

Draft Meeting Minutes
Southwest Harbor Planning Board
October 18, 2018

- I. Roll Call/Call to Order: In attendance Mike Magnani, Jack Ksionzyk, Jesse Dunbar, Chris Rawls, John Williams and Lee Worcester
- II. Visitors to be heard not on the agenda: None
- III. Chris Rawls moved to accept minutes of October 11, 2018, seconded by Jack Ksionzyk and voted in favor 5/0/1 with Lee Worcester abstaining.
- IV. Public hearing and final review for the Westwind four lot subdivision development located on a 25 acre parcel at 28 Freeman Ridge Road, Map 14, and lot 18.
 - ~ Upon presentation of water and sewer acceptance, road covenants and representation of monuments on plan for completeness of application, Mike Magnani moved the application to be complete, seconded by Lee Worcester and voted in favor 6/0/0.
 - ~ Chairman Magnani moved to open the public hearing for the Westwind subdivision and there being no public comments, closed the hearing at 6:10 PM
 - ~ Lee Worcester moved the final review of application complete and to approve four lot subdivision as represented, seconded by Jesse Dunbar and voted in favor 6/0/0.
- V. Public Hearing and review of application from Wm. Hanley, agent for John Roberts to replace a non-conforming residential dwelling and garage in a residential shoreland zone, located at 11 Woodie Drive, and described on Southwest Harbor tax map 9, lot 22.

Note: Purpose of application:

*Demo existing non-conforming structure which includes residence, guest cottage and garage (non-conformity due to setback from high water line [HWL] of tributary stream) and construct a five (5) bedroom main residence and a detached garage.
Non-conforming setback will be reduced from 42' to 72' for the main residence and 46.5' to 54.5' for the garage from the tributary stream.
Review authority established in Land Use Ordinance, Section III, and subsection C-3, Reconstruction/replacement of a non-conforming structure.*

Completeness of application:

- ~ Scale, north arrow and names of abutting property owners. (OK) North direction and list of abutting properties are represented on site plan
- ~ Dimension and area of each lot to be built upon or otherwise used: (OK) Boundary and topographical survey w/dimensions attached
- ~ Location of any wells on the lot or within 100' of property lines: (N/A) Area service by seasonal water supply
- ~ Name and location of any abutting water body, streams, brooks and wetlands: (O/K) Somes Sound on east side and tributary stream running through the northerly portion of lot.
- ~ 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 in the same proximity of existing structure.
- ~ Size, shape and location of existing and proposed buildings and/or structures including dumpsters, piers, docks. Include setbacks from lots lines, rights of way, and water bodies: (OK) Floor plans and elevations included with application.
- ~ Outdoor lighting, signs: Existing and proposed locations (OK) All lights will be shielded as represented by email response.
- ~ Sewer facilities: Existing and proposed (OK) An updated subsurface wastewater system designed for a five bedroom dwelling will be installed.
- ~ Layout and location of parking areas with existing and proposed parking spaces (N/A) Residential Property

- ~ Location of existing and proposed roads/driveways with setback from nearest lot line: (O/K) existing driveway noted on plan
- ~ Name/location of existing or proposed right of way and easements on the site or abutting the property: (OK) Woodie Drive, off Fernald Point Road, is a private ROW that serves four lots and continues to Somes Sound abutting the Roberts property.
- ~ Existing grades and any proposed changes in grades. (N/A) There are no changes in grades
- ~ Soil Erosion and Sedimentation control plan: (O/K) Noted on site plan
- ~ Freshwater wetlands or hydric soils: (NA) Not applicable
- ~ Plans for proposed structures must include access and dimensions, elevation plan showing height of the building and all floor plans: (O/K) Included with application.
- ~ Buffering/Landscape plan as described in Section VI. (N/A) Residential use does not require buffering.

Jack Kskionzyk move the application is complete and proceed to performance standards, seconded by Chris Rawls and voted in favor 6/0/0.

PERFORMANCE STANDARDS: (CEO recommends the following standards are not applicable to the application):

- A. Landscaping/Buffering: Buffering is not required due to residential use of property.
- 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 as indicated on the FEMA maps.
- 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.
- O. Sign Regulations: No review required for residential use.
- P. Soil Standards: Not applicable
- Q. Storm Water Runoff Standards: According to contour elevations depicted on survey, storm water will flow to Somes Sound and not affect any abutting properties.
- R. Stream Standards: A tributary stream exists however no construction or soil disturbance will occur within 25' of the stream edge and shall remain undisturbed, as required by Land Use Ordinance.
- 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.

Jesse Dunbar moved the above performance standards A, C, F, G, H, I, J, K, L, M, O, P, Q, R, S, T & U are not applicable for stated reasons in the application of The Roberts Family Trust for demolition of existing structure and construction of a replacement non-conforming residential structure and detached garage, seconded by Lee Worcester and voted in favor 6/0/0.

PERFORMANCE STANDARDS (CEO recommends the following performance standards are applicable)

B Clearing of vegetation

Clearing of vegetation is required for review in shore land zones. The replacement structure will be constructed in the same proximity of existing structure and will not require removal of vegetation except for two pine trees and two spruce as indicated on plans.

Lee Worcester moved the representation by applicant as noted on plan to revegetate garage and cottage area with trees and native plants is acceptable with conditions the same number of trees similar to any being removed for construction be included, at locations to be determined by applicant, seconded by Jack Ksionzyk 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).

The applicant has proposed a soil erosion and sedimentation control plan in keeping with Maine Erosion and Sediment Control BMP'S as noted with application.

Jack Ksionzyk moved to approve the Soil Erosion and Sedimentation control plan proposed by applicant and require the plan to be in place prior to any disturbance of earth work, seconded by Jesse Dunbar and voted in favor 6/0/0.

E. Exterior Lighting

All lighting will be shielded according to the requirements of the Land Use Ordinance.

Agent for owner has represented by email (attached) all lighting will be shielded.

Lee Worcester moved to accept the lighting standards as represented by email memo from agent Wm Hanley, seconded by Jack Ksionzyk and voted in favor 6/0/0.

N. Sewerage Disposal Standards

A replacement system will be installed for a five bedroom residence as designed by Roger St. Amand.

Jack Ksionzyk moved the criteria for proposed septic system is acceptable for the proposed reconstruction, seconded by Jesse Dunbar and voted in favor 6/0/0.

~ The Planning Board must make a determination the proposed relocation of the residential structure is set back to the greatest practical extent from the high water line per Section III, (C) (2), Relocation to the Greatest Practical Extent.

~ Lee Worcester moved the proposal from the Roberts Family Trust for the relocation of residence and garage located at 11 Woodie Drive, Map 9, and Lot 22, meets the requirements of Section III, (C) (2) and is located at the greatest practical extent as determined by the following facts, seconded by Jack Ksionzyk and voted in favor 6/0/0.

Detached Garage

The setback from tributary stream for proposed detached garage will be increased from 46'-6" to 54'-5" thus reducing the non-conforming setback. The garage cannot be setback any further due to the access to existing driveway and the LUO requirement for a minimum 35' setback from centerline of ROW.

Residence

To maintain the same orientation of existing dwelling and in close proximity to same footprint, the following facts determine the location:

- a. Removal of natural vegetation is limited.
- b. Non-conforming setback of existing structure from tributary stream of 42'-1" will be increased to 72'.
- c. Proposed structure cannot be moved any further south due to setback requirement of Land Use Ordinance from centerline of ROW to be 35'.
- d. There will be a minimal environmental impact if constructed in this location.

Mike Magnani moved the application of John & Kathy Roberts and The Roberts Family Trust, for the relocation of a (5) bedroom residential structure and a detached garage, according to the representation, plans and specs herein presented and requirements specified by the Southwest Harbor Planning Board be approved, seconded by Jack Ksionzyk and voted in favor 6/0/0..

- VI. Public hearing and review of application from Susan Allen, agent for Causeway Club for the construction of tennis and pickle ball courts on a portion of land owned by Ronald Scott, 13 Fernald Point Road and described on tax map 12, lot 79
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Completeness of application:

- ~ Scale, north arrow and names of abutting property owners. (OK) North direction on plan and list of abutting properties attached.
- ~ Dimension and area of each lot to be built upon or otherwise used: (OK) Plan with dimensions attached
- ~ Location of any wells on the lot or within 100' of property lines: (N/A) Well located adjacent to structure. No determination of abutting wells available.
- ~ Name and location of any abutting water body, streams, brooks and wetlands: (N/A) Property does not abut wetlands or water bodies.
- ~ 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 project depicted on site plan.
- ~ 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: (N/A)
- ~ Outdoor lighting, signs: Existing and proposed locations (OK) No outdoor lights are proposed. Applicant stated no night time use.
- ~ Sewer facilities: Existing and proposed (N/A) Sewer facilities at clubhouse.
- ~ Layout and location of parking areas with existing and proposed parking spaces (OK) No additional parking spaces required. Not an expansion of business due to use of tennis courts maintained for members. Existing parking spaces across street at Clubhouse
- ~ Location of existing and proposed roads/driveways with setback from nearest lot line: (N/A) Walking paths only to be constructed.
- ~ Name/location of existing or proposed right of way and easements on the site or abutting the property: (OK) Right of way access to residential property through proposed lot depicted on plan.
- ~ Existing grades and any proposed changes in grades. (N/A) There are no changes in grades.
- ~ Soil Erosion and Sedimentation control plan: (O/K) Noted on attached memo silt fencing will be installed.
- ~ Freshwater wetlands or hydric soils: (NA) Not applicable
- ~ Plans for proposed structures must include access and dimensions, elevation plan showing height of the building and all floor plans: (O/K) See Attached
- ~ Buffering/Landscape plan as described in Section VI. (OK) Buffering proposal indicated on attached memo.

John Williams moved the application for Causeway Club is complete as presented, seconded by Jack Ksionzyk and voted in favor 6/0/0.

Compliance Review:

PERFORMANCE STANDARDS: (CEO recommends the following standards are not applicable to the application):

B Clearing of vegetation: Non-shore land zoning does not require review for removal of vegetation.

C. Driveway and Driveway opening: No driveway is proposed.

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.
- J. Heavy Commercial or Industrial Pollutants: No commercial or industrial pollutants
- L. Parking and Loading Standards: Existing spaces across street at clubhouse
- M. Road Standards: Not applicable.
- N. Sewerage Disposal Standards: No sewer services required.
- O. Sign Regulations: No signs are proposed
- P. Soil Standards: Not applicable
- R. Stream Standards: No stream on property.
- S. Vibration Standards: No vibration activity.
- T. Water Quality Standards: No activities require water quality monitoring or assessment.
- U. Water Supply Standards: Water Supply Standard is not applicable.

Lee Worcester moved the above performance standards B, C, F, G, H, J, L, M, N, O, P, R, S, T & U are not applicable for stated reasons in the application of The Causeway Club for the construction of tennis and pickle ball courts, seconded by Mike Magnani and voted in favor 6/0/0.
PERFORMANCE STANDARDS (Applicable)

A. Landscaping/Buffering

This is a commercial use and requires buffering. Planning Board must determine level of buffering per Section VI, subsection A. Applicant proposes maintaining a minimum 10' buffer to abutting properties. See attached memo.

Lee Worcester moved to consider impact to abutters as level 2 buffering due to noise and loss of privacy and accept the representation of applicant to maintain a 10' buffer to abutters as stated on attached memo, seconded by Chris Rawls 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 Applicant proposes to install silt fencing to comply with Maine's erosion control standards.

Mike Magnani moved to accept applicant representation for installation of silt fencing during construction and to revegetate the surrounding soil and create permanent stabilization, seconded by Jack Ksionzyk and voted in favor 6/0/0.

E. Exterior Lighting

A lighting plan and specs must be provided which determines amount of lighting that will affect abutting properties.

Applicant has represented the courts will only be used from 8 AM to 6PM and does not propose to install lights.

Lee Worcester moved to accept applicant's representation not to install or provide any lighting to the area and any lighting proposed subsequent to this application will require review by the Planning Board, seconded by Mike Magnani and voted in favor 6/0/0.

I. Handicap Access

Will be required to represent ADA access to the playing area.
Applicant represents to provide walking paths suitable to ADA standards.

Lee Worcester moved to accept proposal to provide walk ways designed per ADA standards, seconded by Chris Rawls and voted in favor 6/0/0.

K. Noise

How will noise impact abutting property owners and what steps will be taken to minimize noise?

Per memo, applicant represents courts will be screened, and perimeter vegetated buffering will be maintained. Also, the Applicant stated the use of tennis courts will be only during the day and seasonally from May through October. Verbal statements during review by the applicant indicated the courts will be used only from 8 AM to 6 PM.

Lee Worcester moved to accept the above representation to minimize noise from the use activities, seconded by Mike Magnani and voted in favor 6/0/0.

Q. Storm Water Runoff Standards

A substantial area of surface will cause excessive storm water runoff. How will this be controlled and where will it flow to?

Applicant proposes through memo provided by the installer of tennis courts these courts provide a more absorbent medium than the soil and turf that it replaces. The memo concludes the design of the courts eliminates the funneling of run-off water and results in less erosion. This should conclude post construction runoff will not exceed current storm water issues.

Mike Magnani moved to accept storm runoff explanation to satisfy the requirements of the Land Use Ordinance, seconded by John Williams and voted in favor 6/0/0

Mike Magnani opened the public meeting for comments. Two issues raised that was cause for concern: The first was evidence presented regarding the noise produced by pickleball courts in other municipalities resulted in legal action due to excessive noise. The second issue raised dealt with storm water runoff from the solid surface of the courts. Several members of the audience also expressed concerns for parking availability when there is a shortage during special events at the golf club.

Lee Worcester moved to continue the application to a subsequent meeting pending a professional acoustical study regarding noise emitted beyond property lines and a remedy to control it and an engineering assessment of storm water post construction effect on abutters, seconded by Mike Magnani and voted in favor 6/0/0.

VII. Other Business: None

VIII. Next meeting (Tentative): November 15, 2018 @ 6:00 PM

IX. Lee Worcester moved to adjourn meeting at 8:05 PM, seconded by Jesse Dunbar and voted in favor 6/0/0.