



CITY OF BIDDEFORD

Planning and Development Department

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Planning Board Meeting Minutes

Date: January 20, 2021
Time: 6:00 PM
Location: REMOTE ACCESS MEETING (1MRSA § 403-A permits public proceedings through remote access during the declaration of state of emergency due to COVID-19).

1. Pledge of Allegiance
2. Declaration of Quorum/Voting Members
 - Quorum Present: Chair William Southwick, Sean Tarpey, Spiros Droggitis, Michael Cantara (Alternate Voting Member).
 - Absent: Bruce Benway, Roch Angers, Alexa Plotkin (Alternate Voting Member)
3. Adjustments to the Agenda
4. Planner's Business
5. Consent Agenda
 - 5.A. Approval of Planning Board Meeting Minutes of December 16, 2020
 - MOTIONS:
 - Cantara-MOTION: To approve Meeting Minutes for December 16
 - Droggitis-SECOND with the caveat that typos be repaired
 - Chair Southwick-Roll Call for Vote-Unanimous Approval (4-0) all in favor (Tarpey, Droggitis, Cantara & Southwick)
6. Unfinished Business
7. New Business
 - 7A. New Business-Packet Summary-January 20, 2021
 - It was discussed that Planner Tansley put the summary packet together for the Board to peruse before the meeting in his absence.
 - 7B. 2020.41 Shoreland Zoning Determination of Greatest Practical Extent for Linda Nash & Steve Rosenfield at 1 Sea Spray Drive (Tax Map 67, Lot 26-1) in the Coastal Residential and Limited Residential (Shoreland Zone).
 - Chris DiMatteo, Consulting Planner, did a brief overview of the project.
 - Mike Morse of Morse Environmental Consulting represented the home owners and spoke on the project.
 - Mr. Tarpey asked Mr. Morse what was his take on moving the Greatest Practical Extent away from the resource area.
 - Mr. Morse answered that the ordinance has removed any subjectivity from this design due to the specific language. The ordinance sets standards for:

- a. Size
 - b. Slope
 - c. Structures
 - d. Abutters
 - e. Vegetation
 - f. Septic System
- Mr. Tarpey voiced that he didn't feel he got an answer to his question.
 - Mr. DiMatteo mentioned that it is practical for the Board to make determinations based on what is presented. Some options may not be presented as cost may come into it or for other reasons.
 - Mr. Cantara asked why the driveway has not been used to pull back the building.
 - Mr. Morse answered that the lot is small and is laid out longitudinally. There is not a lot of depth to move the driveway, there would be no turning radius changing the driveway would not be practical or natural.
 - Mr. Cantara said that he is not convinced moving the driveway is not a possibility.
 - Mr. Morse said they are trying to strike a balance.
 - Chair Southwick opened the meeting to the public:
 - Joe Lyons of 27 Sea Spray Drive: Mr. Morse's response about the driveway makes no sense to Mr. Lyons, it is a dirt road. Mr. Lyons spoke about a new house across the street from him (28 Sea Spray) when this project was brought to the Planning Board the public and Board was presented with a footprint and could see where on the lot the house would be placed. Mr. Lyons wants to know where the new house is going and why there is no footprint on the plans. Mr. Lyons also wants to know why the marsh across the street has not been taken into consideration and is not on the plan.
 - Carol Chiungos of 5 Sea Spray Drive: would like to know why the % of lot coverage is listed as TBD. The % of lot coverage should be known ahead of time. Ms. Chiungos would also like to know why there is no septic information. Ms. Chiungos would like to know how many bedrooms will be in the new house and how big the new house will be.
 - Mr. Morse answered that there were assumptions made in determining the distance of the salt marsh to the locus property and septic. The assumed distance was over 81' to the coastal wetland edge and the structure would be over 100' to the marsh. The surveyor did not feel it was necessary to include the marsh on the plan as he did not believe it was a factor to the locus and new structure.
 - Mr. Morse also said it is too early to determine a footprint for the new structure. The team is compiling information and are working with the Codes Enforcement Officer once information is analyzed footprint will be started.
 - Chair Southwick opened the meeting up to the public again as more hands were raised.

- **Richard Herlihy 81 Granite Point Road (Abutter):** Mr. Herlihy would like to know what is going to be built, he feels that there must be a rough idea as to what is to be built, he does not believe that there is no idea yet.
- **Joe Lyons 27 Sea Spray Drive:** Mr. Lyons believes Mr. Morse is being disingenuous about the process, the fact that the marsh is not relevant does not make sense. His neighbor submitted a footprint of the house he thinks a footprint should be submitted to determine where on the lot the house would stand and what the greatest practical extent will be. Mr. Lyons feels that Mr. Morse is avoiding answering the questions.
- **Chair Southwick** asked Mr. DiMatteo to look at page 32 if this is an overlay of the proposed new structure, diagram SEI.I.
- **Mr. DiMatteo** read from the ordinance on reconstruction or replacement of the house. Mr. DiMatteo said the ordinance relies on the original structure and as a Board we rely on what is provided by the applicant.
- **Chair Southwick** then closed the meeting to the public
- **Mr. Morse** said he was sorry if he appears disingenuous and does not want to offend anyone. Mr. Morse is bound to the ordinance and its provisions. The ordinance does not require the designer to provide what may go on the lot. The house is not designed yet. The HHE-200 just came back, the existing house has 4 bedrooms, the HHE-200 shows the proposed house also has 4 bedrooms. Lot coverage is unknown, the existing structure exceeds the lot coverage declared in the ordinance, the proposed structure will be no greater than the existing home. Because the marsh is in excess to the 100' setback line it was not considered to be important to have on the plan.
- **Mr. Tarpey** is concerned that the wetland should be on the plan with the distance to the locus property shown.
- **Mr. Cantara** echoes Mr. Tarpey's statement about the wetland being shown with the distances on the plan. Mr. Morse has mentioned that the distance of the marsh to the locus property was determined by making a guess and assumption. He would like the specific measurements on the site plan to demonstrate that the marsh is not a factor. Guesses and assumptions make Mr. Cantara very uneasy they are not tangible. Mr. Cantara still questions why the driveway is not being utilized.
- **Mr. Tarpey** mentioned that the Shoreland projects that are presented are usually reconstruction, either moving or tear down and rebuild. This particular project sounds like a new structure and Mr. Tarpey would like to step back and re-familiarize himself with this part of the ordinance compared to this project. Mr. Tarpey mentioned his confusion about this project.
- **Mr. Morse** mentioned that the reality is that if they went to build this same structure now, the code would not allow it. In building the new house the team has to adhere to today's ordinance.
- **Mr. DiMatteo** said that the CEO reviews all Shoreland standards and the rest of the site which is mentioned in the Findings of Fact. In looking at an aerial of the site, the marsh is NW of the site 117' to the edge of the gravel driveway

and having the marsh delineated on the plan may not change what they are looking at.

- Chair Southwick asked Mr. Morse if he would ask his client permission to add the proposed footprint to the plan to look at the possibilities of the lot. The only reason this project came to Planning Board is that it is non-conforming in the Shoreland zone, otherwise the CEO would make the decision. The question is of the greatest practical extent of the footprint; the question of the marsh setback has been answered. The Board can require all lines and distances be put on the plan, deny, or approve the project.

MOTIONS:

- Cantara-Motion: Defer further action until various measurements are added and defined on the plan, accept Mr. Morse's offer to ask his clients to add the footprint and to add the septic system on the plan bringing the item back to a future dated meeting.
- Tarpey-Second
- Mr. Morse asked for clarification because providing the proposed footprint is not mandated in the ordinance.
- The Board would like to see the footprint but cannot require it.
- Chair Southwick did a roll call for vote: Motion passed unanimously 4-0 in favor (Tarpey, Cantara, Droggitis & Southwick)

7C. 2020.08 Subdivision Site Plan Review Application for K & S Development to construct a 3-Unit "Townhouse" style condominium project at 45 Hill Street (Tax Map 39, Lot 112) in the MSRD-2 Zone

- Mr. DiMatteo gave an update on the project
- Jonah DeWaters of Oak Point Associates represented the property owners and spoke of the project. He mentioned they were not asking for a decision but came for clarification and questions on comments he had received regarding the project.
- Mr. DeWaters asked about the requirement of a Performance Guarantee, this is a minor subdivision and believes Performance Guarantees are only required for major subdivisions.
- Mr. DiMatteo said this could be determined and used as a condition of approval if needed.
- Mr. DeWaters asked about the comment of the stability of the lot.
- John Korpaczewski, principal of K & S Development, stated that the site is 100% stable.
- Mr. DeWaters would like the Performance Guarantee to be based on bids not estimates due to the potential of extreme differences in the numbers.
- Mr. DeWaters asked if the mailbox grouping is required or if the mailboxes could go on the front of the houses.
- Chair Southwick asked if this requirement is from the City or the USPS

- Mr. DiMatteo stated that the mailboxes can be an approval condition and asked if the property owner could go to the USPS and ask if the mailbox grouping on the side of the road is a requirement from them. If the mailbox grouping is not a USPS requirement to bring back documentation that the postal service is ok with the mail boxes be on the house.
- Mr. DeWaters asked about the lighting plan. The outside lights will be recessed lights focusing down, the cut sheet will show this.
- Mr. DiMatteo said the Board just needs something showing that the proposed lighting will not create a glare problem for the area residents.
- Mr. Korpaczewski stated that there will be no glare, the lights will be lights for coming and going focusing on the doors and garage.
- Chair Southwick confirmed that the lights would be on the face (south side) of the building.
- Mr. DeWaters asked about the screening of the parking, asking for no screening to keep with the rest of the neighborhood and the fact that it is a historic district.
- Mr. DiMatteo stated that the screening is up to Planning Board discretion, this project is not commercial but is a multi-family.
- Mr. Korpaczewski stated the plan is to build a wall out of the original foundation to mimic the wall across the street, the building and hardscape fit with the neighborhood and in his opinion the screening is not necessary.
- Chair Southwick asked if the back will have any vegetation or if it will all be paved.
- Mr. Cantara stated that vegetative screening is good but if it does not add to this project he would not insist on it.
- Mr. DeWaters mentioned that there are no street trees on this side of the street in this area and fears street trees will have a negative impact on the retaining wall.
- Chair Southwick asked which side of the street had the utilities.
- Mr. DeWaters said they were on the same side as the project.
- Mr. Cantara mentioned trees are good.
- Mr. DeWaters responded that they were a maintenance issue.
- Mr. Cantara asked if they had considered other sizes and shapes of trees.
- Mr. DeWaters said he could look at the list of approved vegetation and match something to the neighborhood.
- Mr. DiMatteo mentioned that all that is needed is a bit of greenery and accent.
- Mr. DeWaters said this is doable as Oak Point Associates have landscape architects on staff.
- Mr. DeWaters said they would need waivers from the CEO, front yard setbacks, they have spoken with the CEO and he is fine with the waivers, they are waiting on his email. They are also asking for a waiver on parking and paving.
- Chair Southwick asked how many cars will be allowed.

- Mr. Korpaczewski answered that each townhouse has a garage plus parking for 1 more car, then the complex has room for 2 additional visitors' spaces.
- Mr. Tarpey asked why they need a waiver on parking.
- Mr. DeWaters said parking is not allowed in the rear and side of lots but they need to use this area due to the size of the lot.
- Mr. Korpaczewski mentioned they have gotten updated approval from the Biddeford Fire Department as there has been no changes to the lot or plan.
- Mr. DeWaters mentioned there will be minor changes on the plan due to comments from other departments such as grading.
- Mr. Cantara asked when they plan to come back to the Board.
- Mr. DeWaters said they are shooting for February 3, 2021
- Chair Southwick reminded them that it depends on the workload for the meeting of February 3, 2021.

MOTIONS:

- Mr. Cantara-Motion: Adjourn
- Mr. Droggitis-Second
- Chair Southwick did a roll call for the vote, motion passed unanimously 4-0 (Cantara, Droggitis, Tarpey, Southwick)
- Mr. Droggitis asked if they were meeting on the 27th, Chair Southwick replied yes.
- Mr. Tarpey asked if there is a chance of asking the City Council to stop sending assignments to the Planning Board.
- Chair Southwick said the Council gets it but things are going so fast and the City does not want to miss out.
- Mr. Tarpey mentioned he was disheartened by the zoning standards decline
- Chair Southwick said Mr. Tarpey is not alone there is pressure for the Council to get the comp plan done. The PEP committee is working on videos and other things to get people's input and more involvement in the City. He assures everyone that the Council understands.

Meeting was adjourned at 7:55 pm.

Planning Board Chair/Vice Chair

Date

These minutes are summary and are not intended to be verbatim. Archived meetings are viewable on the City's website: www.biddefordmaine.org.