

**Town of Mount Desert Planning Board
Planning Board Meeting Minutes
Meeting Room, Town Hall
6:00 pm, July 13, 2016**

Public Present

Sam Blanchard, Martha Blanchard, Thomas Boucher, Greg Johnston, Noel Musson, Sam Shaw, Alan Sprague, Vicki VanDenburgh, Jim Russell, Dorothea Eilsen, Matt Morehouse

Board Members Present

Chairman Bill Hanley, Meredith Randolph, Joanne Eaton, Lili Andrews

Also present were CEO Kimberly Keene, and Recording Secretary Heidi Smallidge

I. Call to Order

Chairman Hanley called the meeting to order at 6:01 pm. Voting members were noted.

II. Approval of Minutes

June 8, 2016: Minutes were tabled.

June 14, 2016: Minutes were tabled.

June 22, 2016: MS. ANDREWS MOVED, WITH MS. RANDOLPH SECONDING, TO APPROVE THE MINUTES AS PRESENTED. MOTION APPROVED 4-0.

Chairman Hanley reported that David Ashmore has resigned his position as Secretary for the Board.

CHAIRMAN HANLEY MOVED, WITH MS. RANDOLPH SECONDING, TO NOMINATE JOANNE EATON AS SECRETARY. MOTION APPROVED 4-0.

III. 6B.15 Sign Regulations

Rob DeGennaro – Tan Turtle Tavern – 10 Huntington Road, Northeast Harbor

5. Signs Permitted. Permanent Signs: Directional. Directional Signs at intersections of two or more state roads within the Town of Mount Desert are permitted with the approval of the Board of Selectmen and the prior recommendation of the Planning Board, which shall be forwarded to the Selectmen by the applicant with their application for a directional sign.

CEO Keene explained where the signs would be located. The signs would go on already existing posts.

MS. EATON MOVED, WITH MS. ANDREWS SECONDING, TO RECOMMEND APPROVAL OF THE SIGNS. MOTION APPROVED 4-0.

1
2 **IV. Conditional Use Approval Application(s):**

3 **A. Conditional Use Approval Application #009-2016**

4 **OWNER(S) NAME:** Samuel W. & Martha L. Blanchard

5 **LOCATION:** 9 Upper Dunbar Road, Seal Harbor

6 **TAX MAP:** 031 **LOT(S):** 111 **ZONE(S):** Village Residential One & Two
7 (VR1/VR2)

8 **PURPOSE:** Sections 5.6 Amendment to a previously approved Conditional Use
9 Permit/Approval (CUP #011-2000) – Expand area to store fishing gear, including
10 lobster traps.

11 **SITE INSPECTION:** 3:30 PM

12
13 Ms. Eaton confirmed adequate public notice. Abutters were notified. No conflict of
14 interest was found.

15
16 Ms. Andrews reported on the site inspection. Lobster traps are currently being
17 stored in front of the property. The applicant proposes adding fill to an area in the
18 back of the property and moving the traps to that location. There would be no
19 increase in the gear stored.

20
21 The applicant had no comment.

22
23 CEO Keene told the Board the storage was applied for and approved in 2000.

24
25 CHAIRMAN HANLEY MOVED, WITH MS. ANDREWS SECONDING, TO FIND
26 THE APPLICATION COMPLETE. MOTION APPROVED 4-0.

27
28 A review of Section 5.6 was made and is attached to these Minutes.

29
30 CHAIRMAN HANLEY MOVED, WITH MS. RANDOLPH SECONDING, TO
31 APPROVE THE APPLICATION. MOTION APPROVED 4-0.

32
33 **V. Subdivision Application(s):**

34 **Sketch Plan:**

35
36 **OWNER(S):** NEH Marketplace, LLC

37 **APPLICANT:** Samuel A. Shaw

38 **LOCATION:** 131 Main Street, Northeast Harbor

39 **TAX MAP:** 024 **LOT:** 081-001 **ZONE:** Village Commercial District (VC)

40 **PURPOSE:** A division accomplished by sale, lease, **development**, buildings or
41 otherwise. The term “subdivision” also includes the division of a new structure or
42 structures on a tract or parcel of land into 3 or more dwelling units within a 5-year
43 period, **the construction or placement of 3 or more dwelling units on a single**
44 **tract or parcel of land** and the division of an existing structure or structures previously
45 used for commercial or industrial use into 3 or more dwelling units **within a 5-year**
46

period.

SITE VISIT: 4:15 PM

Chairman Hanley stated he had a conflict of interest.

MS. RANDOLPH MOVED, WITH MS. EATON SECONDING, TO ACCEPT CHAIRMAN HANLEY'S RECUSAL. MOTION APPROVED 3-0.

Sam Shaw presented his plans for the area in question. He proposed the lot on 131 Main St. would be infilled, and a mixed residential/commercial space would be developed. Apartments are planned for the second floor, and businesses on the first floor. Mr. Shaw plans for two phases of work. The first phase being moving and improving two buildings on site. One of the buildings in question is currently illegally sited over a sewer right of way, so moving it is required. Two additional buildings are proposed for the future. A public bathroom will be built. Currently Mr. Shaw plans to have two one-bedroom apartments or one two-bedroom apartment in each of the two buildings on the property. Parking would be located at the far end of the lot. For now the buildings would be summer use, however they would be built to accommodate the future potential for year-round use. The second phase of the project was not fully planned yet. He added that he would build a 12-foot fence next to the McGrath's building.

Discussion ensued regarding these points. Additionally, Mr. Shaw had questions of the Board and CEO. CEO Keene explained the process. The next step was a Completeness Review.

MS. EATON MOVED, WITH MS. ANDREWS SECONDING, TO APPROVE CHAIRMAN HANLEY'S RETURN TO THE BOARD. MOTION APPROVED 3-0.

Completeness Review:

Subdivision (#001-2016)

OWNER(S): Richard D. Irvin, Jr.

APPLICANT: Greg Johnston

LOCATION: Woods Road/Off Ober Mills Road, Mount Desert

TAX MAP: 012 **LOT:** 013-029 **ZONE:** Rural Woodland 3

PURPOSE: 4-Lot Residential Subdivision

Ms. Eaton confirmed abutters were notified. No conflict of interest was found. It was confirmed public notice was not required.

Greg Johnston reported on the site. He has submitted a road plan profile, noting the proposed road improvements, storm water improvements, and calculations for the culvert work. Exhibit 10 shows improvements to the culverts on the site.

Noel Musson suggested providing an overview. He pointed out the plat plan has been

revised as well. He showed where the subdivision plan was proposed. The proposal is to create four lots and he clarified where those would be on the plan. The remaining land would be retained by Mr. Johnston.

It was noted there have been updates to the plat plan from the original survey. Mr. Johnston listed the changes as:

- A survey of the tract of land with the lot divisions planned.
- The portion to be conveyed to Cheston would be included.

It was noted the "Jones" lot may be misnamed.

Ms. Andrews asked about the creation of Hemlock Lane. Mr. Musson stated it was essentially an existing gravel drive. They are proposing improving the existing drive. Mr. Johnston said the improved road would serve three of the lots.

It was noted that a small parcel of land was conveyed to Cheston because the owners wanted to build a garage. The owners merged the land so the two buildings were not on two separate lots.

Mr. Musson explained the order of the application. It was noted this was a completeness review; only determining if the application was complete.

A review for completeness of the application was made:

Name of the Applicant: Included

Name of Agents: Included

Whether the Applicant is a Corporation: It was confirmed the Applicant is not.

Applicant's Authorized Representative: Included in Exhibit 1

Name, Address, and number of the surveyor: Included

Correspondence Address: Included

Applicant's Interest in the Parcel: Purchase and Sale Agreement Included

Applicant's Interest in Abutting Property: Included in Exhibit 3

Whether Preliminary Plat Plan Covers Entire Contiguous Holdings of Owner: Shown on the Plat Plan, Tab 8

Information on Parcel to be Subdivided – Location of Property, Map and Lot: Included in Exhibit 5

1 Surveyor Maps of tract to be subdivided and contiguous property of the owner of the
2 tracts: Included in Exhibit 7. It was noted the surveyors' stamp only needs to be on
3 the final set.

4
5 Current Zoning Districts: Included

6
7 Acreage of the Parcel to be Subdivided: Included

8
9 SSWD by a Licensed Soil Engineer: Included in Exhibit 6: test pits are included on the
10 plot plan.

11
12 Names and Addresses of Property Owners within 1000 Feet: Included

13
14 Restrictive Covenants to be Placed on the Deeds: No restrictive covenants were
15 listed. Vicki VanDenburgh pointed out the revised plot plan does include a restrictive
16 covenant in regard to joining the road association. Mr. Johnston said for individual lots
17 there's restriction not on the lots, but on the ability to join the road association. He felt it
18 was a condition but not a restriction. After some discussion it was determined that this
19 was in fact a covenant. CEO Keene suggested including the words "See Plan" under
20 this section of the application.

21
22 Proposed Soil Erosion and Sedimentation Control: Included in Exhibit 9

23
24 Water Supply: Included in Exhibit 11. It was noted lots would be served by individual
25 wells.

26
27 Information on Subdivision – the Proposed Name of the Subdivision: Included on the
28 plot plan.

29
30 Number of Lots: Included

31
32 Map Scale: Included

33
34 Lot Lines with Approximate Dimensions and Locations of Known Buildings, Sewer
35 Systems and Wells: Included in Exhibit 8. It was noted that houses are not proposed
36 as part of the development. Ms. Randolph wondered if the neighbor's wells should be
37 noted. It was noted the soils scientists need to take into account the location of other
38 wells within a 100' radius. Mr. Johnston said lots have multiple options for siting
39 houses. Well location will depend on where the house is.

40
41 Location of Temporary Lot Markers: Included in Exhibit 8. Mr. Johnston reminded the
42 Board of the markers that had been on site during the site visit.

43
44 Location of all Parcels to be Dedicated to Public Use: There are no dedicated parcels.

45
46 Location Map of USGS Topographical Map Showing Proposed Subdivision in Relation

1 to Adjacent Properties and General Surrounding Area: USGS map included

2
3 Location and Size of Existing Buildings and other Essential Physical Features:
4 Included. It was confirmed existing buildings on the other lots did not need to be
5 shown.

6
7 Location of All Wetlands and Water Bodies Within the State Shoreland Zone: Included
8 in Exhibit 8. Ms. Andrews inquired about the size of the wetlands noted on the maps.
9 Mr. Johnston noted the details are on the survey plat, but he said the larger ones range
10 from approximately three acres to 1.4 acres. Dorothea Eilsen asked about a wetland
11 on Lot Four, not included on the plan. Mr. Johnston pointed out it was on document 8;
12 he would make sure it was on all submittals.

13
14 Location of Stormwater Drains: Included in Exhibit 8. Mr. Johnston noted where
15 additional culvert information could be found. The stormdrains shown were just for the
16 proposed Hemlock Lane. Culverts already exist on the other site.

17
18 Locations, Names, and Widths of all Streets, Highways, and Easements: Included in
19 Exhibit 8

20
21 Names of Abutters: It was found there was an old name on the plat. Mr. Musson said
22 it was a preliminary plan and it would be updated.

23
24 Determination of FEMA Flood Boundary and Whether the Subdivision is in a Flood-
25 Prone Area: It was determined the property was not in a flood prone area. Mr.
26 Johnston stated the property was elevated. It was noted the flood-plan map submitted
27 would be part of the body of submittals.

28
29 Other Information Not Indicated but Specified by the Board: Mr. Randolph reiterated
30 the desire for more flood map information.

31
32 SELECTMAN EATON MOVED, WITH SELECTMAN RANDOLPH SECONDING, TO
33 FIND SECTIONS 4.2.1, 4.2.2, AND 4.2.3 COMPLETE.

34
35 Alan Sprague, President of the Ober Mill Road Association, noted that per the plans
36 Hemlock Drive will be widened to accommodate lots 1, 2, and 3. He stated the road is
37 all ledge, and will take blasting. Mr. Sprague stated the blasting would have to be for a
38 wide trench to accommodate both cable and power lines. He added there is
39 underground power and cable to Ridgewood Lane. He felt the Road Association
40 members would object to the installation of telephone poles. He added that Lot 1
41 would have no access to Ridgewood Lane where the power cables currently run. He
42 proposed to create access from Ober Mill Road between the Cheston Property and the
43 wetland onto the lot in an effort to avoid blasting. Reshaping the lots would be
44 required.

45
46 Mr. Johnston stated that using an existing road is by far the least impactful to the

1 property and most practical, as opposed to building a new road past wetlands and
2 through steep grades, and bringing power in. The plan is to bring the power in
3 underground where possible. He noted the rules are that the road bed has to be 24
4 inches deep. Trenches for power lines have to be 30 inches deep, which means only
5 another six inches of depth is necessary. The underground lines have to be separated
6 by 18 inches. Mr. Johnston showed the topographical situation that a new road would
7 have to cross. Ms. Randolph noted that even if the lots were reconfigured it would be
8 problematic to the wetlands. Mr. Sprague disagreed and felt two lots could be created
9 in the area.

10
11 Mr. Johnston reiterated that the construction of a new road, past wetlands, and then
12 the maintenance of it through winters is not a better option than using an already
13 existing road further away from the wetland. Mr. Johnston felt the idea was just not
14 practical.

15
16 Mr. Sprague asked that telephone poles not be used. Mr. Johnston mentioned that not
17 using poles then forces the use of blasting to put in underground lines. He stated a
18 review of the property would be made to find the best option.

19
20 Ms. Randolph noted the cul de sac is inside Lot 3 on one plan, but spreads over to
21 another lot in another lot. Mr. Johnston reported he had started with using just the one
22 lot, but realized an open field area spanning the lots would require less clearing of
23 trees. The area was changed and a portion of the cul de sac would span two lots. Mr.
24 Johnston noted it would be a right of way, but not part of the subdivision. It would be
25 on the remaining land. Ms. Andrews noted obtaining the right of way would be
26 required, and the plan would have to be updated.

27
28 Ms. VanDenburgh asked from which road Lot 4 would have access. Mr. Johnston said
29 it would come off Woods Road.

30
31 MOTION APPROVED 4-0.

32
33 Ms. Andrews asked if the legal rights of way needed to be identified prior to approval.
34 Mr. Johnston noted that additions may be made on the plat plan as the review
35 proceeds. The plat is recorded at the Registry. When someone purchases a lot, the
36 lot will be on the plat plan and they will receive a deed description. Ms. Andrews
37 inquired about the cul de sac and whether that had to be part of the plat. Mr. Johnston
38 agreed they would be on the plat.

39
40 A short recess was taken.

41
42 A review of Section 5 was made as well.

43
44 Buffer Strip: Mr. Musson pointed out the buffer strips on the plan. Mr. Johnston
45 confirmed they were dedicated enforceable buffers. Ms. Eilsen asked if there were no
46 buffers near the wetlands due to the wetlands. Mr. Johnston agreed that was the

1 intent. The wetland works as a 200' buffer. Ms. Eilsen hoped the wetland would
2 remain on the plan. Mr. Johnston stated there was no intention to remove the wetland
3 from the plan. Mr. Musson noted that wetlands are regulated by the State. Mr.
4 Johnston noted there is a 200'x400' buffer dedicated to Forever Wild status.
5 Discussion ensued regarding the several buffer strips and wetland areas.
6

7 Ms. Randolph noted the buffer strips are planned as a curtesy, but the ordinance
8 requires buffer strips for only limited reasons.
9

10 It was agreed information on buffer strips was included.
11

12 Conformance with other Laws and Regulations: It was noted no information was
13 included. No wetland impacts were proposed and no permits from the DEP were
14 required.
15

16 Construction Prohibited: The materials submitted were deemed acceptable.
17

18 Ditches and Catch Basins: Erosion control plans were included, plans for culverts
19 were included.
20

21 Easements: It was noted the Right of Way is already there. Mr. Johnston said there
22 were no easements necessary for utility access. He noted the right of way is an
23 easement and is on the plan. He pointed out the no-cutting buffer can also be
24 considered an easement. The Board agreed that no further easements were required.
25

26 Dedication for Year-Round Housing: It was deemed not applicable.
27

28 Lots and Density: Included
29

30 Sewage Disposable Systems: Chairman Hanley noted that lot sizing, test pits, and a
31 letter from a soils expert were all included.
32

33 Review as Cluster Workforce or Conventional Subdivision: It was agreed the project is
34 a conventional subdivision.
35

36 Sewage Disposal, Connection to Sewer Line: It was noted this is not applicable.
37

38 Subsurface Sewage Conformity to State Codes: Chairman Hanley noted the materials
39 included.
40

41 Land Not Suitable for Development: Included.
42

43 Open Space Provisions: Not required, due to there being no dedicated open space.
44

45 Area reserved as open space or recreation area by the Planning Board: Mr. Johnston
46 noted that while there is no dedicated open space, there is a walking area. The

applicant is allowing the ability to use the trails in place; some in the subdivision, some in the area beyond it. He noted there is an explanation of how they want to reserve the area. Mr. Johnston noted it would be included in the deed. Mr. Musson felt they were still refining the language for this area.

Wells: It was noted there was a letter from John Gilbert regarding wells.

Performance Bond: Mr. Johnston noted that usually insurance is given for public services like sewer, in the event the applicants fail to complete the proposed work.

Extension of 12 months to guaranty performance: It was noted these were not necessary.

Plan Revision: This will be addressed at a later date.

Street Design and Construction: Width has been addressed previously and are included and a plan is submitted. CEO Keene noted a couple waivers are being requested; pavement width, and center line of road versus the center of the right of way. Mr. Johnston noted the road was not currently on the center of the right of way. It was noted the right of way can't be shifted. The shift is only about two feet. They noted it is on a dedicated right of way that spans other properties. Ms. Eaton noted the waiver would have to state that the applicant is allowed to waive the center of right of way where the center of the road is not the center of the right of way. Ms. Randolph suggested this would move the right of way. Mr. Johnston disagreed. He assured the Board that fill would not need to be added to area beyond the right of way.

Approval by the Board shall not be deemed Acceptance by the Town as a Street or Right of Way: Included

Access to Direct Sunlight: It was confirmed the sun did shine in the area.

Cluster or Workforce Housing: It was confirmed the proposed subdivision was not cluster or workforce housing.

A review of Section 6 in the LUZO was reviewed.

General Performance Standards –

Compatability: The area was deemed compatible.

Erosion and Sedimentation: This was addressed previously.

Highway Safety: Noted

Impact on Town Services: It was noted there would be no impact.

Land Suitability: Land Suitability has been established previously. Stormwater, erosion control, and soils have been confirmed as having been addressed.

Lighting Outdoor: No outdoor lighting is proposed.

Stormwater: A stormwater plan by a licensed engineer has been submitted. Exhibit 10.

Vegetation: it was noted minor cutting will be done for the proposed road. Timber Harvesting will not be done in the area.

Dust, Fumes, Vapors, Odors, Gases: This section is not applicable.

It was noted that in Section 6B., only Sections 6B.10 and 6B.14 were applicable to the proposed subdivision. All other Sections of 6B were deemed Not Applicable.

Lots (Section 6B.10): Information on the lots was included.

Sanitary Standards (Section 6B.14): It was noted sewer is not available. Information on soils was included.

It was deemed the property in question was not included in the Shoreland Zone.

Mr. Musson recapped the inclusions:

- The applicants planned to correct some names on the final plat.
- Add the wetland to Lot 4 on the plat.
- Provide a summary of the easements/right of ways.
- Revised language on the plan or in a handout about the paths
- Information on the center of the right of way and inclusion of the right of way on the plat. CEO Keene stated any waivers would have to be on the plan. Requests for waivers should be included as well.

Discussion ensued regarding how to make note of issues involved in the checklists and processes. Mr. Musson suggested setting time aside at some meetings to discuss issues the Board is unhappy with. It was noted that with changes just to the forms, changes would not have to go before Town Meeting.

VI. Adjournment

MS. EATON MOVED, WITH MS. RANDOLPH SECONDING, TO ADJOURN. MOTION APPROVED 4-0.

Meeting was adjourned at 8:45 pm.