

Town of Southwest Harbor
Planning Board Minutes February 4, 2021

via Zoom 6:00 PM

- I. Roll Call – Eric Davis, John Williams, Ken Salvatore, Michael Levesque, Lee Worcester, Chris Blain Deputy CEO Jesse Dunbar, CEO John Larson Jack Ksionzyk was absent
Also present: Greg Johnston for the applicant, Daniel Pileggi attorney for the applicant, Andrew Hamilton attorney for Michael Levesque
Michael Levesque recused himself and stated his attorney would represent him.

The Chair called the February 4, 2021 Planning Board meeting to order at 6:05pm.

- II. Adoption of agenda for tonight's meeting.

- III. Approval of Minutes: January 21, 2021 Minutes

Motion: To approve minutes of January 21, 2021 as presented.

Motion by Lee Worcester, 2nd by Eric Davis

Motion passed: 5-0-1 Michael Levesque abstaining

- IV. Public Hearing on James H. Norwood application open at 6:10

Andrew Hamilton, attorney for Michael Levesque an abutter, stated all items had been addressed and both parties were in agreement with revised plan presented.

- V. Old Business:

James H. Norwood
Map 13 Lot 001-4 and Map 13 Lot 8 in B Zone
New commercial garage and office with attached 2 bedroom apartment
Change of Use from Home Occupation to Commercial Garage

Greg Johnston stated the 2 items needed to make a complete application were submitted.

1. The abutter's well is a distance greater than 100'.
2. The location of lights on the existing shop have added to plan.

Motion: With the addition of items, the application is complete as presented.

Motion by Eric Davis, 2nd by Ken Salvatore

Motion passed: 5-0

FINDINGS of FACT

Applicable Performance Standards:

A. Landscaping/Buffering

Commercial use requires buffering. Planning Board must determine level of buffering per Section VI, sub A. (Height to be determine by Planning Board)

1. Planning Board to determine level of buffering

Motion: Based on commercial use the buffering requires Level 2 buffering

Motion By: Eric Davis

Second By: John Williams

Vote: 5-0

Andrew Hamilton stated that the buffering should be Level 3, but he agreed with the plan submitted.

2. Planning Board to approve/deny/modify above applicant buffering requirements.

Motion By: Eric Davis

Second By: John Williams

Motion: *This project to include change of use of existing garage shall meet the requirements of Level 2 Buffering. The revised site plan shows 175' of 6' high stockade fence on 5' high berm with a new planted buffer consisting of native plantings 6' tall 7' on center. Based on submitted site plan, the requirements of Section VI. A.1, 2, 3, 4 and 5 have been met.*

Vote: 5-0

B. Driveway and Driveway Opening Standards

A driveway is vehicular way within a lot.

1-2 dwelling units no minimum

3-10 dwelling units 9 feet

Non-Residential Driveway minimum width 18'

Motion By: Eric Davis

Second By: Ben Worcester

Motion: *The revised site plan shows 18' wide drive for one way access. No part of proposed or existing driveway is within 6' of side property line. The requirements of Section VI. B. 1.2. 3. and 4 have been met.*

Vote: 5-0

C. Erosion/Sedimentation Controls

All activities which involve filling, grading, excavation or other similar activities which result in un-stabilized soil conditions shall require a soil erosion and sedimentation control plan in accordance with current Maine Erosion & Sedimentation Control BMP's.

Motion By: Eric Davis

Second By: Ken Salvatore

Motion: *The site plan shows stone infiltration trench, silt fence and hay bales, 24" drip line with filtration strip. Site construction shall adhere to Maine DEP Best Management Practices for erosion control and erosion control specifications prepared by G.F. Johnston & Associates in exhibit #6 of the application. The requirements of Section VI. D. 1.2. and 3. have been met.*

Vote: 5-0

D. Exterior Lighting

Exterior lighting shall be designed to minimize the adverse impact on neighboring properties and the traveling public. Exterior lights shall be appropriately shielded to prevent direct light from be visible outside the property line.

Motion By: Eric Davis

Second By: Ben Worcester

Motion: *The revised site plan in general notes E. states all exterior lighting on the new and existing garage shall be shielded from direct view of illumination and directed downward. The site plan shows the shielded lighting on the existing garage. The requirements of Section VI. D. 1, 2 and 3. have been met.*

Vote: 5-0

E. Fill and Excavation Standards

A fill or excavation permit is required for the moving of 100 cubic yards or greater of inert fill if the operation is not associated with permitted construction.

Motion By: Eric Davis

Second By: Ken Salvatore

Motion: *No fill slopes steeper than 2:1 ratio as noted on revised plan, all disturbed soils shall be revegetated.
The requirements of Section VI. E. 1, 2 and 3. have been met.*

Vote: 5-0

F. Fire Protection Standards

Plans for transient accommodations, marinas, nursing homes, convalescent centers, multi-family developments, hospitals, schools, theaters, mercantile developments over 3000 sq. ft, business occupancy of 2 or more stories, etc. shall be approved by the State Fire Marshal's Office.

Motion By: Eric Davis

Second By: Ken Salvatore

Motion: *This standard does not apply, structures are less than 3000 sq ft.
All buildings are required to meet Town building, plumbing and electric codes.*

Vote: 5-0

G. Flood Hazard Area Standards

A Flood Hazard Development Permit must be obtained from the Town before any change caused by individuals or entities to improve or unimproved real estate begins within any areas of special flood hazard identified on the Federal Insurance Rate Maps for Southwest Harbor.

Motion By: Eric Davis

Second By: Ken Salvatore

Motion: *This standard does not apply as no portion of project is located in Flood Plain.*

Vote: 5-0

H. Handicapped Access Standards

Plans for public accommodations and public housing shall be approved by State Fire Marshal's Office.

Motion By: Eric Davis

Second By: Ken Salvatore

Motion: *This standard does not apply as no portion of project is for public accommodations or public housing.*

Vote: 5-0

I. Heavy Commercial or Industrial Pollutant Standards

Dust, dirt, fly ash, gases, fumes, radiant heat and glare shall not be emitted so as to endanger public health and safety, enjoyment of other property, or as to constitute air pollution.

Motion By: Eric Davis

Second By: Ken Salvatore

Motion: *This project will not produce dangerous or hazardous materials, no transferring of materials on site is allowed inside or out on either lot. Project is subject to change of use and revision of site plan if use changes to a condition that may generate such material. The requirements of Section VI. I. 1, 2. have been met.*

Vote: 5-0

J. Noise:

No noise which is objectionable due to volume, intermittence, beat frequency or shrillness shall be transmitted outside the lot.

The Planning Board reserves the right to determine if noise from a proposed project or an expansion of a use will be "objectionable". A majority vote of the Board is required for this determination.

1. Will there be any objectionable noise transmitted outside the lot?
2. If there is noise that may be objectionable, the Board must determine by majority vote.

Motion By: Eric Davis

Second By: Ken Salvatore

Motion: *This project shall only produce noise that is non objectionable due to volume and intermittence. The requirements of Section VI. J. 1, 2. and 3. have been met.*

Vote: 5-0

K. Parking and Loading Standards.

Planning Board to determine the below as acceptable.

Motion By: Eric Davis

Second By: Ben Worcester

Motion: *The site plan shows adequate parking, 2 spaces for apartment, 6 spaces for office and garage with two employees. The existing garage has 3 spaces for company trucks with additional gravel area for extra parking and maneuvering. The standards of Section VI. K. 1, 2, 3, 4, have been met.*

Vote: 5-0

L. Road Standards

Provision shall be made for vehicular access and circulation in such a manner as to safeguard against hazards to traffic and pedestrians on existing roads within a development, to avoid traffic congestion on any road, and to provide safe and convenient circulation.

Motion By: Eric Davis

Second By: Ken Salvatore

Motion: *This standard does not apply as no roads are proposed.*

Vote: 4-1 John Williams voted no based on concerns of road width as he interprets the Ordinance.

M. Sewerage Disposal Standards

Existing public service is available. A condition of for cooking facilities requires a grease trap be installed as part of the plumbing requirements.

Motion By: Eric Davis

Second By: Ben Worcester

Motion: *The application includes a HHE-200 designed by William LaBelle This standard has been met based on septic design submitted that is in conformance with the State of Maine Subsurface Wastewater Disposal Rules*

Vote: 5-0

N. Sign Regulation Standards

Motion By: Eric Davis

Second By: Ben Worcester

Motion: *This standard does not apply as no signs are proposed for this project.*

Vote: 5-0

O. Soil Standards

All land uses shall be located on soils in or upon which the proposed uses or structure can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution whether during or after construction.

Motion By: Eric Davis

Second By: Ken Salvatore

Motion: *The site plan shows the maximum side slopes at 2 to 1 ratio, all disturbed areas shall be loamed and seeded for permanent stabilization, the proposed uses and*

structures can be established and maintained without causing adverse environmental impacts. The standards of Section VI.O. have been met.

Vote:

P. Storm Water Runoff Standards

Adequate provision shall be made so that surface waters shall not adversely affect neighboring properties, downstream water quality, potential for soil erosion, or the public storm drainage system.

Motion By: Eric Davis

Second By: Ben Worcester

Motion: *The site plan shows adequate provision has been made so surface waters will not adversely affect neighboring properties, downstream water quality, potential for soil erosion, or the public storm drainage system. This standard has been met based on stormwater and soil erosion control plan made part of this application.*

Vote: 5-0

Q. Stream Standards

Existing vegetation within 25' of a stream shall remain undisturbed.

Motion By: Eric Davis

Second By: Ken Salvatore

Motion: *This standard does not apply as no portion of project is within 25' of a stream.*

Vote: 5-0

R. Vibration Standards

If inherently and recurrently generated, it shall be imperceptible without instruments at lot boundaries.

Motion By: Eric Davis

Second By: Ken Salvatore

Motion:

Suggested Motion: The revised site plan in note N. no vibrations not associated with normal construction may propagate beyond property lines. This standard has been met.

Vote: 5-0

S. Water Quality Standards

No activity shall deposit on the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.

Motion By: Eric Davis

Second By: Ken Salvatore

Motion: *No portion of this project will deposit on the ground or discharge to the waters of the State or impair designated uses or the water classification. This standard has been met.*

Vote: 5-0

T. Water Supply Standards

When the Town water supply is to be used, a permit must be obtained from the Southwest Harbor's Water Department. This permit plus payment (or letter of intent to pay) must be filed in the Town Office before a building permit can be issued. The water permit certifies compliance with the Southwest Harbor Water Ordinance.

Motion By: Eric Davis

Second By: Ken Salvatore

Motion: *This standard does not apply as project will utilize private water and septic.*

Vote: 5-0

Motion By: Eric Davis

Second By: Chris Blain

Motion: Planning Board Action on February 4, 2021, by a vote of 4-0-1 to approve the application of James H. Norwood to construct a new commercial garage and office with attached 2 bedroom apartment and Change of Use from Home Occupation to commercial garage with conditions.

Conditions: Buffering Requirements noted on drawing C-1 items 1-4 (a copy of those requirements are attached as **Exhibit A**) are made part of this approval.

Vote: 4-0-1

VI. New Business:

None

VII CEO Issues-None

VIII. Next meeting Thursday February 18, 2021

Motion: To schedule next meeting Thursday February 18, 2021

Motion by, Eric Davis, 2nd by Lee Worcester

Motion passed: 5-0

IX. Adjourn Meeting

Motion: To adjourn meeting at 7:24pm

Motion by, Eric Davis, 2nd by Ken Salvatore

Motion passed: 5-0

Planning Board Chair _____

EXHIBIT A

BUFFER REQUIREMENTS

1. Proposed site plan to include an approximately 175' X 45' buffer along the Levesque Property line, to include an earthen berm, five feet above finished grade. Topped by a 6-Foot high wooden fence, planted with 6' tall evergreen trees, staggered 7-feet on center; a sketch of the buffer is attached as Exhibit A;
2. The new exterior parking area closest to the Levesque Property line will not be used for large commercial truck parking, but will be limited to automobiles, light trucks, trailers and equipment. This limitation is not applicable to the interior of the commercial garage;
3. Exterior lighting shall be shielded, and not directed at the Levesque Property. No exterior lighting shall be applied to the side of the commercial garage and apartments parallel to the Levesque Property line;
4. Until the above-referenced berm is constructed, Norwood shall limit his hours of operation at the new parking area, new garage and apartments to 7:00 a.m. – 4:00 p.m. Monday through Friday, and 7:00 a.m. – 12:00 p.m. on Saturdays with no operation on Sunday. This restriction does not apply to buffer installation or self-performed site plan construction activities. Except there shall be no operation of any construction activities on Sunday.