



Town of Southwest Harbor
Planning Board Minutes October 17, 2024
Town Office and via Zoom 6:00 PM

I. Call to Order:

Lee Worcester called the October 17, 2024, Planning Board meeting to order at 6:01pm.

II. Roll Call:

Lee Worcester, Charlotte Gill, Michael Levesque, Joel Wolak, John Williams via zoom

Others attending: Applicant Lionel Madore, CEO John Larson, Madilynn Michaud, Becky Gatcomb. Applicant Jose Feliciano, J. Cummings, Julie Christiansen via Zoom.

Absences: Eric Davis, Priscilla Ksionzyk

III. Adoption of the Agenda:

Michael Levesque motioned to adopt the agenda as presented.
Seconded by Joel Wolak. Motion passed 5 | 0 | 0

IV. Approval of Minutes: August 15, 2024

Michael Levesque motioned to approve August 15, 2024, minutes.
Seconded by Joel Wolak. Motion passed 5 | 0 | 0

V. Old Business:

Lionel Madore
Acadia Gateways Subdivision
Additional information to make application complete
96 Seawall Road Map 001 Lot 032
Determination of complete application

Applicant provided all the requested information

Michael Levesque motioned that the application as presented is now complete
Seconded by Charlotte Gill Motion passed 5 | 0 | 0

VI. Public Hearing: Acadia Getaways Subdivision

Lee Worcester opened a public hearing at 6:04.

No comment was made from the public.
Lee Worcester closed a public hearing at 6:05.

VII. **Finding of Facts:** Acadia Getaways Subdivision

STATE OF MAINE
MUNICIPALITY OF SOUTHWEST HARBOR
**FINDINGS OF FACT AND DECISION
ON APPLICATION FOR SUBDIVISION**

Subdivision Name: Acadia Getaways Subdivision Map 001 Lot 032
Property Owner: Lionel Madore
Applicant's Name: Lionel Madore
Applicant's Address: 11 Dana Lane, Southwest Harbor ME 04679

Before an application for subdivision approval may be approved, the municipal reviewing authority must determine that the proposed subdivision meets the following criteria;

1. POLLUTION. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:
 - A. The elevation of the land above sea level and its relation to the flood plains;
 - B. The nature of soils and sub soils and their ability to adequately support waste water;
 - C. The slope of the land and its effect on effluents;
 - D. The availability of streams for disposal of effluents; and
 - E. The applicable state and local health and water resources rules and regulations;

Met ✓ Not Met NA

Reasons: The proposed subdivision will not result in undue water or air pollution. The Board considered the elevation, nature of soils, slope of the land and applicable state and local health rules.

Motion by: Michael Levesque Seconded by: Joel Wolak
Discussion: None The motion carried unanimously. 5 | 0 | 0

2. SUFFICIENT WATER. The proposed subdivision has sufficient water available for the foreseeable needs of the subdivision;

Met ✓ Not Met NA

Reasons: The proposed subdivision is served by Town water and letter from Water Department states adequate water is available for the foreseeable needs of the subdivision.

Motion by: Michael Levesque Seconded by: Joel Wolak
Discussion: None The motion carried unanimously. 5 | 0 | 0

3. MUNICIPAL WATER SUPPLY. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;

Met ✓ Not Met NA

Reasons: Municipal water supply to be used.
Letter from water department made part of application.

Motion by: Michael Levesque Seconded by: Joel Wolak
Discussion: None The motion carried unanimously. 5 | 0 | 0

4. EROSION. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;

Met ✓ Not Met NA

Reasons: based on the fact the amendment involves minimal soil disturbance, will not cause unreasonable soil erosion

Motion by: Lee Worcester Seconded by: Charlotte Gill
Discussion: None The motion carried unanimously. 5 | 0 | 0

5. TRAFFIC. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing and proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of a urban compact municipality as defined by Title 23, section 754, the Department of Transportation has provided documentation indicating that the driveway or entrances conform to Title 23, section 704 and any rules adopted under that section;

Met ✓ Not Met NA

Reasons: Based on the fact that one lot with two existing structures and less than forty parking spaces, will not cause unreasonable highway or public road congestion or unsafe conditions.

Motion by: Joel Wolak Seconded by: Michael Levesque
Discussion: None The motion carried unanimously. 5 | 0 | 0

6. SEWAGE DISPOSAL. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;

Met ✓ Not Met NA

Reasons: Connected to Town Sewer.

Motion by: Michael Levesque Seconded by: Joel Wolak

Discussion: None The motion carried unanimously. 5 | 0 | 0

7. MUNICIPAL SOLID WASTE DISPOSAL. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;

Met Not Met **NA ✓**

Reasons: There is no Municipal solid waste disposal

Motion by: Michael Levesque Seconded by: Joel Wolak

Discussion: None The motion carried unanimously. 5 | 0 | 0

8. AESTHETIC, CULTURAL AND NATURAL VALUES. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights of way for physical or visual access to the shoreline;

Met ✓ Not Met NA

Reasons: Based on that there are no rare or irreplaceable natural areas identified by the Department of Inland Fisheries and Wildlife or the municipality and is not located in the shoreland zone therefore will not have and undue adverse impact of scenic or natural beauty of the area.

Motion by: Michael Levesque Seconded by: Joel Wolak

Discussion: None The motion carried unanimously. 5 | 0 | 0

9. CONFORMITY WITH LOCAL ORDINANCES AND PLANS. The proposed subdivision conforms to a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;

Met ✓ Not Met NA

Reasons: The proposed subdivision conforms to Town of Southwest Harbor Subdivision Ordinance.

Motion by: Michael Levesque Seconded by: Joel Wolak
Discussion: None The motion carried unanimously. 5 | 0 | 0

10. FINANCIAL AND TECHNICAL CAPACITY. The sub-divider has adequate financial and technical capacity to meet the standards of this section;

Met ✓ Not Met NA

Reasons: Letter from First National Bank made part of application.

Motion by: Michael Levesque Seconded by: Joel Wolak
Discussion: None The motion carried unanimously. 5 | 0 | 0

11. SURFACE WATERS; OUTSTANDING RIVER SEGMENTS. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

A. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.

(1) To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall reviewed as if lot lines extended to the shore.

(2) The frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 38, chapter 3, subchapter I, article 2-B, or within areas designed by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of section 4401, subsection 1, on September 23, 1983.

Met Not Met **N/A** ✓

Reasons: No portion of the proposed subdivision is located within the shoreland zone.

Motion by: Michael Levesque Seconded by: Joel Wolak
Discussion: None The motion carried unanimously. 5 | 0 | 0

12. GROUND WATER. The proposed subdivision will not, alone or in conjunction with existing activities, adversely, affect the quality or quantity of ground water;

Met ✓ Not Met NA

Reasons: Based on natural buffers and proposed buffers, the subdivision will not adversely affect quality or quantity of ground water.

Motion by: Michael Levesque Seconded by: Joel Wolak

Discussion: None The motion carried unanimously. 5 | 0 | 0

13. FLOOD AREAS. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the sub-divider shall determine the 100-year flood elevation and flood hazard boundaries within subdivision. The proposed subdivision plan must include a condition of plan approval requiring that the principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

Met Not Met N/A ✓

Reasons: No part of the proposed subdivision is located within a flood area.

Motion by: Michael Levesque Seconded by: Joel Wolak

Discussion: None The motion carried unanimously. 5 | 0 | 0

14. FRESHWATER WETLANDS. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of local soil and water conservation district;

Met Not Met N/A ✓

Reasons: No wetlands have been identified proposed subdivision

Motion by: Michael Levesque Seconded by: Joel Wolak

Discussion: None The motion carried unanimously. 5 | 0 | 0

15. RIVER, STREAM OR BROOK. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;

Met Not Met N/A ✓

Reasons: No river, stream or brook within or abutting proposed subdivision.

Motion by: Michael Levesque Seconded by: Joel Wolak
Discussion: None The motion carried unanimously. 5 | 0 | 0

16. STORM WATER. The proposed subdivision will provide for adequate storm water management.

Met ✓ Not Met NA

Reasons: Stormwater plan submitted and signed by Drew John Olehowski Maine License #16372.

Motion by: Michael Levesque Seconded by: Charlotte Gill
Discussion: None The motion carried unanimously. 5 | 0 | 0

17. SPAGHETTI-LOTS PROHIBITED. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;

Met Not Met N/A ✓

Reasons: Not applicable, no part of proposed subdivision is in the shoreland zone.

Motion by: Michael Levesque Seconded by: Joel Wolak
Discussion: None The motion carried unanimously. 5 | 0 | 0

18. LAKE PHOSPHORUS CONCENTRATION. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;

Met Not Met N/A ✓

Reasons: Not applicable, no freshwater in or near the proposed subdivision.

Motion by: Michael Levesque Seconded by: Joel Wolak
Discussion: None The motion carried unanimously. 5 | 0 | 0

19. IMPACT ON ADJOINING MUNICIPALITY. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located; and

Met Not Met N/A ✓

Reasons: No part of the proposed subdivision crosses municipal boundaries.

Motion by: Michael Levesque Seconded by: Joel Wolak

Discussion: None The motion carried unanimously. 5 | 0 | 0

20. LANDS SUBJECT TO LIQUIDATION HARVESTING. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76.

Met ✓ Not Met NA

Reasons: Any harvest that has taken place in the past five years has been approved as defined in Title 12, section 8869, subsection 14.

Motion by: Michael Levesque Seconded by: Joel Wolak

Discussion: None The motion carried unanimously. 5 | 0 | 0

Other terms and conditions: None

Date of Public Hearing: October 17, 2024

Motion on Acadia Getaways Subdivision, Southwest Harbor, Maine

Motion made by: Michael Levesque Seconded made by: Joel Wolak

To approve the application of Lionel Madore, for Acadia Getaways Subdivision Plan as presented on the final plan submitted.

Date of Approval: October 17, 2024

Votes in Favor: **5** Votes Opposed: **0**

VIII. New Business:

Preliminary Subdivision for Acadia Views
228 & 234 Main Street
Jose Feliciano Map 007 Lots 29 & 31
Determination of complete application

Jose Orlando Feliciano
Acadia Views Subdivision Preliminary Plan
Date of Application: August 20, 2024

PURPOSE: Placement of six rental cabins and convert garage to rental unit located on Map 007, Lots 29 & 31. Parcels contain 4.63 acres.

1. ✓ Location Map
 - Existing subdivisions in proximity of the proposed subdivision;
 - Location and names of existing and proposed streets;
 - Boundaries and designations of zoning districts;
 - Outline of subdivision and any remaining owner's property.

Copy of Tax Map made part of application
2. ✓ Other Required Permits: advisory opinion from appropriate federal, state and local agencies as to the application of their rules.

Letter from Watershed Resource Consultants
3. ✓ Plans: 2 copies; scale not more than 1" - 100'; 8 copies of the plan(s) reduced to a size of 8 ½ x 11" or 11 x 17".

INFORMATION TO BE SHOWN ON THE PLAN OF THE APPLICATION:

1. Identifying title
Shown on plan
2. Assessor's Map and Lot numbers
Shown on plan
3. Evidence of right, title, or interest in the property
Copy of deed made part of application
4. Field survey of the boundary lines of the tract (General Standard C.1.SECTION VIII)
Shown on plan
5. Date the plan was prepared
Shown on plan
6. North Arrow
Shown on plan
7. Graphic map scale
Shown on plan
8. Name & addresses of owner(s), sub divider, & who prepared plan
Shown on plan

9. Name of adjoining property owners
Shown on plan
10. Number of acres within subdivision
Shown on plan
11. Location of property lines, existing buildings, watercourses, vegetative cover type, other essential, existing physical features.
Shown on plan
12. Proposed lot lines with approximate dimensions and lot areas
Shown on plan
13. Location, names & widths of existing & proposed streets, easements, building lines, parks & other open spaces on or adjacent to the subdivision.
Located on plan
14. Width & location of any streets or public improvements shown on the official map & Comprehensive Plan, if any, within the subdivision
None proposed
15. Parcels of land proposed to be dedicated to public use and conditions
None proposed
16. Location of any open space to be preserved, improvements & management
None proposed
17. Names & addresses of owners of record of adjacent properties
List of abutters made part of the application.
18. Location of any shore land Zoning boundaries affecting the subdivision
No portion of proposed subdivision is in shoreland zone
19. Boundaries of any flood hazard areas & 100-year flood elevation
No portion of proposed subdivision is in flood zone, copy of flood map made part of application
20. Required for subdivision, near bodies of water: contour lines at interval specified by Board showing elevations in relation to NGVD
Elevations shown on plan
21. Indication of type of sewage disposal to be used within subdivision
- a) **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 sewage**
 - b) subsurface wastewater disposal: test pit analyses, prepared by a Licensed Site Evaluator
 - c) centralized or shared subsurface sewage disposal system: prepared by a licensed site evaluator or

22. Indication of the type of water supply to be used.
- a) **public water supply: a letter from the S.W. Harbor Water Company indicating adequate supply and pressure & approving the plans for extensions where necessary.**
 - b) Where the S. W. Harbor Water Company's supply lines is to be extended, a written statement from the Fire Chief (or assistant), stating approval of the location of fire hydrants.
 - c) evidence of adequate ground water supply and quality may be requested by the Board, and this shall be submitted by a well driller or a hydro-geologist familiar with the area

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

Copy of deed made part of application

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

None

25. Copy of the portion of the State Soil Survey covering the subdivision.

Copy made part of application

26. Adequate storm water management plan.

Requesting wavier

Discussion: Applicant Jose Feliciano requested a waiver from the Southwest Harbor Planning board regarding the stormwater management plan due to low impact of the two new structures on the large size of the property. Feliciano goes on by saying that the new structures are being built on existing gravel, which is impervious surface for planning, and therefore no increase in impervious surface is proposed. He also mentions that his surrounding neighbors' land is higher than his so he's the one getting run off from the road next door to him. "Now, if it's going to cause a headache with these two sheds that haven't been put in, then we can scratch it off, gentlemen."

Lee Worcester explained the importance of having a stormwater management plan before approving the completeness of a subdivision Preliminary Plan application. "Providing a storm water management plan is just part of the process." said Worcester. The objective is to ensure added structures do not exacerbate existing water flow issues. Thus, certification is required to confirm proper water management. "As a general statement, I think we all are aware of that stormwater management has probably become one the most key items that we're to be looking at." said Worcester.

Michael Levesque believes the amount of impervious area Feliciano is adding to this lot is insignificant to the size of the property. Levesque also mentioned that Feliciano would have been given permits for the road (driveway) he previously built on the property. "The only reason why he must come in front of the Board is because or the

third unit which triggers a subdivision. So why ask for a runoff now? It would be a project killing in my opinion,” said Levesque.

Joel Wolak indicated that there was a hydrology report indicating that the site was primarily made up of poorly drained soils. Wolak said his worry was “if there is an appeal from a neighbor that appeal is probably going to win.”

Code Enforcement Officer John Larson voiced his concern that granting approval might establish a precedent. “Every application presented to the board will seek a waiver”

Michael Levesque motioned to grant Jose Feliciano’s request for a waiver due to low impact on the large size of the property.

Seconded by John Williams. Motion passed 4 | 1 | 0 Joel Wolak - opposed

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

Town water & sewer

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

No portion of subdivision located in shoreland zone

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

Delineated on plan

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

Note on plan

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

The letter from Machias Savings Bank made part of application

Lee Worcester motioned that the application as presented is now complete

Seconded by Michael Levesque. Motion passed 5 | 0 | 0

Lee Worcester motioned to schedule a Public Hearing for Jose Feliciano’s Acadia Views Subdivision Application on November 7, 2024.

Seconded by Michael Levesque. Motion passed 5 | 0 | 0

IX. **CEO Issues:** None.

X. **Next Meeting Date:**

Regular Planning Board Meeting, Thursday, November 7, 2024 @ 6:00 PM

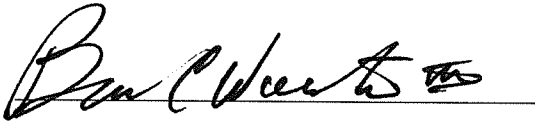
XI. **Adjourn Meeting:**

Michael Levesque motioned to adjourn at 7:29pm.
Seconded by Joel Wolak. Motion passed 5 | 0 | 0

Respectfully submitted,

Madilynn Michaud
Deputy Clerk

APPROVED

A handwritten signature in black ink, appearing to read "Ben Woods", written over a horizontal line.

Planning Board, Chair

V. Chair

Date: 11/21/2024

