

Southwest Harbor Planning Board
Minutes of August 16, 2018

- I. Chairman Mike Magnani called the meeting to order at 6:00 PM. Members present include Lee Worcester, Jesse Dunbar, Eric Davis, John Williams, Chris Rawls and Jack Ksionzyk.
- II. Visitors not on the agenda: None
- III. a. Accept Minutes of October 5, 2017 (Dunbar, Magnani, Davis, Worcester)
Mike Magnani moved to approve minutes of October 5, 2017, seconded by Lee Worcester and voted in favor 4/0/3
- b. Accept minutes of October 19, 2017 (Worcester, Magnani, Dunbar, Jessica Williams, and Chris Rawls)
Mike Magnani moved to approve minutes of October 19, 2017, seconded by Jesse Dunbar and voted in favor 4/0/3.
- c. Accept minutes of October 26, 2017 (Worcester Dunbar, Magnani, Davis, Rawls)
Mike Magnani move to approve minutes of October 26, 2017, seconded by Chris Rawls and voted in favor 5/0/2.
- d. Accept minutes of April 5, 2018 (Williams, Rawls, Davis, Worcester, Dunbar)
Lee Worcester moved to approve minutes of April 5, 2018, seconded by Jess Dunbar and voted in favor 5/0/2.
- e. Accept minutes of April 26, 2018 (Magnani, Davis, Williams, Dunbar, Ksionzyk)
Mike Magnani moved to approve minutes of April 26, 2018, seconded by Jack Ksionzyk and voted in favor 5/0/2.
- IV Application of Scott and Jennifer Worcester, represented by agent John Collier of AB & JR Collier, Inc. for the relocation construction of a non-conforming residential structure in the Residential Shoreland zone located at 211 Main Street tax map 7, Lot 15 of the Southwest Harbor tax maps.
- ~ Chairman Mike Magnani stated the purpose of application as follows: Demo existing 1,500 s/f non-conforming structure (non-conformity due to thirty foot setback from high water line [HWL]) and construct a 2,202 s/f single family structure with a setback from HWL of forty-nine (49) feet, a reduction in non-conformity by nineteen (19) feet. There will also be a reduction in non-conforming area from 1,500 square feet to 873 square feet. Review authority established in Land Use Ordinance, Section III, and subsection C-3, Reconstruction/replacement of a non-conforming structure.
- ~ Chairman Magnani reviewed the following for completeness of application as required by Section VIII (C) (4) (c) of the LUO to include 16 site plan requirements, if applicable:
- ~ 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)
Survey with dimensions attached
- ~ Location of any wells on the lot or within 100' of property lines: (N/A)
Area service by public water utility
- ~ Name and location of any abutting water body, streams, brooks and wetlands: (O/K)
Norwood Cove
- ~ 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.

- ~ 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 and also depicted on site plan.
- ~ Outdoor lighting, signs: Existing and proposed locations (OK)
All lights will be shielded as noted on site plan.
- ~ Sewer facilities: Existing and proposed (OK)
There is an existing septic system permitted in 1983. The system was designed for a two bedroom home. Proposed structure is a two bedroom home. There are no known malfunctions of the system. See performance standards for public sewer requirements.
- ~ 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)
Noted on plan
- ~ Name/location of existing or proposed right of way and easements on the site or abutting the property: (N/A)
Private driveway from Route 102.
- ~ 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)
See Attached
- ~ Buffering/Landscape plan as described in Section VI. (N/A)
Residential use does not require buffering.

Lee Worcester moved the application for Scott and Jennifer Worcester is complete as presented, seconded by Eric Davis and voted in favor 7/0/0.

Compliance Review:

John Williams reviewed the following non-applicable (for reasons stated) performance standards:

- ~ Landscaping/Buffering
Buffering is not required due to residential use of property.
- ~ Driveway and Driveway opening
No changes in the location of the entrance or the size of the opening.
This is not applicable.
- ~ Fill and Excavation
The Land Use Ordinance allows fill and excavation activities without a permit if associated with a construction permit..
- ~ Fire Protection
None is required by the standards of the LUO.
- ~ Flood Hazard Permit
Location of proposed structure is not in the Flood Zone as indicated on the FEMA maps.
- ~ Handicap Access
ADA compliance not required for residential use.

- ~ Heavy Commercial or Industrial Pollutants
No commercial or industrial pollutants
- ~ Noise
Not applicable to residential use.
- ~ Parking and Loading Standards.
Not applicable to residential use.
- ~ Road Standards
Not applicable.
- ~ Sign Regulations
No review required for residential use.
- ~ Soil Standards
Not applicable
- ~ Storm Water Runoff Standards
According to contour elevations depicted on survey, storm water will flow to Norwood Cove and not affect any abutting properties.
- ~ Stream Standards
No stream on parcel
- ~ Vibration Standards
No vibration activity associated with residential use.
- ~ Water Quality Standards
No activities require water quality monitoring or assessment.
- ~ Water Supply Standards
Water Supply Standard is not applicable.

John Williams moved the above performance standards are not applicable for stated reasons in the application of Scott and Jennifer Worcester for demolition of existing structure and construction of a replacement non-conforming residential structure, seconded by Eric Davis and voted in favor 7/0/0.

It was the recommendation of the Code Enforcement Officer the following performance standards are applicable:

B Clearing of vegetation:

The clearing of vegetation is required for review in shore land zones. The replacement structure is proposed to be constructed in a clearing in front of wooded area allowing the natural vegetation to be maintained.

~ Mike Magnani moved to accept the location of proposed structure will be constructed in cleared area without disturbing existing vegetation, seconded by Chris Rawls and voted in favor 7/0/0.

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 plan shall include:

- a. mulching and re-vegetation of disturbed soil
- b. temporary runoff control features such as hay bales, silt fencing or diversion ditches
- c. permanent stabilization structures such as retaining walls or rip rap.

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

~ Chris Rawls 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.

E. Exterior Lighting

Proposed lighting indicated on the site plan noted. All indicated to be shielded according to the requirements of the Land Use Ordinance.

~ Lee Worcester moved to accept the lighting standards as represented on the attached building site plan, seconded by Jack Ksionzyk and voted in favor 7/0/0.

N. Sewerage Disposal Standards

The existing septic system of record for a two bedroom residence was installed on September 14, 1983. A public sewer lateral was installed in 2014 to the Meserve property, map 7, lot 15. Due to distance from public sewer, property owner can maintain septic system. An inspection of the system was completed on June 7, 2016 indicating no malfunctions, deficiencies and no further investigation required.

~ Eric Davis moved that the applicant has demonstrated the septic system to be functioning as certified by inspection at time of purchase, seconded by Mike Magnani and voted in favor 7/0/0.

Chairman Magnani cited the following land use ordinance to be applicable to this application, requiring the Planning Board to make a determination the proposed relocation of the residential structure is set back to the greatest practical extent from the high water line.

Section III, (C) (2), Relocation to the Greatest Practical Extent

RELOCATION

a. A non-conforming structure or part thereof may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback and other dimensional requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules.

b. No structure or portion thereof which is less than the required setback from a property line, the road setback line, the centerline of a road, or the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be relocated either toward or along the property line(s), road(s), shoreline.

c. In determining whether the structure relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation in order to relocate a structure in the Harbor, Commercial Fishery/Maritime Activity, Maritime Activity or the Residential Shoreland zones, or within the Shoreland Zone elsewhere, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

1) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. No one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover replanted must consist of similar vegetation and/or ground cover that was disturbed, destroyed or removed.

2 In all cases, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

The CEO presented the following facts to support the structure has been located at the greatest practical extent

- ~ There will be a footprint reduction within the 75' setback area from 1,500 square feet to 873 square feet.
- ~ If the current leach field is maintained, the structure may encroach the leach field site if moved further in the lot.
- ~ Relocation to area as proposed will not remove or disturb existing forested vegetation
- ~ Setback from the high water line HWL has been increased from 30' to 49'
- ~ Relocation further back in the property may restrict the view of abutting property owners
- ~ Overall, there will be substantially less non-conformity by the relocation/reconstruction of structure as proposed.

Nike Magnani moved the proposed relocation of the structure located at 211 Main Street, Map 7, and Lot 15 meets the requirements of Section III, (C) (2) and is located at the greatest practical extent as determined by the above facts, seconded by Chris Rawls and voted in favor 7/0/0.

Mike Magnani moved for the approval of the application of Scott and Jennifer Worcester as represented by agent John Collier for the relocation of a (2) bedroom residential structure according to the representation, plans and specs herein presented and requirements specified by the Southwest Harbor Planning Board, seconded by Jesse Dunbar and voted in favor 7/0/0.

V. CEO suggested following amendments to the Land Use Ordinance:

- 1) To reduce minimum residential floor space as described in Section II, subsection B-1, General Standards, to wit: Minimum residential floor space in all zones is ~~Five Hundred (500)~~ Two hundred Fifty (250) sq. ft.

Eric Davis suggested there should be no specific size required for residential floor area. CEO suggested the State building code requires a minimum 300 s/f. After Board discussion, Jesse Dunbar moved to send to the voters the amendment to reduce minimum residential floor space from 500 s/f to 250 s/f, seconded by Lee Worcester and voted in favor 7/0/01.

- 2) CEO Lagrange suggested housekeeping to provide that Section V, Zone A, C-3 has the same lot coverage within 250 feet from HWL as indicated in Section II, subsection B-2 for lot coverage within 250' of HWL

Jesse Dunbar moved to increase the area of lot coverage from 150' to 250' of HWL in Section V, Zone A, C-3 to agree with Section II, B-2, seconded by Chris Rawls and voted in favor 7/0/0.

3) Lagrange proposed to add 30% expansion to include property lines however, the majority of the Board through consensus did not want to pursue changes in the 30% expansion rule.

VI. Other Business: Lagrange requested the Board members review the noise situation at MDI Lobster, formerly Southwest Lobster on Clark Point Road prior to the next meeting. The Board will be asked to determine whether the noise is objectionable according to the rules of the LUO. Lagrange stated this item will be on the September 20 agenda.

VII. Next meeting: September 20, 2018 @ 6:00 PM

VIII. Mike Magnani moved to adjourn the meeting at 7:35 PM, seconded by Jack Zsionzyk and voted in favor 7/0/0.

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