

Town of Southwest Harbor
Planning Board Minutes February 27, 2020

Roll Call –John Williams, Chris Blain, Michael Levesque, Jack Ksionzyk and CEO John Larson were present, Lee Worcester, Eric Davis and Ken Salvatore were excused.

Visitors not on agenda but signed in– Jennifer Perruzzi, Jay Perruzzi, Sarah Hinckley,

Greg Johnston, Anne Napier, Rick Sayre, Lydia Goetze.

Adoption of agenda for tonight’s meeting.

A motion to table Item VII proposed Ordinance enactments was made by Michael Levesque, 2nd Jack Ksionzyk, and vote 4-0.

Old Business:

Richard P. Bradford/G. F. Johnston & Associates
Final Subdivision Application/Amendment to Hillcrest Acres Subdivision #3
Tax Map 015 Lot 69-5 Located in “B” Zone
Finding of Fact

**FINDINGS OF FACT AND DECISION
ON APPLICATION FOR SUBDIVISION APPROVAL**

Subdivision Name: First Amendment to Hillcrest Acres Subdivision #3
Applicant’s Number: 207-244-1200
Applicant’s Name: Richard P. Bradford/G.F.Johnston & Associates
Applicant’s Address: P.O. Box 197

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 X Not Met

Reasons: based on elevation map, subsurface waste water disposal system submitted and existing well water, slope of land, and information provided by applicant, subdivision will not result in undue water or air pollution.

Motion by: Michael Levesque
Discussion: None

Seconded by: Jack Ksionzyk
The motion carried unanimously.

2. Sufficient Water. The proposed subdivision has sufficient water available for the foreseeable needs of the subdivision;

Met Not Met

Reasons: based on data provided by water well information as part of application, the proposed subdivision has sufficient water available for the foreseeable needs of the subdivision

Motion by: Michael Levesque
Discussion: None

Seconded by: Jack Ksionzyk
The motion carried unanimously.

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 N/A

Reasons: No public water supply.

Motion by: Jack Ksionzyk
Discussion: None

Seconded by: Michael Levesque
The motion carried unanimously.

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

Reasons: based on the fact there is no new road construction and the existing gravel road will serve 3 of the proposed dwelling units, will not cause unreasonable soil erosion.

Motion by: Jack Ksionzyk
Discussion: None

Seconded by: Michael Levesque
The motion carried unanimously.

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

Reasons: based on the fact that the proposed three dwelling units off existing private road will not cause unreasonable highway or public road congestion or unsafe conditions.

Motion by: Michael Levesque
Discussion: None

Seconded by: Jack Ksionzyk
The motion carried unanimously.

- 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

Reasons: Based on information provided in HHE-200 by a licensed site evaluator and use of existing well, will not cause an unreasonable burden on municipal services.

Motion by: Jack Ksionzyk
Discussion: None

Seconded by: Michael Levesque
The motion carried unanimously.

- 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

Reasons: based on the municipality's ability to dispose of solid waste, the three additional dwelling units will not cause an unreasonable burden on the municipality's ability to dispose of solid waste.

Motion by: Michael Levesque
Discussion: None

Seconded by: Jack Ksionzyk
The motion carried unanimously.

- 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

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: Jack Ksionzyk
Discussion: None The motion carried unanimously.

- 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 ordinance and plans;

Met Not Met

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

Motion by: Michael Levesque Seconded by: Jack Ksionzyk
Discussion: None The motion carried unanimously.

- 10. Financial and technical capacity.** The sub-divider has adequate financial and technical capacity to meet the standards of this section;

Met Not Met

Reasons: based on the fact there is no new road construction and quality of existing homes support owner's technical capacity to complete project, the need for financial statement is waived.

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Motion by: Michael Levesque Seconded by: Jack Ksionzyk
Discussion: None The motion carried unanimously.

- 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 1, 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: Jack Ksionzyk
Discussion: None The motion carried unanimously.

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

Reasons: based on the fact there is no new road construction and retention of natural buffers, the subdivision will not adversely affect quality or quantity of ground water.

Motion by: Michael Levesque Seconded by: Jack Ksionzyk
Discussion: None The motion carried unanimously.

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: Jack Ksionzyk
Discussion: None The motion carried unanimously.

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 X

Reasons: Not Applicable as no wetlands identified on proposed subdivision.

Motion by: Michael Levesque Seconded by: Jack Ksionzyk
Discussion: None The motion carried unanimously.

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 X

Reasons: Not Applicable. No river, stream or brook identified on plan.

Motion by: Michael Levesque Seconded by: Jack Ksionzyk
Discussion: None The motion carried unanimously.

16. Storm Water. The proposed subdivision will provide for adequate storm water management;

Met X Not Met

Reasons: The storm water management plan submitted meets the criteria.

Motion by: Michael Levesque Seconded by: Jack Ksionzyk
Discussion: None The motion carried unanimously.

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 X

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

Motion by: Michael Levesque Seconded by: Jack Ksionzyk
Discussion: None The motion carried unanimously.

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: Jack Ksionzyk
Discussion: None The motion carried unanimously.

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 amended subdivision crosses municipal boundaries.

Motion by: Michael Levesque Seconded by: Jack Ksionzyk
Discussion: None The motion carried unanimously.

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 N/A

Reasons: No harvest has taken place in past five years as defined in Title 12, section 8869, subsection 14.

Motion by: Michael Levesque
Discussion: None

Seconded by: Jack Ksionzyk
The motion carried unanimously.

Other terms and conditions: None

Vote to Approve Final Subdivision Application/Amendment to Hillcrest Acres
Subdivision #3

Votes in favor 4

Opposed 0

Next Meeting March 5, 2020, Thursday @ 6PM.

Meeting adjourned 7:25 pm moved by John Williams, 2nd by Chris Blain, motion passed
4 to 0.

Planning Board Chairman _____