

Minutes

Southwest Harbor Planning Board

October 11, 2018

SITE INSPECTION

An on-site inspection was held at 28 Freeman Ridge, Map 14, lot 18 for review of Westwind Subdivision by Tom Benson. Chairman Magnani called the meeting to order at 5:00PM. In attendance Jack Ksionzyk, Jesse Dunbar, Chris Rawls, John Williams and Eric Davis.

No members of the public attended.

After a brief description by developer, Chairman Magnani moved the meeting to be continued at the Town Office to discuss the completion of application, seconded by Eric Davis and voted in favor 6/0/0.

Chairman reconvened the meeting at 5:10 PM. All above in attendance. The following checklist was reviewed for completeness of application:

1. **LOCATION MAP**

It was noted existing subdivisions in proximity of the proposed subdivisions; the location and names of existing and proposed streets; boundaries and designations of zoning districts, and outline of subdivision and any remaining owner's property were depicted.

2. **OTHER REQUIRED PERMITS:**

Advisory opinions from appropriate federal, state, and local agencies as to the application of their rules were included with application.

3. **PLANS:**

Two copies; scale not more than 1"=100'; eight copies of the plan(s) reduced to a size of 11 x 17" were attached.

The Board found the following required information, with exception noted, were shown on the application:

Identifying title

Assessor's Map and Lot numbers

Evidence of right, title, or interest in the property

Field survey of the boundary lines of the tract (General Standard C.1.SECTION VIII)

Date the plan was prepared

North arrow

Graphic map scale

Names & addresses of owner(s), sub divider, and who prepared the plan

Names of adjoining property owners

Number of acres within the proposed subdivision

Location of property lines, existing buildings, watercourses, vegetative cover type, other essential, existing physical features

Proposed lot lines with approximate dimensions and lot acres

Location, names and widths of existing and proposed streets, easements, building lines, parks and other open spaces on or adjacent to the subdivision

Width and location of any streets or public improvements shown on the official map and Comprehensive Plan, if any, within the subdivision

Parcels of land proposed to be dedicated to public use and conditions

Board determined dedicated lands not applicable to application.

Location of any open space to be preserved, improvements and management

Board determined open space not required

Names and addresses of owners of record of adjacent properties

Location of any Shoreland Zoning boundaries affecting the subdivisions

There are no shoreland boundaries.

Boundaries of any flood hazard areas and 100-year flood elevation

Required for subdivision, near bodies of water: contour lines at interval specified by

Board showing elevations in relation to NGVD

No contour lines required due to no bodies of water abutting subdivision.

Indication of type of sewage disposal to be used within subdivision

Public sewer: a letter shall be submitted from the Town indicating that there is adequate capacity within the Town's system to transport and treat the sewage

The letter was not submitted with application. Developer Benson stated it will be included with the final review.

Indication of the type of water supply to be used:

Public water supply: A letter from the Southwest Harbor (SWH) Water Company indicating adequate supply and pressure, and approving the plans for extensions where necessary.

No

Copy of the deed from which the survey was based; copy of all covenants or deed restrictions, easements, rights-of-way, etc.

Copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision.

A road association will be developed for future access of proposed road entrance to remainder of property. Benson stated it will be included at the final review.

Copy of the portion of the State soil survey covering the subdivision.

Not applicable to application as presented

Adequate storm water management plan

Division of lots only; no road construction.

Location and size of existing & proposed wells, subsurface sewage systems, culverts, and drainage ways on or adjacent to subdivision.

No existing or proposed wells or subsurface sewage systems.

Determination that proposed subdivision will not adversely affect the quality or unreasonable affect the shoreline of any body of water.

No body of shoreline of any body of water located within or abutting subdivision

Map identifying all freshwater wetlands regardless of size, rivers, streams, brooks within or abutting the subdivision.

Estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.

Minimal traffic anticipated with four lot subdivision

Statement of financial capacity demonstrating the financial ability of the sub-divider to complete the project.

No statement of financial capacity is required for this application.

The application was found incomplete with the following items to be presented at the next meeting:

1. Public sewer: a letter shall be submitted from the Town indicating that there is adequate capacity within the Town's system to transport and treat the sewage
2. Public water supply: A letter from the Southwest Harbor (SWH) Water Company indicating adequate supply and pressure, and approving the plans for extensions where necessary
3. Copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision

There being no further business during the on-site segment of the meeting, Mike Magnani moved to adjourn the on-site meeting at 6:00 and convene the regular meeting, seconded by Jack Ksionzyk and voted in favor 6/0/0.

REGULAR MEETING

Southwest Harbor Planning Board
October 11, 2018 @ 6:00 PM

I. Roll Call/Call to Order. In attendance Mike Magnani, Jack Ksionzyk, Jesse Dunbar, Chris Rawls, John Williams and Eric Davis.

II. Visitors not on the agenda: None

III. Eric Davis moved to accept the minutes of September 20, 2018, seconded by Jack Ksionzyk and Chris Rawls, and voted in favor 6/0/0

IV. The Planning Board continued the Westwind Subdivision preliminary review of four lots located on portion of a 25 acre parcel at 28 Freeman Ridge Road, Map 14, and lot 28.

The Planning Board considered the following criteria before granting approval providing findings of fact the provisions of the Subdivision Ordinance have been met and that the proposed subdivision meets the following review criteria of Title 30-A, MRSA, Section 4404.

1. POLLUTION: will not result in undue water or air pollution; in making this determination, the Board shall at least consider:
 1. Elevation of the land above sea level and its relation to the flood plains;
 2. The nature of soils and sub-soils and their ability to adequately support waste disposal;
 3. The slope of the land and its effect on effluent;
 4. The availability of streams for disposal of effluent; and
 5. The applicable health and water resource rules and regulations.

After considering the above criteria, Jack Ksionzyk moved this application will not result in undue water or air pollution, seconded by Mike Magnani and voted in favor 6/0/0.

2. WATER: Has sufficient water available for the reasonably foreseeable needs of the subdivision; or, if the Town supply is used, will not cause an unreasonable burden on the existing supply.

No documents were received from Southwest Water and Sewer "District", however public water services are available to this site. Eric Davis moved this subdivision has sufficient available water pending confirmation from the District being available for final review, seconded by Chris Rawls and voted in favor 6/0/0.

3. GROUND WATER: Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

Eric Davis moved the applicants has demonstrated there will be no adverse effect on the quality or quantity of ground water, seconded by Jack Ksionzyk and voted in favor 6/0/0.

4. EROSION: Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

Eric Davis moved the division will not cause unreasonable soil erosion as determined from site evaluation and topography, seconded by Mike Magnani and voted in favor 6/0/0.

5. STORM WATER: Will provide adequate storm water management

Eric Davis moved the applicant has adequately met performance standards with the plan submitted and complies with site review, seconded by Chris Rawls and voted in favor 6/0/0.

6. SEWAGE DISPOSAL: Will provide for adequate sewage waste disposal; and will not cause an unreasonable burden on the Town services, if they are utilized.

No documents were received from Southwest Water and Sewer "District", however public sewer services are available to this site. Eric Davis moved this subdivision has adequate sewage waste disposal pending confirmation from the District being available for final review, seconded by Jack Ksionzyk and voted in favor 6/0/0.

7. SOLID WASTE DISPOSAL: Will provide for adequate solid waste disposal; and will not cause an unreasonable burden on the Town's ability to dispose of solid waste.

Eric Davis moved there is adequate solid waste disposal via the Town's one ton disposal allowance and the availability for EMR to take on additional wastes, seconded by Jack Ksionzyk and voted in favor 6/0/0.

8. TRAFFIC: Will not cause unreasonable public road congestion or unsafe conditions with respect to use of the public roads existing or proposed.

Eric Davis moved the applicant has met the traffic standards, seconded by Mike Magnani and voted in favor 6/0/0.

9. AESTHETIC, CULTURAL AND NATURAL VALUES: will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat, rare natural areas or public rights to the shoreline.

Applicant has presented evidence from Maine Historic Commission regarding no known national register or archaeological sites; Department of Environmental Protection stating no mapped protected natural resources on parcel; Regional Fisheries biologist statement no impacts to significant fisheries resources. Eric Davis moved applicant has met the aesthetic, cultural and natural standards, seconded by Chris Rawls and voted in favor 6/0/0.

10. SURFACE WATERS: Will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water whenever the proposed subdivision is situated in whole or in part, within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river.

Eric Davis moved this requirement is not applicable due to any wetlands being more than 250' from the wetland, seconded by Jack Ksionzyk and voted in favor 6/0/0.

11. CONFORMITY WITH LOCAL ORDINANCE AND PLANS: Is in conformance with the SWH Land Use Ordinance, SWH Comprehensive.

Eric Davis moved this application meets all standards of the local ordinances, seconded by Chris Rawls and voted in favor 6/0/0.

12. FLOOD WATERS: Will determine if the subdivision is in a flood hazard area; if it is, the proposed plan must show the flood hazard boundaries and include a condition of the plan approval requiring that principal structures within the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

Eric Davis moved the proposed four lots are not in the flood zone and this is not applicable, seconded by Jack ksionzyk and voted in favor 6/0/0.

13. FRESHWATER WETLANDS, RIVERS, STREAMS OR BROOKS: All potential freshwater wetlands, regardless of their size, within the proposed subdivision have been identified on any maps submitted as part of the application and all rivers, streams and brooks within or abutting the subdivision.

Eric Davis moved the applicant has adequately identified any wetlands, rivers streams or brooks, seconded by Jesse Dunbar and voted in favor 6/0/0.

14. FINANCIAL AND TECHNICAL CAPACITY: Must have adequate financial to meet the above criteria of the Ordinance.

Eric Davis moved financial and technical capacity is not applicable due to no resources required for the development, seconded by Mike Magnani and voted in favor 6/0/0.

15. MONUMENTATION: Permanent monuments must be set at or within 50' of lot corners & street intersections.

Eric Davis moved to accept representation monuments will be set prior to final review, seconded by Chris Rawls and voted in favor 6/0/0.

PRELIMINARY PLAN APPROVAL:

Eric Davis moved the preliminary plan is approved conditional upon receipt of water and sewer comments from District, monumentation is set prior to final review and a road association agreement is submitted, seconded by Jack Ksionzyk and voted in favor 6/0/0.

Chairman Magnani opened a public hearing to review subdivision at 6:25 PM. There being no public, Jack ksionzyk moved to close public hearing at 6:25 PM

- V. Application from Jean and William Owen to replace existing non-conforming structure with new foundation in the shoreland zone. Per Contractor, existing 1,077.5 square foot residential dwelling will be replaced with a 1,209 square foot dwelling on a new foundation; volume will increase from 09,650 cubic feet to 12,055 cubic feet. Area expansion is 12.2%; volume expansion is 24.9%. Expansion allowance for both volume and area is 30%, located at 245 Main Street, and described more fully on Southwest Harbor tax maps as Map 7, Lot 8.

Eric Davis moved the following application requirements complete as noted, seconded by Chris Rawls and voted in favor 6/0/0.

- 1) Scale, north arrow and names of abutting property owners. (OK)
North direction on plan and list of abutting properties attached.
- 2) Dimension and area of each lot to be built upon or otherwise used: (OK)

Survey with dimensions attached

- 3) Location of any wells on the lot or within 100' of property lines: (N/A)
Area service by public water utility
- 4) Name and location of any abutting water body, streams, brooks and wetlands: (O/K): Norwood Cove
- 5) Areas to be cleared and areas of any cut, fill, grading or other earthmoving activity: (OK): Clearing and earthwork for permitted project allowed without additional permit. Location of proposed structure depicted on site plan is within the same footprint plus expansion as allowed by LUO.
- 6) Size, shape and location of existing and proposed buildings and/or structures including dumpsters, piers, docks. Include setbacks from lots lines, rights of way, water bodies: (OK): Floor plans and elevations included and also depicted on site plan.
- 7) Outdoor lighting, signs: Existing and proposed locations (OK)
All lights will be shielded as noted through email correspondence to CEO.
- 8) Sewer facilities: Existing and proposed (OK): Structure is serviced by public sewer.
- 9) Layout and location of parking areas with existing and proposed parking spaces (OK): As noted on plan
- 10) Location of existing and proposed roads/driveways with setback from nearest lot line: (O/K): Existing driveway noted on plan
- 11) Name/location of existing or proposed right of way and easements on the site or abutting the property: (OK): Sewer and access easement to abutter Dimond including a vegetation easement on Owen property abutting Dimond property.
- 12) Existing grades and any proposed changes in grades. (N/A)
There are no changes in grades
- 13) Soil Erosion and Sedimentation control plan: (O/K): Noted on site plan
- 14) Freshwater wetlands or hydric soils: (NA): Not applicable
- 15) Plans for proposed structures must include access and dimensions, elevation plan showing height of the building and all floor plans: (O/K)
Plans are attached
- 16) Buffering/Landscape plan as described in Section VI. (N/A)
Residential use does not require buffering.

Compliance Review:

PERFORMANCE STANDARDS: After review of the list of performance standards, Eric Davis moved the following A, B, C, F, G, H, I, J, K, L, M, O, P, Q, R, S, T & U are not applicable for stated reasons, seconded by Jack Ksionzyk and voted in favor 6/0/0.

- A. Landscaping/Buffering: Buffering is not required due to residential use of property.
- B. Clearing of Vegetation: No clearing required for replacement in existing footprint.
- C. Driveway and Driveway opening: No changes in the location of the entrance or the size of the opening. This is not applicable.
- F. Fill and Excavation: The Land Use Ordinance allows fill and excavation activities without a permit if associated with a construction permit.
- G. Fire Protection: None is required by the standards of the LUO.

H. Flood Hazard Permit: Location of proposed structure is not in the Flood Zone. Area is zoned AE with a flood elevation of 11'. The structure is noted with an elevation of 19'.

I. Handicap Access: ADA compliance not required for residential use.

J. Heavy Commercial or Industrial Pollutants: No commercial or industrial pollutants

K. Noise: Not applicable to residential use.

L. Parking and Loading Standards: Not applicable to residential use.

M. Road Standards: Not applicable.

N. Sewerage Disposal Standards: Existing service to public sewer. Not applicable

O. Sign Regulations: No review required for residential use.

P. Soil Standards: Not applicable

Q. Storm Water Runoff Standards: No changes in contours which provide drainage to Norwood Cove and not affect any abutting properties.

R. Stream Standards: A stream exists on parcel but is not impacted by this project.

S. Vibration Standards: No vibration activity associated with residential use.

T. Water Quality Standards: No activities require water quality monitoring or assessment.

U. Water Supply Standards: Water Supply Standard is not applicable.

~ Mike Magnani moved to approve erosion and sedimentation controls submitted by applicant which will satisfy the following standard to be in place prior to any soil disturbance, seconded by Eric Davis and voted in favor 6/0/0.

D. Erosion/Sedimentation Controls: All activities which involve filling, grading and excavation resulting in un-stabilized soil conditions shall require a soil erosion and sedimentation control plan in accordance with the current Maine Erosion & Sediment Control BMP'S (Best Management Practices).

~ Mike Magnani moved to accept applicant representation that all exterior lighting will be shielded, seconded by Eric Davis and voted in favor 6/0/0.E.

~ Eric Davis moved the setback is at the greatest practical extent for the construction of a foundation and replacement structure due to the following facts, seconded by Chris Rawls and voted in favor 6/0/0:

- a. Substantial ledge exists immediately to the west of structure prohibiting relocating structure further back from the high water line without a significant environmental impact to the shoreland zone, which would require the removal of natural vegetation and the blasting of ledge for a foundation.
- b. The vegetative easement limits relocating structure beyond the 75' setback.

Eric Davis moved to approve the application of Jean Owen for the reconstruction of a residential structure at 245 Main Street, according to the representation, plans and specs herein presented and any requirements that are specified by the Southwest Harbor Planning Board, seconded by Chris Rawls and voted in favor 6/0/0.

VI. Other Business: None

VII. Next meeting: October 18, 2018 @ 6:00 PM

VIII. Mike Magnani moved to adjourn meeting at 6:50 PM, seconded by Jesse Dunbar and voted in favor 6/0/0.