

Town of Southwest Harbor
Planning Board Minutes November 17, 2022

Town Office and via Zoom 6:00 PM

- I. Roll Call –John Williams, Lee Worcester, Eric Davis, Jack Ksionzyk, and CEO John Larson, Michael Levesque and Ken Salvatore were absent.
- II. The Chair called the November 17, 2022, Planning Board meeting to order at 6:00 pm.
- III. Approval of Minutes October 20, 2022
The minutes were tabled as there were not four members present at the meeting from last meeting.
- IV. Old Business:
None
- V. New Business

Amendment #2 Subdivision Plan
Seawall Pond Subdivision
Tap Map 19 Lot 21 & 21E
Determination of Complete Application

Jack Ksionzyk stated that he owned property that abuts this subdivision and asked if he should recuse himself. There not being four other members to establish a quorum and vote on whether Jack Ksionzyk should recuse himself, the new business was tabled until the December 1, 2022 meeting.

VI. CEO Items: None

VII. Next Meeting date December 1, 2022

VIII. Adjourn Meeting

Motion to adjourn at 6:20pm by Eric Davis, 2nd by Jack Ksionzyk
Motion passed 4-0.

Applicant's Number: 207-266-9963

Applicant's Name: Jesse Dunbar

Applicant's Address: 4 Blueberry Lane, Southwest Harbor, Maine 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

Reasons: based on the fact this amendment splits an existing lot into two lots with an existing house on each of the proposed lots, the amendment to the subdivision will not result in undue water or air pollution.

Motion by: Eric Davis

seconded by: Ken Salvatore

Discussion: None

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 the fact there is an existing well for each lot, adequate water is available for the foreseeable needs of the subdivision.

Motion by: Eric Davis

seconded by: Jack Ksionzyk

Discussion: None

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 NA ✓

Reasons: No Municipal water supply to be used.

Motion by: Eric Davis

seconded by: Ken Salvatore

Discussion: None

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 the amendment does not involve any soil disturbance, will not cause unreasonable soil erosion

Motion by: Eric Davis
Discussion: None

seconded by: Ken Salvatore
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 amendment divides lot with two existing structures, will not cause unreasonable highway or public road congestion or unsafe conditions.

Motion by: Eric Davis
Discussion: None

seconded by: Ken Salvatore
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 the fact a sewage disposal system exists for each lot divided.

Motion by: Eric Davis
Discussion: None

seconded by: Ken Salvatore
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 NA ✓

Reasons: There is Municipal solid waste disposal, each household has availability

Motion by: Eric Davis
Discussion: None

seconded by: Ken Salvatore
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: Eric Davis
Discussion: None

seconded by: Jack Ksionzyk
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 ordinances and plans;

Met ✓ Not Met

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

Motion by: Eric Davis
Discussion: None

seconded by: Ken Salvatore
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 the applicant is splitting one lot into two, there are no infrastructure costs, the applicant has adequate financial capacity to complete the project.

Motion by: Eric Davis
Discussion: None

seconded by: Jack Ksionzyk
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 1, 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: Eric Davis seconded by: Ken Salvatore
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 the lots are .92 to 3.19 acres in size and retention of natural buffers, the subdivision will not adversely affect quality or quantity of ground water.

Motion by: Eric Davis seconded by: Ken Salvatore
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: Erick Davis
Discussion: None

seconded by: Jack Ksionzyk
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

Reasons: No wetlands have been identified on original subdivision, amendment #1 or proposed amendment #2.

Motion by: Eric Davis
Discussion: None

seconded by: Ken Salvatore
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 ✓

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

Motion by: Eric Davis
Discussion: None

Seconded by: Ken Salvatore
The motion carried unanimously.

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

Met ✓ Not Met

Reasons: The proposed amendment involves splitting the lot with two existing structures and no soil disturbance.

Motion by: Eric Davis
Discussion: None

Seconded by: Ken Salvatore
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 ✓

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

Motion by: Eric Davis
Discussion: None

seconded by: Jack Ksionzyk
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: Eric Davis
Discussion: None

seconded by: Ken Salvatore
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: Eric Davis
Discussion: None

seconded by: Ken Salvatore
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: Eric Davis
Discussion: None

seconded by: Jack Ksionzyk
The motion carried unanimously.

Other terms and conditions: None

Date of Public Hearing: November 3, 2022

Motion on Amendment #2 Subdivision Plan for Ben C. Worcester III at Southwest Harbor, Maine

Motion made by Eric Davis 2nd by Ken Salvatore to approve the application of Jesse Dunbar for Amendment #2 Subdivision Plan as presented on the final plan submitted.

Date of Approval: November 3, 2022

Votes in Favor	Votes Opposed	Abstain
5	0	1

V. New Business:

None

VI. CEO Items: None

VII. Next Meeting date November 17, 2022

VIII. Adjourn Meeting

Motion to adjourn at 7:10pm by Eric Davis , 2nd by Ken Salvatore
Motion passed 6-0.