

Planning Board Meeting Minutes 09-09-2013

Standish Planning Board
September 09, 2013
Meeting Minutes

The meeting was called to order by Chairman Brian Libby at 7:00pm. Present were Steve Nesbitt, Lester Ordway, Alta Harding, Betty Perry, Alberta Byrnes, Carol Billington, Bud Benson, Town Planner and Jackie Dyer, Secretary to the Planning Board.

The first order of business was the approval of the August 05, 2013 meeting minutes. Mr. Nesbitt made a motion seconded by Mr. Ordway to approve the minutes. All in favor with Mrs. Billington abstaining from the vote.

Approval of Finding of Fact :

Paul and Candace Thompson, 14 Oak Hill Road Map 36, Lot 9 Site Plan request for temp. Use/access via Council lease

Mr. Nesbitt made a motion to waive the reading of the Finding of Fact seconded by Mrs. Harding. All in favor with Mrs. Billington abstaining from the vote. Mrs. Harding made a motion to accept the Finding of Fact, seconded by Mrs. Perry. All in favor with Mrs. Billington abstaining.

Mr. Benson said Mr. Thompson had asked about the vehicular motor sales and was it renewable at the same time? He had consulted with the Town Attorney and the only approval being given in this matter is the use of the Town property for access to his property at this time.

Old Business:

Thomas C. West, 47 Eleanor Avenue, Map 26, Lot 15 -Shoreland Zoning Application

Tom West was present to represent himself along with Mr. Albert Frick. Mr. Frick said at the last meeting and at the site walk, they were asked for more details, that he now has. The proposed house is being moved back 12 feet as to what the existing embankment would allow. The house plans have not changed but the gangplank being proposed is now shorter. The steps coming down on the right side will not be used as they are dilapidated. The downspouts, there will be four of them, will come down from the sodded roof, into dry wells that will be keeping water run off away from the lake.

The sodded roof will be treated with vegetation and any run off from that will also be run into a dry well. The sodded roof will have some sponge effect as well. There will be stones placed on the edge of the steep embankment. He also said the impervious area would now be slightly less than the existing impervious area was. He felt he has now provided modified details that the Board asked for.

Mrs. Perry asked about the septic system and wants to know how many bedrooms, as it looks like it's now two. Mr. Frick said there is one bedroom with an informal sleeping area, which could be called a bedroom. The septic system is designed for two bedrooms. Mrs. Harding said she loved the design with the sodded roof and she hopes there are more designs like this with shore land zoning applications. She felt it is well done and they have done everything the Board has asked for. She feels the application is ready to move forward.

Mr. Benson said there was no vote for approval on the sitewalk and wanted to clarify that point. Mr. Nesbitt said he felt the plan was well done and felt everything was in order. He made a motion seconded by Mrs. Harding to find the application complete. All in favor with Mrs. Billington abstaining from the vote. Mr. Nesbitt made a motion to approve with the following conditions:

- Per standards found in 237-12 C (1) b the Planning Board approval of this site plan is limited to structure setbacks to the maximum practical extent. Existing structure, with scaled setback from apparent normal high water line of 39' ft, to be demolished and a new structure with proposed structure setback of 45' ft. built on a new foundation.
- The following plans and calculations must be submitted by the applicant and approved by the Code Enforcement Officer before permits are issued:
 - Structure expansion 30% maximum both floor area and volume calculations per §~237-12 C. (1) (a) ,
 - ~Maximum percent impervious lot coverage not to exceed existing per standards found in §~237-15 B.(4),
 - ~Stormwater design to reduce runoff and encourage infiltration per standards found in §~237-15 J.(1),
 - ~Erosion & sediment control plan per standards found in §~237-15 Q.
 - Clearing and a re-vegetation plan (include plantings on the lake side of the property) per §~237-15 P. (2) (a)
- Per standards found in §~237-15 ~B (3) , the applicant's proposed new structure appears to be within the FEMA delineated 100-year flood plain and will, at minimum, need an (Elevation Certificate) to prove to the Code Enforcement Officer that the lowest floor is at least 1 ft above the 100-year flood elevation. The site plan shows a proposed building footprint. The lowest floor elevation or openings of this building, including basement floor must be more than one foot above the FEMA 100 year flood elevation.
- This approval and any permits issued under this approval shall lapse and become void unless the start of construction or operation as defined in §~ 237-16. Administration. F "Expiration of permit." A permit of the Zoning Ordinance begins within one year from the date of this approval. The Planning Board may extend this permit upon a showing of hardship, provided that the written request for extension is made before the expiration of the one year period.
- The approval is dependent on and limited to the plan and proposals submitted by the applicant either orally or in writing. Any variation from the plans or proposals is subject to review and approval from the Planning Board, in writing, except for minor changes which the Code Enforcement Officer may approve.

Mr. Ordway seconded the motion to approve the application. All in favor.

Jolene and Ray Whittemore, 43-45 Ward's Cove, Map 50, Lots 14, 15 Shoreland Zoning Application

Josh from Caleb Johnson Architects was present to represent the applicant. Mr. Nesbitt said there was a site walk done last month and there were a few things discussed. The impervious area was an area of concern and also when the two structures were demolished, how that would affect the other lots in the area. The people across the street would be the most affected. They also discussed the erosion control plan on the 43 Ward's Cove site, with the deck hanging over the water. Josh said they had been discussing the retaining wall site and the impervious area involved with that. They don't want to add any impervious, as building any other structure would take it away. They are trying to build a structure and have as much space for their clients as possible without taking any away. They have some new calculations of different schemes for the retaining wall. These would slightly increase the impervious area. The first drawing, their original intent was to leave the existing wall where it is and reinforce it and also fill in with vegetation behind it. The next plan would be to add reinforcement behind the existing wall and extend the height by 2 feet. This would not affect the impervious area and would be the same as it is now. They also thought they might be able to remove some of the concrete wall and fill in with rip rap.

The area on 45 Ward's Cove area would be able to be revegetated and filled in with rip rap. Neither of the plans they have presented have been engineered, as they feel they haven't had time. Mr. Benson said he received some plans this morning and there are issues with revegetating behind the existing wall, and also there are 3 cracks in the wall. The wall is undermined with erosion occurring and he also wonders if this work is permitted by DEP. He has tried to call the gentleman from DEP, but has not connected with him yet. He asked the Board if they wanted to handle the vegetation plan or put it off to the CEO. The width of the wall would be changed by 1 foot when a new retaining wall is built and that affects the impervious area.

Mr. Benson said he feels an engineer needs to be involved in building this wall. Josh said they have had an engineer look at the wall already and it was this engineer's recommendation to repair the already existing wall and to do reinforced 4" barge along the wall. He said that was the recommendation of the engineer and also of DEP. Mr. Benson said that when a plan is done by an engineer, the

engineer stamps and signs the plan, neither of these has been shown on any plan. Mr. Benson said that the plans will be accepted when he sees the engineer's name and stamp on the plan. Josh said that would not be a problem, but was never told that they had to have those.

Mr. Nesbitt asked about the impervious calculations and John told him the first two sheets were the same. He had spoken to the surveyors and had new calculations done between the buildings and there is new impervious area now shown on the third sheet. Other than that, they are the same as on the site walk, but the new measurements are of impervious area. Mr. Benson said behind the large boulder there is vegetation that needs to be shown on the plan. Josh said that he had talked to the CEO and was told he didn't need to show that and it didn't have to be shown as vegetation.

Mr. Benson said the stairs had been removed from the drawings and the dock would have to be removed and used as vegetated area.

Mr. Libby asked what the Board's feelings are on the engineered stamped plans. Mrs. Billington asked about Plan A or Plan B, what is the plan as the applicant really hasn't said which they will use and she finds that odd. Mr. Ordway said he would like to see which plan they are going to use. Mrs. Whittemore said they brought a structural engineer out and went by his recommendations. She said she has spent a lot of money to have everything done they already have and wants to know exactly what the Board wants. Mrs. Harding said there are no exact measurements on the plans and she finds that very confusing. Josh said that the areas involved are not squared off areas and are very difficult to calculate and put on the drawings. He said the drawings would be unreadable if every exact measurement was put on them as no areas are square. He said the measurements are all done by their CAD software. He said it would take hours to fully calculate all the areas. He said he understands the concern, but they are all reflected in the architectural plans. Mr. Benson said he has the autoCAD files and he is fine with the area calculations. There is some vegetation he would like shown on both the existing plans and the proposed. He feels they have done their job on the area calculations, but the plans came late. He says he has concerns on the retaining wall and would like to see the plans from the engineer, not the landscape architect. He said he spoke to the engineer today, and this is a problem that needs to be taken care of now. He said they need to set a new wall slightly below so that they don't have the undermining under the wall.

Mrs. Whittemore asked what is the best way to proceed. She wants to be doing construction immediately and not during the summer. She wants her neighbors to have their peace and quiet and would like to move ahead. Mr. Libby said they need to see the plans from an engineer. Mr. Benson said the Board could do a continuance next week or continue with the gentleman from DEP as to the wall issue. Mrs. Whittemore said they want to do the right thing also, but would like to be able to start immediately. The Board would like to see something from an engineer. Josh said he feels like he is in a position where he doesn't know what the Board wants. Mrs. Whittemore asked if they could come back with stamped plans from the engineer next week. Mr. Benson said he would like this and also his calculations on how he reached his decision. The wall is broken into 4 sections with a cracked footing and undermining. He feels that to do it right, they need the new retaining wall.

Mrs. Whittemore asked if she comes with the engineer's calculations and stamp, can they move forward and would there be any other obstacles? Mrs. Billington said next Monday night they could have a workshop and then a continued meeting. Michael Chestnut from Caleb Johnson Architects said he believes they could have the stamped plan next week for a continued meeting and he hopes they could get approval then. Mrs. Harding said the wall is an issue and also the poured concrete pier, which she feels should have never been allowed. They need to add the retaining wall and not rip rap. Mrs. Perry said they need to have just one plan, not multiple. Josh said they can have a plan, have it engineered and stamped. Mr. Benson said they need to fix it once and fix it right and make the calculations work. He feels they would be better off getting something stamped and in writing. They will come back next week with a stamped and engineered plan. Mr. Benson said they also need to show a better vegetation plan than submitted.

Mr. Nesbitt asked about the CEO approving the revegetation plan. Mrs. Billington made a motion to have a continued meeting next week with a final plan, a stamped engineered plan for the new retaining wall and any changes on their final plan that need to be made or removed. Mrs. Whittemore said they will have what is being asked and be back next week. Mr. Libby said they would need everything needed for the suggested conditions of approval and their PE stamped plan along with a revegetation plan for the area where the building is being torn down. Mr. Nesbitt asked if it is still the CEO that will approve the revegetation plan. Mr. Ordway said he would like to see all plans for everything as he feels it is very tight as to where they need to revegetate. Mr. Ordway seconded the motion to continue this next week, with a workshop first at 7pm. All in favor.

Mr. Benson said he would like to see any plans before the meeting Monday night. He would like those plans on his desk sometime Monday morning. The Board would like to delegate the final revegetation plan to the CEO for approval.

New Business :

John & Susan Meehan, 18 Great Bay Road, Map 46, Lot 8 Shoreland Zoning Application

Albert Frick was present to represent the applicant. The Meehan's were present also. There is an existing structure on the property approximately 77 feet back from the lake. The proposed plan is to move the structure back approximately 11 feet to approximately 88 feet back from the lake. They would like to have a breezeway added to the structure as well as a 24X26 foot garage. This would make the front set back 26 feet and still a 10 foot for the sides. They would like to upgrade to a full foundation. They have also applied to DEP for their proposed plans. In order to get a full foundation, they would have to excavate to create a daylight basement towards the lake. The daylight basement would be a walkout basement. There is a steep embankment which is heavily vegetated at this time. There is no activity planned to take place concerning that embankment. The septic system, which is existing, is across the road on a parcel they own. They would not be disturbing anything but the tank and they would have to put in a new one.

There were no public comments. Mr. Nesbitt asked if the existing building was to be torn down and Mr. Frick told him no, just moved back. Mrs. Harding asked about the building going back 100 feet and Mr. Frick told her that would be accomplished when they move the building back as proposed. He said when they move it back; it will keep the grade it is supposed to and not be a problem. If they went back any further, it would drive it back into the hillside and be too close to the side set backs. Mrs. Perry asked if the existing house is one story. Mr. Frick said there are photos in the packets depicting the present structure. She asked if they were adding a second floor to the garage. Mr. Frick said it will be adding a newly proposed garage and then having storage above it. The Board would like to have a site walk on Saturday, Sept. 14th at 9:00am and then a workshop on Monday, September 16th at 7:00pm, followed by a continuance. It was asked if all of the plot lines have been marked out and Mr. Frick said it will be done.

Jeff & Elizabeth Christo , 305 Smith Mill Road, Map 42, Lot 18 Shoreland Zoning Application

Joe Williams with B and R Builders was present to represent the applicant. The applicant would like to renovate the home and do a 30% expansion. It is the builders recommendation for them to put in a new foundation and build a new home because of limitations. There is a 26X40 foot structure there now and that's what they would replace it with. The new home would be approximately 23 feet tall with a daylight basement. The grade of the water to the house is an almost 40% grade drop. There is an existing well and septic system which is fairly new and the newly proposed home would hook to that. The septic system was done in 2011. The home cannot move back any further because of where the septic tank is, as it would encroach too closely. The septic system is located at the back of the house, not towards the water. The contour of the lot has areas that drop off on three sides.

The Board would like to have a sitewalk on Saturday, September 14th at 10:00am and then a workshop and continuance on Monday, September 16th at 7:00pm.

Michael Gorham, 129 Spear Road, Map 6, Lot 8 Site Plan Application

Michael Gorham was present to represent himself. He works for TNC Environmental and would like to be able to store magazines (explosives) on his property. He is not going to be doing any excavating or building. These measure 4x4x4 and are made of 3/8" steel. He said they are all approved by ATF, the State Fire Marshall's Office and the Town Fire Chief. These can be inspected randomly. He has all written letter from his neighbors saying they have no problems with what he wants to do. Mike will be the only one touching these and he is the only person in Maine registered and licensed to do this. There is a magazine already there and there are no visuals as far as seeing other homes in the area.

The Board would like to do a site walk on Saturday, September 14th at 11:00am and then a workshop and continuance on Monday, September 16th at 7:00pm.

Public Hearing :

Amendment to Shoreland Zoning Ordinance 237

Mr. Benson said this is quite a lengthy document and the explanation of what is happening, per the State of Maine, is that Shoreland Zoning laws are constantly changing. He said the Town can adopt certain changes and then DEP gets the final say. He said Mr. Billington had taken the new law put forth and is in the process of making changes to the Town's ordinance, via the Town Council, which he believes will happen very soon.

Mr. Libby asked for public comments. David Cohen from White's Point Road was present to speak. He said his family has had a place on White's Point Road for the past 50 years or more. He feels that over the past decade or more, there has been a lot of developing going on around the lake in their area, and he feels that the waterfront that he once knew is now mostly gone. He stated

that he remembers smaller cottages and log cabins and now all he sees is big houses going up that look like mansions. He feels that it now is looking more like Boston and New York.

He has read over the newly proposed State law and said to him, it looks like you can build bigger and bigger, far more than the previous 30% expansion. He said the new rules seem to go much further than the old ones with expansions. He thinks it will degrade the look and feel of the Town of Standish and take away from the rural character. He said when you are dealing with smaller lots; he feels the visual impact would be enormous.

He also feels that with these new laws, the affordability of local people and people living in the state, will be unable to afford waterfront property. He said that with the smaller cabins being expanded, they will no longer be affordable for the working class of people.

He fears that the new changes will affect the water quality and impervious areas. He feels that it will also create new and complicated enforcement areas, as far as expansion goes. He said that a place that has already been expanded, under the new rules, will be able to expand 30% again. And he fears the height of those buildings will block their neighbors from having the view they have always had. He said these new rules seem much more complicated than easy.

He just wants the Board to know how he feels about protecting the Town and the environment. He said with these new rules in place, the integrity of the Town might be affected.

Mr. Libby asked for other comments. Mr. Nesbitt said that when he was reading it he thought they were putting a cap on the height and the maximum foot print. He feels that the State is saying there are caps and will not allow for certain things to be built above and beyond those caps.

Mr. Cohen said he had read the State rules about expansions and they have changed their new definition of a footprint. His concern is the size of the footprint and the 30% expansions that can happen and the rules for footprints are different from the height requirement rules. He said he can see someone pushing the issue to make something as large as they can with these new rules in effect and as tall as another 25 feet. Mrs. Billington said they are confusing and after 100 feet, there seems to be no restrictions. Mr. Cohen said he feels like these rules are done in a tiered system and wonders what will happen with these new rules and what some of the houses would look like.

Mrs. Billington told Mr. Cohen that this is just being introduced through the Planning Board and that he should come to the Town Council meeting tomorrow night and voice his concerns directly to them. She told him he would be better heard with his concerns at that meeting. Mr. Libby said the Planning Board is just a venue to let the public know what's going on. Mr. Nesbitt asked if it is the intention of the Town to accept all of these changes and Mr. Benson told he believed it was. Mr. Benson said that it would still have to go back to the DEP for final approval. Mr. Nesbitt said they have an ordinance meeting tomorrow night at 6:30 and there is also an emergency meeting to make these changes immediately that same night.

Mr. Nesbitt said it would be a good thing for people to attend this meeting so they can understand the changes and why they are being made. Mrs. Harding thanked Mr. Cohen for coming and speaking about his concerns. She said the Planning Board is trying to preserve what we have and she feels like we are having less and less control over our waterfront properties. She is glad that the Board is asking questions and being concerned about our environment and what's taking place. She said she is also glad the Board isn't just rubber stamping Shoreland Zoning projects and feels they are doing their job to preserve what they can.

Meeting will be continued on Monday, September 16th, 2013 at 7:00pm.
This meeting adjourned at 8:50pm.