained that the difference between the new location and their current one on Stoneybrook Road is that they would be able to launch and haul from the new location. Mr. Brewer said he has been turning down customers because of headaches at the Town landing.

Ms. Varian explained Planning Board procedures for a business application, saying that applicants first come to the Board and ask questions, and then they set up a Public Hearing to make a vote. She said that this case is a little different as there is usually time between the meetings, but that the Public Hearing would immediately follow this regular meeting. She explained that this process was expedited due to the nature of the applicant's business, as he needs all of the extra hauling time he can get, should he get the approval. Ms. Varian stated that the Public Hearing had been advertised properly.

Ms. Thayer asked if all the buildings on the map would be staying. Mr. Brewer said he plans to rebuild what burned, but for now, there is an existing building that will get him through the winter. Mr. Totman asked if they would reuse the foundation. Mr. Brewer said one side could be reused, but that the old building area would need to be pinned and repoured. Ms. McIntire said

it would be within the existing footprint. Ms. McIntire noted that an environmental assessment had been performed, and it came back cleared. Ms. Thayer asked if the wharf was still stable, Mr. Brewer said it is and is well-built and not that old of a wharf.

Ms. Varian asked if there were any questions. An audience member identified himself as Cole Palmer, an abutter to the property. He provided the Chair with a letter and stated that he was in support of the purchase and wanted to make a couple of comments. Ms. Varian said that the Public Hearing was a better time to voice his comments.

7. [53:05] Other Business.

Clifford Newell, a regular member, has been unable to attend Planning Board meetings and Ms. Follett, an alternate member, has been filling in for him. The Board would like to switch the members' positions. Ms. Varian has spoken to the Town Administrator who stated that the Select Board will accept this recommendation, but that they will need a letter of resignation from Mr. Newell.

8. [54:19] Announcements. None.

9. [54:28] Adjourn.

Ms. Thayer made a motion to adjourn. Mr. Totman seconded the motion, which the Board passed unanimously. The meeting was adjourned at 6:22 pm.

Respectfully submitted,



Rachael Newbert

Administrative Assistant to the Planning Board and Board of Appeals