

Town of Southwest Harbor
Planning Board Minutes August 17, 2023
Town Office & via Zoom

- I. Roll Call- Eric Davis, Lee Worcester, Ken Salvatore, Priscilla Ksionzyk, Mike Levesque, Joel Wolak & John Williams
- II. Call to Order- Eric Davis called the August 17, 2023, Planning Board Meeting to order at 6:00pm.
- III. Approval of Minutes:

July 27, 2023

Mike Levesque motioned to amend the July 27, 2023, meeting minutes to add that the Deputy CEO commented on Section II number 8 of the Land Use Ordinance saying it was contrary to law court and should be removed.

Seconded by Eric Davis.

Discussion to clarify that this was only adding a statement to the minutes and not moving forward with the actual removal from the ordinance.

Motion passed: 7|0|0

Eric Davis motioned to approve the July 27, 2023, meeting minutes as amended.

Seconded by Mike Levesque

No discussion.

Motion passed: 6|0|1- Lee Worcester abstained.

August 3, 2023

Mike Levesque motioned to approve the August 3, 2023, meeting minutes as presented.

Seconded by Lee Worcester

No discussion

Motion passed: 6|0|1- Ken Salvatore abstained.

August 10, 2023

Eric Davis motioned to approve the August 10, 2023, meeting minutes as presented.

Seconded by Mike Levesque

No discussion.

Motion passed: 6|0|1- Ken Salvatore abstained.

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 changes a property line within two existing lots with an existing garage on one lot while the other is undeveloped, the amendment to the subdivision will not result in undue water or air pollution.

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 one lot while the other is undeveloped with no utilities, adequate water is available for the foreseeable needs of the subdivision.

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.

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 involves minimal soil disturbance, will not cause unreasonable soil erosion

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 entrance

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

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 adjusting a property line between two properties they own, the applicant has adequate financial capacity to complete the project.

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.

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 2.55 to 3.86 acres in size and retention of natural buffers, the subdivision will not adversely affect quality or quantity of ground water.

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 anypart of it, is in such an area, the sub-divider shall determine the 100-year flood elevation and

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.

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 amended subdivision crosses municipal boundaries.

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

Other terms and conditions: Buffering- 100' long berm from west property line to go east, needs to be 6' high with a 3' width on the top to be completed before the construction of the addition is to begin.

Motion by Eric Davis to add the buffering condition to the approval of the application.

Seconded by: Priscilla Ksionzyk

Motion passed: 6|0

Motion made by Eric Davis 2nd by Lee Worcester to approve the application of Michael Mansolilli, on behalf of James Norwood, for Amendment #4 to the Cody's Woods Subdivision Plan as presented on the final plan submitted.

Date of Approval: August 17, 2023

- 10) Location of existing and proposed roads/driveways with setback from nearest lot line:
Existing- Shown on plan
- 11) Name/location of existing or proposed right of way and easements on the site or abutting the property:
Shown on plan
- 12) Existing grades and any proposed changes in grades.
N/A
- 13) Soil Erosion and Sedimentation control plan:
N/A
- 14) Freshwater wetlands or hydric soils:
N/A
- 15) Plans for proposed structures must include access and dimensions, elevation plan showing height of the building and all floor plans:
Shown in application
- 16) Buffering/Landscape plan as described in Section VI.
Maintain 20' of wooded/ natural buffering between any neighbors

Eric Davis motioned that the application is complete as presented.

Seconded by Priscilla Ksionzyk

No discussion.

Motion passed: 7|0

Public Hearing & Performance Standards scheduled for September 7, 2023

VII. New Business

Jarrod Kushla/ Anne Napier
Town of Southwest Harbor
47 Shore Road Tax Map 1 Lot 71
Construction of Harbor Master Office

Harbor Committee member Anne Napier presented her site plans as well as additional forms comparing the existing building to the proposed. Ms. Napier also discussed the planning process for this project thus far with the board.

Completeness: Section VIII (C) (4) (c) of the LUO requires each application to include 16 site plan requirements, if applicable:

- 14) Freshwater wetlands or hydric soils:
N/A
- 15) Plans for proposed structures must include access and dimensions, elevation plan showing height of the building and all floor plans:
Shown on plan
- 16) Buffering/Landscape plan as described in Section VI.
N/A- no changes to existing

Public Hearing & Performance Standards scheduled for September 7, 2023

VIII. CEO Issues-

Deputy CEO Abbott did not have any issues to report but did inform the board that she had accepted the Town Clerk position in Tremont. During the transition period Abbott will continue to cover Southwest Harbor but will have to work out the details with both town managers.

IX. Next Meeting Date: September 7, 2023

Regular Planning Board Meeting, Thursday, September 7, 2023 @6:00pm

X. Adjournment

Mike Levesque motioned to adjourn the August 17, 2023, Planning Board meeting at 7:16pm.

Seconded by Eric Davis.

No discussion.

Motion passed: 7|0

Respectfully submitted,

Sarah Abbott
Deputy CEO

APPROVED



Planning Board Chair

Date: 9/7/23