

Town of Southwest Harbor
Planning Board
August 19, 2010
6:00 p.m. – Southwest Harbor Town Office

MINUTES of MEETING

I. Call to Order/Roll Call: 6:04 p.m. Present: CEO, Donald Lagrange, Planning Board Members: Lee Worcester, Michael Magnani, Gordon Wissinger, Ryan Donahue, Chris Rawls, excused: Eric Davis.

Visitors: Greg Johnston, Marc Chalfoun, Anita Chalfoun, Victoria Paskett, Timothy Rich (BH Times).

II. Visitors to be heard not on the Agenda: none

III. Pre-Application Review: Anna's Quietside Cottages – Second Phase; Agent: Greg Johnston. Johnston said this is a second phase mixed use encompassing a proposed 19 units. It will be mixed between single family and attached units. The property is in Zone A, served by public sewer and water with existing fire hydrants on site. Roads serving the units are located along the runs of older existing roads, with foot paths to connect to the downtown area. The applicant is here to present a preliminary sketch for review by the Board. Wissinger asked Johnston to walk the Board through the sketch. Units in color are buildings that will contain new units – shaded gray are approved units from phase 1 – some phase 1 buildings are colored because they will contain new units. There will be a total of 30 units at the conclusion of phase two. Chalfoun added that unit 1 does not exist, and unit 2 does not exist – but was permitted in the earlier phase. Unit 3 pre-existing, and applicant wants to add to that unit. CEO said lot coverage should not be an issue as Zone A allows 100% coverage. Johnston said it will be clearer after a site walk. Chalfoun said the Board approved last November an accessory structure to the entire property – numbered 12. The applicant would like that to be its own year round unit, as now it is only allowed to be seasonal.

Wissinger will review the prior applications with the CEO. Chalfoun said the pond was mid 80's, and DEP has provided a letter saying this is man-made and not an intermittent stream. Rawls asked if the wetlands were delineated in prior applications. Johnston said they were and all those documents will be presented with this application. Rawls asked about the stormwater run-off. Johnston said that is being addressed by rain gardens outside each unit for filtration. Chalfoun said there would be a road to units 10A & B. Johnston said there will have to be improvements to some of the roads, and the applicant has put in underground utilities to enhance the view. Johnston said tonight they would like to schedule an

on-site visit. Donahue asked the prescribed size of the units, in general. Chalfoun said traditionally units have averaged 24 x 32 – but every unit that has been built has been different. There are many sizes. Existing unit 3 is big, and is designed to house a large family reunion. Unit 12 is a 22 ft tee-pee seasonal unit. It will be a 4 bedroom unit in the future. Donahue asked about the 10 space car port – is the plan to have that right where it is depicted? Johnston said that is very close to the actual spot. Johnston said it will have access by a road yet to be built. Magnani asked about the allowable development. CEO said applicant can cover the entire 7 acres in that zone. CEO said he will present this application to all department heads to receive comments and give the applicant time to respond. Johnston asked for copies of any correspondence commenting on this project. Chairman said the site visit would be advertised for September 2nd at the property at 5pm. Wissinger, Magnani, Worcester, Donahue will attend.

6:40 p.m.

IV. Approval of Minutes – July 22, 2010 It was Moved (Rawls) and Seconded (Magnani) to approve the minutes of July 22, 2010 as presented. Vote: 5 - 0

V. Workshop: The workshop began at 6:45 p.m. Chairman reminded the Board that if any changes to the Ordinance(s) are to be voted on by the Town in November, those changes need to be decided tonight, in order to make the timeline.

- The Board reviewed the Marijuana Moratorium, with the Chairman saying, it is now, by State Law, considered a medical treatment, and suggested the Board review the definition as the dispensing of a prescription drug. Presented was the premise that medical marijuana would be confined to distribution by an entity licensed to dispense prescription drugs, in a fixed location. State law will regulate amounts for distribution and those who may receive this prescription drug. Wissinger said the question to the Board is, does the Town care where this drug is sold? Do we have the need to limit it to three places in Town? CEO said the State regulates distances from schools, churches, etc. Worcester said that at the time the Moratorium was enacted by the Town, the State had not come up with their plan. They now have their plan in place. The Board agreed that the three locations (Drugstore, and both Medical Centers) were appropriate limitations for the dispensing of prescription marijuana. It was Moved Worcester and seconded Wissinger to accept the definition for marijuana and definition for dispensary and request it be put on the ballot in November. 5 – 0
- Wissinger suggested reviewing the Shoreland Zoning requirements of the State as the next item of business. CEO said he did not see any aspects of these definitions that would affect aspects of our Town that are not within the Shoreland Zone. Worcester asked in connection with non-conforming structures Section III: C.1.a, if there is any area of Town where it would

be a problem. CEO said that is also in State Statutes, and it cannot be made more non-conforming regardless of what zone it is in, unless there is a variance granted by the Board of Appeals. The wording change would eliminate a variance being allowed by a Board of Appeals. Donahue pointed out that this change is directed at relocation of a structure. Wissinger agreed and suggested that the change should be made in Section III, subsection C.2.a, rather than C.1.a. CEO agreed. Worcester suggested that there be a separate statement indicating that in the Shoreland zone a structure may not be re-located. This allows some flexibility in other zones within the Town. This change is only talking about relocation, not expansion. Worcester said the State can only require that this be put in the ordinance relating to the Shoreland Zone, and suggested wording to restrict the change to the Shoreland Zone. CEO will research this item and the Board will move to “Shoreland zone elsewhere” Section III: C.2.c. Board agreed to change the addition to this section to read: or within the Shoreland area.

- Definition of Resource Protection Zone: Section IV. These additions are required by the State, and will be included for change as written.
- Zone A. Board agreed with C.1.c change and V.C.1.f. Board agreed to this change. Structure Standards: C.1.c. Section VI: Performance Standards B.2. It was Moved and Seconded to accept the changes to the resource protection zone as presented. Vote: 5 – 0
- Resource Protection zone Item C.1.c: Structure Standards: Wissinger asked for clarification on the measure used for the 250’ – is it the high water mark? Suggested inserting from the shoreline except for those facilities outlined in item A.2 above, after 250’. Remaining portion to read as written. Board agreed.
- Section VI: B: Clearing or removal of vegetation standards other than timber harvesting” subsection 2: it was suggested to remove item 1.b; however, under item B.1.b, CEO said that must remain, and the Board recommended for B.1.b: add after elsewhere, after the 250’ and change the word District to Zone.
- Section VI: B.2.a. CEO said this refers to the point system for cutting and clearing within this zone Change to: In all other Shoreland areas, except for B.1. above:
- Section VI: B.2.a.2: refers to the point system allocated by the State for cutting in the Shoreland zone. Change “For the purpose of Section VI.B.a.2 and change to For the purposes of this section.

- Section VI: B.2.b.2: ‘exception- this provision shall not apply to’ – the Board discussed the zones to be included in the exceptions listed: It was agreed to leave the change as stated.
- Section VI. C.3.b and Section VI C.3.c will remain as changed.
- Section VI. C.3.d – change the wording to replace Section VI.C.3 to This Section.
- Section VI C 9, 20, 11 and 12: preface this by inserting: The following are applicable to all Shoreland Areas.
- Section M 2 f : add the phrase: roads in Shoreland areas shall be designed, constructed...Board decided to make M2g, M2f and move M2f to M2g prefacing all the remaining subsections, including the new M2g with the phrase: The following are applicable to all shoreland areas.
- Section VII, O.1: this addition is fine. Section VII, 0.3 – no change
- Section IX: Appeals, IX.B.d & f – no changes.
- Section XIII: Definitions – Wissinger suggested pulling these out as they do not specifically apply to Shoreland zones. Worcester said these definitions will affect every zone. The Board agreed they would not be included in the Shoreland zoning changes. It was agreed to remove Dwelling Unit, Height, Lot Area, Lot Standards and come back to those at another time, to make the changes, as they are not directly related to Shoreland areas.
- It was Moved Wissinger and Seconded Worcester to approve the Ordinance changes as amended to go before the Voters in November, and further that the Board will address the definition changes for Dwelling Unit, Height, Lot Area and Lot Standards at a later time. Vote: 4 – 0.

VI. Meeting Schedule: Have done the moratorium. Section VIII (Wissinger) suggested reviewing these. A.1.f has been removed. Section VIII C.1.f should be re-numbered to Section VIII C.1.g; of Findings of Fact. Section VIII D.3.f should be reworded to say the approval shall include a statement of Findings of Fact. It was Moved and Seconded to accept the changes to Standards for the Zone as amended and reviewed, except for section H. Vote: 4 – 0.

VII. Adjournment: It was Moved and Seconded to adjourn the meeting at 9:00 p.m. Vote: 4 – 0