

**MINUTES OF MEETING  
PHIPPSBURG PLANNING BOARD  
September 13, 2022**

**MEMBERS PRESENT:** Mark Hawkes (not present until middle of agenda item #3, below), Clifford Newell, Ashley Thayer, John Totman, Jr., and Marie Varian, Chair.

1. **[0:02:40]** 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 that one member was going to be late.
  
2. **[0:02:55]** **Consider the minutes of the August 9, 2022, regular meeting.** Ms. Thayer moved to approve the minutes as written. Mr. Newell seconded the motion, which was passed unanimously.
  
3. **[0:03:23]** **Geoffrey D. McCarren, 56 Blacks Landing Road, Tax Map 31, Lot 6, Represented by Andrew Cromwell of Cromwell Coastal Construction, West Bath – Remove existing non-conforming residential structure, replace, and expand on non-conforming lot. Application #2022-14**

Ms. Varian stated that Mrs. McCarren is her grand-niece. Ms. Varian will step down for this portion of the meeting. Mr. Newell, who is Vice Chair of the Board, will handle this case.

*Ms. Varian stepped down.*

Mr. Newell stated that this will be considered under the following sections of the Town of Phippsburg Land Use Ordinance:

- Section 10.D, “General Building Requirements: Mobile Home” – Structure is a mobile home.
- Section 11, “Non-Conformance”
  - 11.A – “Grandfathering” – Lots and structures existing at the time of adoption of the Building Code for the Town of Phippsburg (March 1970) may continue use even though such use does not conform to the provisions of this Ordinance.
  - 11.B – “Non-Conforming Lots of Record”
  - 11.C – “Non-Conforming Structures” – Existing structure is too close to property line on the south side of site. Road setback is okay.
    - 11.C.2. “A non-conforming structure may be extended or enlarged with a Planning Board permit.
- Section 12, “Administration”
  - 12.B – “Permits Required”
  - 12.C – “Permit Application”
  - 12.D – “Procedure for Administering Permits” and “Fact Finding”

Mr. Newell reported that the Board had a letter from the applicant authorizing Mr. Cromwell to represent him in this deliberation and a copy of the deed. He noted that Mr. Cromwell has brought to the meeting a new survey. Mr. Newell declared the application complete.

Mr. Newell noted that this was not a public hearing, but the Board will entertain questions from the public. He asked that anyone who wishes to speak to give their names prior to speaking.

Mr. Newell also noted that the applicant is responsible for any and all other permits necessary to complete the project.

*[0:07:48] Mr. Hawkes joined the meeting.*

Mr. Cromwell submitted the new survey to the Board and stated that it doesn't change anything in their proposal. The new structure will not be any closer to any property line than in the original proposal. It is possible that they will increase the distance between the structure and the property line on the portion of the site that is now non-conforming, but, if they decide to do that, they will return to the Board. Mr. Newell stated that, if that happened, the Board would like to get a new sketch showing the change.

Mr. Cromwell submitted a sketch of the proposed building for the purpose of showing square footages, and he offered to bring in the final architectural drawings when completed, to be added to the file.

Mr. Newell asked if there were any questions.

Mr. Totman asked what the rules were about expansion. It was clear that the new structure would be larger than the existing structure. Mr. Newell responded that there is no limit on expansion stated in the Land Use Ordinance, so long as non-conformity is not increased. It's up to the Planning Board to determine the extent of expansion in each case.

Mr. Hawkes asked about the two existing sheds. Mr. Cromwell stated that they weren't going to do anything about them now.

Mr. Hawkes asked if they are taking the foundation out. Mr. Cromwell said that they were, but they were putting the slab on the existing frost wall.

Steve Broening, who identified himself as a neighbor to the applicant, asked if he could have a look at the sketch of the proposed house. Mr. Cromwell handed him the drawing that he had submitted to the Board. Mr. Broening asked how the survey is relevant in making the decision whether to approve the application. Mr. Newell responded that the survey shows the location of the existing structures on the site. It also shows the setbacks that are available when locating the replacement structure. Mr. Newell noted that the proposed building is an improvement on all the setbacks except the one behind the building, which is the setback that causes structure to be non-conforming.

Mr. Cromwell stated that Mr. Broening's concern is that Mr. Broening believes the property line between his property and Mr. McCarren's is not where the survey shows it is, that it is more accurately represented on the Town's tax map. Mr. Cromwell explained that that issue is not

relevant in determining the current proposal because the actual location of the common property line—whether as shown on the new survey or as shown on the Town’s tax map—does not have any impact on the proposal for the new building, since the new building will not decrease any setbacks. Therefore, any concerns about the actual location of the common property line can be resolved at a later time and need not affect the deliberations on the permissibility of the current application.

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

Mr. Newell noted that Section 12.B.1 of the Land Use Ordinance requires that a copy of the permit be on site while the work authorized by the permit is performed.

Mr. Cromwell paid the fee of \$100.00 by check #572.

*Ms. Varian returned to the meeting, as Chair.*

**4. [0:32:53] Kennebec Shores Subdivision, Parker Head Road, Owned by Maine Woodland Properties, Tax Map 09, Lot 03, represented by Joseph Marden, P.E. of Sitelines, Brunswick – Revision of a forested buffer area; status of completion of project.**

Mr. Marden did not attend the meeting. Kevin Clark, President of Sitelines, represented the applicant.

Ms. Varian distributed the final “Notice of Decision,” dated August 9, 2022, and signed by the members of the Planning Board. This document formalized the decisions made at the August 9<sup>th</sup> regular Board meeting regarding Amendment #2 (changes to the subdivision road) to the Kennebec Shores Subdivision Plan.

Mr. Clark explained the situation with the forested buffer area. There was supposed to be a 35’ forested buffer adjacent to the subdivision road at the entrance to the subdivision from Parker Head Road. The area was overcut inadvertently. They have therefore revised it to a 50’ meadow buffer, which has the same treatment factor as the prior plan. They have submitted a minor revision to the DEP and are at this Planning Board meeting to get the Planning Board’s approval to the revision of the buffer.

James Boyle, project manager with Maine Woodland, said that he communicated via e-mail this day with Mary Beth Richardson of the DEP, and it was his impression that they would be hearing from the DEP on this issue very soon, within days he thought. She had a few questions that they answered. He reported that he did not believe the DEP had any problem with their request.

Mr. Newell moved to approve the proposed change to the buffer area contingent to final approval from the DEP. Ms. Thayer seconded the motion, which was passed unanimously.

Mr. Clark offered to draft a “Notice of Decision” regarding the change to the buffer area (Amendment #3) and send it to the Board for its comments and revisions.

In order to proceed, the applicant must have: (1) DEP approval, (2) Board signatures on the revised plan, and (3) Board signatures on the final “Notice of Decision” for Amendment #3.

Mr. Clark paid the application fee of \$100 via check #1801.

**5. [0:49:51] Spinney’s Restaurant, 987 Popham Road, Tax Map 14, Lot 21, represented by Chris Bartlett – Transfer of Permit to new owner. Application #2022-25**

Mr. Bartlett submitted his application. The name of the operating company is Popham Enterprises, LLC. The owner of the property and lessor to the operating company is Merrymeeting Holdings, LLC. The name of the business is Popham Enterprises LLC dba Spinney’s.

Ms. Varian stated that this application is considered under 15.G.1.a – “Business Uses: New Business Permit” – “A change of ownership/management, of an existing business without any change shall require a review within ninety (90) days by the Planning Board for a Transfer of Business Permit.”

Ms. Varian asked how many rooms there are for rent. Mr. Bartlett responded that there are 11 rooms, which is the same number as it was at the time of the purchase. Ms. Varian asked how many restaurant seats were permitted by the license. Mr. Bartlett responded that it was 80 seats inside and 50± seats outside, for a total of 130±. Ms. Varian asked the applicant if he was aware that, because of Covid, in May 2020 the Town’s CEO gave Spinney’s permission to have extra tables outside. When Covid restrictions were removed, those extra outside tables were to have been removed. Ms. Varian asked him to check on that, to verify how many seats the restaurant is allowed to have at the present time and how many there are.

Mr. Bartlett mentioned that the capacity of the septic system is designed for 1,950 gallons per day, and the operation produces only 1,000 gallons per day.

Ms. Varian clarified that these questions are for the purpose of determining what is actually at the restaurant at the time of purchase.

Mr. Bartlett was asked to provide within a month a copy of his license from the State of Maine for the restaurant and a copy of the design of the septic system, showing the capacity of the system, number of residential units, and number of restaurant seats currently on the property and the number permitted, both inside and outside, and copies of any permits he can locate issued by the Town in past years.

The Board decided that they would wait until the receipt of the additional information before signing the application.

It was acknowledged that the Shoreland Zoning Ordinance requires only that the new owner notify the Planning Board in a timely fashion of the transfer and any changes that he intends, which Mr. Bartlett has done. The information that the Planning Board has requested does not affect his request for the business permit, but may affect whether he must make any changes to comply with the current legal requirements for operating the business.

6. [1:24:54] **Other Business.** None.

7. [1:25:00] **Announcements.** Comprehensive Plan Committee still does not have the survey ready to send to Town residents. The Committee needs more interested people to be involved, so anyone who would like to join the committee is welcome. Preferable that person is over 18. Prior experience is not required.

8. [1:25:46] **Adjourn.** Mr. Newell moved to adjourn. Ms. Thayer seconded the motion, which was passed unanimously. Meeting was adjourned at 6:54 pm.

Respectfully submitted,

*Channa A. Eberhart*

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Secretary