

Town of Southwest Harbor  
Planning Board Minutes June 20, 2019

Roll Call –Jack Ksionzyk, Eric Davis, John Williams, Lee Worcester, Jesse Dunbar, Chris Rawls and CEO Don Lagrange were present. Ken Salvatore was excused

Visitors not on agenda – Anne Wolak brought up a complaint about a Planning Board member. Her complaint was made part of the record.

A motion to approve the minutes from May 17, 2019 Planning Board Meeting made by Lee Worcester, 2<sup>nd</sup> by Eric Davis, vote 6-0.

Old Business –

Continued review of Causeway club pickle ball and tennis court application for 13 Fernald point road. Susan Allen of the Causeway club presented the plan for storm water run-off for the pickle ball and tennis courts. Surface is very permeable and runoff will be limited. Chad Terry asked for a copy of the material the courts are made out of due to his new well-being within 20 feet of it.

CEO asked which courts were permeable, Susan Allen clarified it was the tennis court surface.

Worcester made a motion to accept the storm water runoff plan as presented, second Jack K. Vote 6-0

Noise buffering – Susan Allen presented 10 foot high chain link fence, with a product that is a sound barrier, natural buffer maintained, Tennis court has 10 foot CLF, Wind Screen, Solid Surface on fence facing abutters new home. Williams asked about increasing the setback to 15 feet as requested by an abutter, she said she had.

Davis suggested the solid fencing be extended all the way down the length of the court, within 25 feet of Fernald point road. CEO recommended bringing the solid fence down the easterly side to better protect the abutter, to within 25 feet of the road. Motion made that the applicant has met noise standards for the application provided application amended to bring the solid fence to within 25 feet of the road by Eric Davis, 2<sup>nd</sup> by Worcester, Vote 6-0

Motion made to approve the application to build tennis court and pickle ball court at 13 Fernald point road, made by Lee Worcester, 2<sup>nd</sup> by Eric Davis Vote 6-0

John & Martha Williams Parking lot 376 Main Street map 003 lot 003

Don Lagrange explained what was approved at the prior meeting and that Storm water and buffering was continued to tonight's meeting.

John Williams recused himself from the board at this time and introduced Greg Johnston.

Greg Johnston of G. F. Johnston Associates Civil engineer presented the Storm Water plan. Did a site visit to figure out topography and how the site is currently working. Made suggestions on grading changes, rain gardens, explained how the rain gardens work. The plan has addressed it at a higher level than the ordinance requires. Revegetation and check dams in the ditches are on the plan. Regrading at the entrance to the parking lot, slightly away from edge of pavement.

Visitor asked about minimizing amount of run off, per the ordinance. Are these features going to be able to minimize the change due to the construction. Yes it will simulate predeveloped conditions. Stringent erosion control standards, permanent buffering, silt fence are in the plan. Greg Johnston clarified his company did not prepare landscape and buffering plan. Rawls asked what will keep the water from going onto 3 rod road, Areas have been bellied and summited to redirect run off back to rain gardens and away from 3 rod road. Rawls asked about snow removal, Johnston addressed that it is not part of the ordinance, but they address maintaining the storm water plan means cleaning the basins in spring and fall.

Completed a thorough storm water plan. Visitor asked about the 3 rod road ditch, Greg Johnston stated he can only speak to the part located on the parking lot property, as the whole ditch is not. Downslopes should be vegetated as part of the plan.

A visitor expressed concern that the plan would be implemented as designed and maintained appropriately. Eric Davis assured that if it was approved that it would be enforceable to be implemented as planned and maintained. Williams said they would be maintaining the ditch along 3 rod road regardless of who owns it.

Anne Wolak mentioned two state laws regarding storm water and erosion control measures being installed prior to construction. Davis explained an enforcement issue is for the Code Officer, not the Planning Board, the Planning board is just reviewing the plans presented. Anne mentioned state law may not disturb more than 1 acre of land without approval from DEP. Greg Johnston explained his gravel area disturbed is less than 1 acre, chapter 420-D does not apply in his opinion. Johnston surveyed the gravel area when he started.

Visitor asked if page 41 of the LUO stating 20,000 sq feet was correct, Johnston explained it was not correct according to 420-D.

Visitor asked about an after the fact permit for the 2000 yards of fill. Davis explained that that is an area the CEO needs to deal with. Williams explained there is 2000 yards of fill are in there. "We removed a house, barn, and mobile home. Under the permit to remove the building we were allowed to remove them, and do grounds work needed for the project". Davis stated he may or may not be in violation of a fill permit, but we are basing the decision on what is presented tonight. The fill violation is a CEO issue.

Justin VanDongen asked if there are any additional standards that they would need to meet by seeking the 2000 yard fill permits. Worcester said "we need to acknowledge fill would have

been considered a portion of the demolition permit. He has the amount of material needed to regrade his property". VanDongen clarified his point, would there be additional standards to what is already being imposed. Worcester answered no, same standards applied to change of use as the fill permit, frankly could be less for just a fill permit.

Worcester moved to accept the storm water management and erosion and control plan as submitted by G.F. Johnston & Associates, with the modification that upon completion it be certified that it was completed as designed by a certified engineer. Seconded by Eric Davis. 5-0

An audience member asked about tour buses creating an issue, Davis advised that was a state issue due to state road, and the state had issued a permit for it.

Review of the Landscape & Buffering Plan – John Williams presented the Landscape & Buffering Plan done by Michael Gillis of Bar Harbor. Williams explained the existing natural buffering that is already in place. They are proposing a 6' fence that will actually be closer to 7' due to the uneven ground, fence will be 18 inches off the property line, solid fence, it will run down the northerly side of the property lines and partially down the western side. Visitor asked "Are you including the wooded area behind Strong/ Wolaks?" Williams answered Yes, will follow the property lines. 10 foot buffer of trees, staggered every 12 feet evergreen, all along the fence line, out to 10 feet. Along the line where the sumac is there is a gap, we will throw some trees in there as well. Greg Johnston asked about the level 3 buffering, doesn't the ordinance allow trees or a fence, Worcester clarified the board did not require both, however the plan does show both. Williams said they were going the extra step to do both. "We have 3 bidders on the fence, Sprague's nursery is standing by with trees. Until the fence is up we won't park cars along that side."

Don Lagrange clarified that Williams was increasing the setback to 11 feet 6 inches, only required 6 feet. Williams said yes they wanted to go the extra step.

Wolak pointed out that the buffering plan shall be implemented before the permitted use. Lagrange asked when trees will be planted, Worcester asked about fence. Williams said the trees are ready now, he would have to talk with Sprague. "Trees are secured, waiting to hear back on fence, we can start the trees right away". Visitor asked "Once it is approved tonight how specific is it?" Davis stated once the plan is approved it is implemented as planned, 6-7 foot fence, evergreens roughly every 12 feet staggered. Williams stated we are still going to have a fence and trees. We will not have cars near the northerly side until fence and trees are in. Davis read the ordinance that says the buffering plan must be implemented prior to using the parking lot unless the CEO states otherwise.

Greg Johnston asked about them having 3 years to complete the project once a substantial start has begun. He will immediately take steps to buffer, that's on record. Worcester stated that the buffering specifically states it must be implemented before commencement. Johnston asked if he was correct in hearing the fence and trees would be done as soon as possible, Williams said yes that is correct.

An audience member asked "Once the plan is approved, if it says it is a contiguous fence, if he does not put in an area at a request of an abutter would he be in violation?" Davis answered Yes.

John Williams said he would like to amend his plan to take the section of fence out along Strongs western side property line, but maintain the buffering, I will still put trees there. Worcester "This is the plan that is approved, this is the plan that will be now and forever until it is altered."

Worcester – "Can you give a time frame for the fence? Can it be up by September?" Williams said it would be in a couple weeks. Worcester "Ok by August?" Williams said Yes.

Davis pointed out it was up to the CEO to address when the buffering plan needed to be completed after the board approved it. Lagrange said that was correct.

Greg Johnston said he thought his existing natural buffer should be considered in the buffering plan being implemented for use of the parking lot.

Wolak asked about spot light being removed, Williams stated it was supposed to be down soon, has a work order to get it done.

Worcester moved to accept the landscape plan as amended, seconded by Chris Rawls, Vote 5-0

Worcester moved to approve the application from John & Martha Williams to construct a parking lot at 376 Main Street Map 003 lot 003, seconded by Eric Davis 5-0

Tom Benson – Revision to approved plans for the Westwind Subdivision, Benson explained he wanted to extend the road and add the remaining lots 5-10. Road length is 550 feet. Each lot will have town water and sewer stubbed in. Lots 1-6 are required to use TW &S, Lots 7-10 will have a choice due to lot size.

Eric Davis went through the review criteria, Benson explained where each item was located on the plan.

Davis made an announcement that agenda item about marijuana has been moved to the next meeting August 15, 2019

Davis moved that the application was complete. Second by Ksionzyk. Vote 6-0

Review Criteria Performance Standards

Pollution – Worcester moved, Second Dunbar 6-0

Water – letter from SWH Water Davis moved, Williams asked about fire hydrants, Don Lagrange said they would be installing one. Dunbar seconded 6-0

Ground Water – Worcester moved it will not affect water, second Dunbar 6-0

Erosion – based on Greg Johnston’s plan and best management practices motion made by Davis  
Second by Worcester 6-0

Storm Water – Davis Moved Worcester Seconded 6-0

Sewage disposal – Town Sewer used, Moved Davis, Second Dunbar 6-0

Solid Waste – EMR has more than enough capacity, Davis Moved, Dunbar Second 6-0

Traffic – Eric Davis moved it’s been met second Lee Worcester 6-0

Atheistic – Eric Davis Moved Lee Worcester seconded 6-0

Surface water – Eric Davis Moved Lee Worcester Second 6-0

Local Ordinances and plans – Eric Davis moved that it has met this standard, Seconded by Lee  
Worcester 6-0

Flood Zone Area – Eric Davis moved it’s met, John Williams Seconded 6-0

Fresh water –moved that it’s been met by Lee Worcester, Seconded by Eric Davis 6-0

Financing- moved N/A by Eric Davis, Seconded by Lee Worcester 6-0

Monumentation – Eric Moved it’s been met, monuments installed 30 days after completion of  
the road. Seconded Jack K. 6-0

Lee Worcester moved the preliminary criteria is approved, seconded Jesse Dunbar. 6-0

Eric Davis opened public hearing, no comments, Public Hearing closed by Eric Davis. 6-0

Eric Davis moved to approve the amended plan for the West wind Subdivision as presented, Lee  
Worcester seconded. Vote 6-0

Next Meeting – August 15<sup>th</sup>, 2019

Lee Worcester Moved to adjourn Seconded by Jesse Dunbar 6-0

8:19 PM.

