

## MINUTES

Southwest Harbor Planning Board, May 16, 2019

- I. Roll Call/Call to Order: Chair Eric Davis called the meeting to order at 6:00 PM. Members present include Eric Davis, Lee Worcester, Chris Rawls, Ken Salvatore, Jack Ksionzyk, Jesse Dunbar, John Williams and CEO Lagrange.
- II. Visitors not on the agenda: No visitors to discuss other issues not on the agenda.
- III.
  - a. Lee Worcester moved to accept the minutes of January 17, 2019, seconded by Eric Davis and voted in favor 4/0/3. Voting members included as follows: Chris Rawls, John Williams, Lee Worcester and Eric Davis.
  - b. Eric Davis moved to accept minutes of February 21, 2019, seconded by Jesse Dunbar and voted in favor 4/0/3. Voting members included as follows: Eric Davis, John Williams, Jesse Dunbar, and Jack Ksionzyk
  - c. Chris Rawls moved to accept the minutes of April 4, 2019, seconded by Jack Ksionzyk and voted in favor 5/0/2. Voting members included as follows: Eric Davis, Lee Worcester, Chris Rawls, Jack Ksionzyk, and Ken Salvatore

IV. Chairman Davis explained application review criteria for three applications on the agenda expected to receive input from abutters for Planning Board consideration to include following process:

1. The Applicant will be asked to make a representation regarding their project.
  2. The Planning Board will review the application for completeness, then proceed to review the applicable performance standards.
  3. After this review, the public will be asked to comment on any issues pertaining to the application. If you wish to comment, please raise your hand and wait to be acknowledged by the chair. State your name and comments.
  4. The Planning Board will then deliberate the information presented and make a decision.
  5. Please note; those participating in these proceedings have the right of appeal if you do not agree with our decision.
- A. Application of John and Martha Williams to construct a 90 space parking area on the former Murphy property located at 376 Main Street and more fully described on the Southwest Harbor Tax map 3, Lot 3. Planning Board member John Williams recused himself as a member.

*John and Martha Williams requested a change of use of the above described property from residential to commercial parking lot area to include 81 regular parking spaces, 9 motorcycle spaces, 7 RV/Tour bus spaces and an area for bicycles. Demo and fill permits have been previously issued by the Code Enforcement Officer.*

Chairman Davis stated Section VIII (C) (4) (c) of the LUO requires each application to include 16 site plan requirements and proceeded to review following:

- 1) Scale, north arrow and names of abutting property owners. (OK)  
North direction shown and list of abutting property owners on attached abutter notices.
- 2) Dimension and area of each lot to be built upon or otherwise used: (OK)  
Noted on May 3, 2019 site plan
- 3) Location of any wells on the lot or within 100' of property lines: (OK)  
There are no wells on the property or abutting properties. Public water service is located on property but not required for this project. Property owner stated a well was found on the property but was filled and buried.
- 4) Name and location of any abutting water body, streams, brooks and wetlands: (N/A)  
No abutting water bodies.

- 5) Areas to be cleared and areas of any cut, fill, grading or other earthmoving activity: (N/A) Clearing and earthwork provided by previous permit.
- 6) Size, shape and location of existing and proposed buildings and/or structures including dumpsters, piers, docks. (N/A) No Structures are proposed except for two porta potties.
- 7) Outdoor lighting: Proposed locations (O/K) Lighting to be shielded according to schematics and located as recommended by manufacturer.
- 8) Sewer and water facilities: Existing and proposed (N/A): Public water and sewer services are available on the property but not required for this project.
- 9) Layout and location of parking areas with existing and proposed parking spaces (including commercial vehicle parking). (OK): Planned spaces will be 9 ½' x 18' with a minimum 24' travel way and located greater than 6' from residential property lines.
- 10) Location of existing and proposed roads/driveways with setback from nearest lot line: (O/K): Noted on plan
- 11) Name/location of existing or proposed right of way and easements on the site or abutting the property (O/K): Three Rod Road is a private road abutting property. Existing entrances to right of way will be discontinued by chain.
- 12) Existing grades and any proposed changes in grades (OK): Property is reasonably level with no substantial changes in grades.
- 13) Soil Erosion and Sedimentation control plan (N/A): Previous fill and excavation by other permits.
- 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 (N/A): No proposed structures.
- 16) Buffering/Landscape plan as described in Section VI. (N/A): Solid fencing proposed along abutting residential properties with natural vegetation to remain along southerly and westerly property lines. Owner proposed a 6' solid fence along the northerly property line

Eric Davis moved the application complete as presented, seconded by Lee Worcester and voted in favor 6/0/1.

Performance Standards (non-applicable)

B. Clearing of vegetation: Clearing of vegetation is required for review in shore land zones.

This parcel is located in Zone B.

D. Erosion/Sedimentation Controls: Required for previously issued fill permits. Not required for change of use.

F. Fill and Excavation: Prior fill permits issued by CEO.

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.

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

M. Road Standards: Not applicable.

N. Sewerage Disposal Standards: Existing public service not applicable to change of use to public parking.

O. Sign Regulations: Sign applications to be submitted to CEO for approval.

P. Soil Standards: Not applicable

R. Stream Standards: No stream on parcel

S. Vibration Standards: No vibration activity on site during construction or post construction.

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, D, F, G, H, J, M, N, O, P, Q, R, S, T & U are not applicable for stated reasons in the John and Martha Williams application for

construction of public parking facility at 376 Main Street, seconded by Jesse Dunbar and voted in favor 6/0/1.

Applicable Performance Standards:

A. Landscaping/Buffering

Lee Worcester moved the application to be a level III regarding landscaping and buffering after discussion with the Board members and from public input, seconded by Jesse Dunbar and voted in favor 6/0/1. Members of the audience requested a separate plan as an overlay to the site plan indicating buffering as a requirement of the Land Use Ordinance. Jack Ksionzyk moved a landscaping plan was required, seconded by Jesse Dunbar and voted in favor 6/0/1

C. Driveway and Driveway opening

A copy of the State driveway opening permit was attached to the application as required due to State owned right of way. Eric Davis moved to accept the application as meeting the driveway opening requirement, seconded by Lee Worcester and voted in favor 6/0/1.

E. Exterior Lighting

A lighting plan was included separate from the site plan indicating the number and type of lights including type II, III and VWR which are all shielded LED lighting. Type II will be fence mounted; type VWR located in center of parking area, and type III located on the southerly and westerly property lines. Lee Worcester moved to accept the lighting plan as presented, seconded by Eric Davis and voted in favor 6/0/1

I. Handicap Access

Applicant has stated there will be four ADA compliant spaces and the sidewalk will be ADA compliant as required by State permitting. Eric Davis moved to accept representation for ADA compliance, seconded by Ken Salvatore and voted in favor 6/0/1.

K. Noise:

Members of the audience suggested there will be a nuisance from noise created by car doors and vehicles left idling. Eric Davis moved the applicant will provide a proposal to mitigate any nuisance from noise, seconded by Jesse Dunbar and voted in favor 6/0/1.

L. Parking and Loading Standards.

Eric Davis moved the design for traveled way and parking spaces met the requirements of the ordinance and no parking would be any closer than 6' to the abutting property lines, seconded by Jack Ksionzyk and voted in favor 6/0/1.

Q. Storm water Runoff Standards.

Applicant agreed to maintain culverts located in the drainage swale along Three Rod Road and also agreed to provide a more complete storm water plan for the next meeting. Lee Worcester moved for another plan to be submitted, seconded by Chris Rawls and voted in favor 6/0/1.

Eric Davis moved to continue application of John and Marty Williams for a parking lot to the June 20<sup>th</sup> meeting, seconded by Chris Rawls and voted in favor 6/0/1.

*Note: MDI Lobster, Inc request approval to construct a 28' x 50' take out kitchen to service up to 135 seats, 90 of which will be on the wharf and 45 seats in the proximity of the take out.*

Chairman Davis stated Section VIII (C) (4) (c) of the LUO requires the application to include 16 site plan requirements and proceeded to review following:

- 1) Scale, north arrow and names of abutting property owners (OK): North direction shown and list of abutting property owners on attached abutter notice.
- 2) Dimension and area of each lot to be built upon or otherwise used (OK): Noted on March 28, 2019 site plan

- 3) Location of any wells on the lot or within 100' of property lines (OK): There are no wells on the property or abutting properties. Public water service is located on property.
- 4) Name and location of any abutting water body, streams, brooks and wetlands (OK): Atlantic Ocean.
- 5) Areas to be cleared and areas of any cut, fill, grading or other earthmoving activity (N/A) Area does not require clearing of vegetation.
- 6) Size, shape and location of existing and proposed buildings and/or structures including dumpsters, piers, docks (OK): 28' x 50' single story structure depicted on site plan
- 7) Outdoor lighting: Proposed locations (O/K): Lighting to be shielded according to Land Use Ordinance. Proposed to be determined and reviewed by CEO
- 8) Sewer and water facilities, existing and proposed (OK): Public water and sewer services are available on the property. A grease trap is required prior to occupancy as a condition of approval.
- 9) Layout and location of parking areas with existing and proposed parking spaces (including commercial vehicle parking) (OK): Site plan indicates thirty two (32) spaces: 135 seats require 22 spaces in the shore land zone (1 space per six seats); there are eight (8) berths which require two (2) spaces; proposed eight (8) employees require 4 spaces.
- 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 (O/K): A right of way is noted for access to abutting properties.
- 12) Existing grades and any proposed changes in grades (OK): No substantial changes in grades.
- 13) Soil Erosion and Sedimentation control plan (N/A): No soil disturbance to require erosion control measures, however, if there is soil disturbance, then proper control measures should be a condition of this application.
- 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 (OK): Single story structure less than 25' is proposed and should be indicated on plan.
- 16) Buffering/Landscape plan as described in Section VI (N/A): Solid fencing proposed along abutting residential properties.

Eric Davis moved the application for MDI Lobster Inc. is complete as presented, subject to conditions on Item 7, 8, 9, 13, 15 and 16, seconded by Jesse Dunbar and voted in favor 7/0/0. Performance Standards (non-applicable)

F. Fill and Excavation: Fill for approved construction projects do not need a separate 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: To be reviewed by the State Fire Marshall.

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

M. Road Standards: Not applicable.

O. Sign Regulations: Sign applications to be submitted to CEO for approval.

P. Soil Standards: Not applicable

R. Stream Standards: No stream on parcel

S. Vibration Standards: No vibration activity on site ~~during construction~~ or post construction.

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

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

Eric Davis moved the above performance standards F, G, H, I, J, M, O, P, R, S, T & U are not applicable for stated reasons in the application of MDI Lobster, Inc for construction of an eating facility with 135 seats at 126 Clark Point Road.

**Applicable Performance Standards:**

**A. Landscaping/Buffering**

Eric Davis moved the buffering and landscaping plan to be a level I according to Section VI of the Land Use Ordinance and require applicant to provide a revised site plan to depict the abutting residential properties and a buffering plan to those properties, seconded by Lee Worcester and voted in favor 7/0/0.

**B Clearing of vegetation**

Applicant stated no vegetation in area of proposed structure except two hazardous trees. Eric Davis moved there is no clearing of vegetation, seconded by Lee Worcester and voted in favor 7/0/0.

**C. Driveway and Driveway opening**

Eric Davis moved the driveway entrance to be a minimum of 20' and to be depicted on the plan, seconded by Lee Worcester land voted in favor 7/0/0.

**D. Erosion/Sedimentation Controls**

Chris Rawls moved that a soil erosion and sedimentation control plan be included on the site plan, seconded by Jack Ksionzyk and voted in favor 7/0/0.

**E. Exterior Lighting**

Eric Davis moved a light schematic and specs be on the site plan, seconded by Chris Rawls and voted in favor 7/0/0.

**K. Noise:**

Lee Worcester moved to accept representation no noise which is objectionable due to volume, intermittence, beat frequency or shrillness will be transmitted outside the lot and there will be no loud speaker, seconded by Ken Salvatore and voted in favor 7/0/0.

**N. Sewerage Disposal Standards**

Eric Davis moved existing public service is available and required a grease trap be installed as part of the plumbing requirements, seconded by Jack Ksionzyk and voted in favor 7/0/0.

**L. Parking and Loading Standards.**

Eric Davis moved there was sufficient parking for existing and proposed use which include thirty two (32) spaces: 135 seats require 22 spaces in the shore land zone (1 space per six seats); there are eight (8) berths which require two (2) spaces; proposed eight (8) employees require 4 spaces, seconded by Ken Salvatore land voted in favor 7/0/0.

**Q. Storm Water Runoff Standards**

Eric Davis moved storm water not to be an issue due to down slope drainage to the ocean will not affect abutting properties, seconded by Jack Ksionzyk and voted in favor 7/0/0.

Eric Davis moved to continue application of MDI Lobster to June 20<sup>th</sup> meeting subject to amended site plan to include depiction and buffering to residential abutters, verification of toilet requirements, represent a minimum 20' driveway entrance, exterior light detail, erosion and sedimentation plan, seconded by Jesse Dunbar and voted in favor 7/0/0.

Continuation of Causeway Club application originally reviewed by Planning Board on October 18, 2018 to construct tennis and pickle ball courts on a portion of Map 12, Lot 79 (40,000 s/f) to be conveyed to Causeway Club.

Ken Salvatore indicated a potential conflict of interest with the Causeway application due to his being a member, Eric Davis moved there is no conflict, seconded by Chris Rawls and voted in favor 6/0/1.

A. Lee Worcester moved to rescind the motion made at the October 18, 2018 meeting to accept the representation minimizing noise from the use activities and seconded by Mike Magnani, seconded by Jesse Dunbar and voted in favor 5/0/2.

B. Lee Worcester moved to rescind motion made at the October 18, 2018 meeting to accept storm runoff representation to satisfy the requirements of the Land Use Ordinance and seconded by John Williams, seconded by Jesse Dunbar and voted in favor 5/0/2.

Regarding storm water and acoustical representation, Lee Worcester moved at the previous meeting to continue the application to the May 16<sup>th</sup> 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 which was seconded by Mike Magnani and voted in favor 6/0/0. The presentation at this meeting only detailed the pickle ball courts and did not include the entire project.

Eric Davis moved to continue the application of the Causeway Club to the June 20<sup>th</sup> meeting for a more complete storm water plan and a depiction of buffering for noise control for the entire project, not just the pickle ball courts, seconded by Lee Worcester and voted in favor 7/0/0.

It was suggested by the Board that buffering and setback be revisited on the next presentation on the easterly property line to protect the residential abutter.

Chris Rawls requested the cedar grove and the north arrow be included on the plan. The north arrow was agreed by consensus; Rawls moved for the cedar grove to be on the plan, seconded by John Williams and voted in the negative not to pass, 2/5/0.

VI. Other Business: None

VII. Next meeting: June 20, 2019  
(review opt-in option regarding sales and manufacture of cannabis)

IX. Eric Davis moved to adjourn meeting at 9:50 PM, seconded by Ken Salvatore and voted in favor 7/0/0.