

**Town of Mount Desert Planning Board
Planning Board Meeting Minutes
Meeting Room, Town Hall
6:00 pm, March 8, 2017**

Public Present

Noel Musson, Virginia Ruth, Ellen Kappes, Vicki VanDenburgh, Jim Russell, Matt Morehouse, Dorothea Eiben

Board Members Present

Chairman Bill Hanley, David Ashmore, Joanne Eaton, and 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 6:06 pm. Voting members were noted.

II. Approval of Minutes

January 11, 2017: MS. ANDREWS MOVED, WITH CHAIRMAN HANLEY SECONDING, TO APPROVE THE MINUTES AS PRESENTED. MOTION APPROVED 3-0.

February 8, 2017: MS. ANDREWS MOVED, WITH MS. EATON SECONDING TO APPROVE THE MINUTES AS PRESENTED. MOTION APPROVED 3-0.

February 22, 2017: MS. ANDREWS MOVED, WITH MS. EATON SECONDING TO APPROVE THE MINUTES AS PRESENTED. MOTION APPROVED 3-0.

III. Public Hearing:

The purpose of the Public Hearing is to:

- A. *Review additional changes to the general provisions of the Land Use Ordinance.*
- B. *Review proposed amendments to the Official Land Use Map.*
- C. *Review proposed amendment to the Sale of Food and Merchandise Ordinance.*

Article 9: Sale of Food and Merchandise Ordinance Revision:

The Article proposes an increase in the allowable length of mobile vending units. Mr. Musson noted some of the vehicles are longer than the allowed 20 feet, depending on what type of food they prepare. Mobile vending units are currently allowed at the Northeast Harbor Marina and Bartlett’s Landing. Two vendors can be on site in July and August, 6AM to 10PM. The CEO administers the application process. The Board of Selectmen will designate the number of spaces and where they’ll go. CEO Keene reported she had no applications last year. The year before she had one. There is no electricity; vendors requiring power must have a generator. This was not an Article the Board was required to vote on. There were no comments from the Public.

1 **Article 10: Land Use District Map Change:**

2 This refers to the proposed zoning change on the South Shore Road proposed to the
3 Planning Board earlier this year. Mr. Musson had a map of the area in question. The area
4 will go from Zone SR2 to VR2.

5
6 There was no comment from the public.

7
8 MS. EATON MOVED, WITH MR. ASHMORE SECONDING, TO RECOMMEND FOR
9 APPROVAL ARTICLE 10 AS PRESENTED. MOTION APPROVED 4-0.

10
11 **Article 11: Shoreland Zone and Resource Protection Map Change:**

12 This Article refers to the pond at Deep Cove. CEO Keene reported the man-made pond in
13 question was included in the Shoreland Zone overlay with some Resource Protection. The
14 pond does not meet the criteria of a wetland: it's under ten acres, and it's not fed by a water
15 body. CEO Keene is recommending removal of the pond from the Shoreland Zone/Resource
16 Protection Map.

17
18 MS. EATON MOVED, WITH MR. ASHMORE SECONDING, TO RECOMMEND ARTICLE 11
19 FOR APPROVAL AS PRESENTED. MOTION APPROVED 4-0.

20
21 **Article 12: Access to Lots (LUZO 6B.10):**

22 Chairman Hanley summarized that this amendment would allow a pre-existing primary access
23 drive to not meet the standards of Section 6B.6, provided safe access for safety personnel
24 can be maintained. Mr. Musson noted this affects driveways that, with the addition of a new
25 lot, suddenly are deemed roads. This can be problematic if the property on either side of the
26 driveway cannot be used to create a road. Mr. Musson noted this Article was related to Article
27 13. It was noted the question of whether the driveway must meet the standards or not will be
28 determined by the Fire Chief's review.

29
30 MS. EATON MOVED, WITH MR. ASHMORE SECONDING, TO RECOMMEND FOR
31 APPROVAL ARTICLE 12 AS PRESENTED. MOTION APPROVED 4-0.

32
33 **Article 13: Subdivision Ordinance Amendment Regarding Waivers to Road Standards:**

34 Chairman Hanley noted this was similar to Article 12, but with relative to roads and the
35 Subdivision Ordinance. Mr. Musson noted that in the Subdivision Ordinance the new wording
36 will allow the Board to waive certain road standards in some situations. It also creates a Road
37 Review Standard. It will not be the same as a Subdivision Review; it will focus just on roads.
38 This amendment will only affect private roads.

39
40 Ms. Andrews asked for clarification, as to why it fell under the Subdivision Ordinance. CEO
41 Keene explained the Board does not have the authority to waive any dimensional
42 requirements under the LUZO. In order to allow the Board the power to waive, it must go
43 under the Subdivision Ordinance. Mr. Musson added the road standards are in the
44 Subdivision Ordinance. This allows an applicant to request the review even if it's not required.
45 And the review can be done without the entire subdivision review. CEO Keene noted this will
46 be on a case-by-case basis. Chairman Hanley mentioned this would be of benefit to a bottle-

1 neck scenario, or when a road cannot be widened due to property owned by others on either
2 side.

3
4 The land use restrictions referred to other restrictions in the ordinance. Grades, width, cul de
5 sacs could be reviewed. A plan would have to be provided, and proof of why road upgrades
6 can't occur would have to be presented.

7
8 Mr. Ashmore noted older right of ways do not meet the standards.

9
10 Ms. Andrews wondered if it would invite controversy. Chairman Hanley worried about a
11 multitude of hardship reviews. Mr. Ashmore felt monetary hardship would not be a reason for
12 waiver. Ms. Eaton felt the Board could change the ordinance if there are a flood of dubious
13 waiver requests.

14
15 If a waiver was granted for two divided lots and then another division occurs, the waiver would
16 have to be reviewed. The applicant would be expected to bring the road into as much
17 compliance as they can. The Board would have to determine if it were enough. Currently
18 there's no option for having the discussion.

19
20 Ms. Andrews asked if the right of way in a subdivision can be upgraded without consent of the
21 road association. Ms. Andrews also worried about deed restrictions. Perhaps covenants
22 were placed in a deed with the intent to prevent too much expansion or development. CEO
23 Keene felt the covenants would be in the deeds and known by the owners, but it would not be
24 the Town's responsibility to follow the individual covenants of every deed. Mr. Ashmore felt
25 this did not exceed the rights granted to landowners. Landowners can exercise the rights they
26 have, but they can't go beyond them. Mr. Musson agreed that some changes to the
27 amendment may be required after the first year. There are many private roads in the Town.
28 Chairman Hanley worried it could unduly burden the Board. The proposal would affect an
29 area subdivided into three or more lots.

30
31 MS. EATON MOVED, WITH MR. ASHMORE SECONDING, TO RECOMMEND
32 AMENDMENT 13 FOR APPROVAL AS PRESENTED. MOTION APPROVED 3-0-1
33 (ANDREWS IN ABSTENTION).

34
35 **Article 14: Clarification of Requirements for Lots Inside or Outside Shoreland Zone**
36 **(LUZO 6B.10):**

37 Sanford Whitehouse was called as requested.

38
39 Chairman Hanley noted this proposal would allow accessory residential dwelling units for lots
40 outside the Shoreland Zone. Mr. Musson noted this was more of a word change to make the
41 ordinance consistent.

42
43 MS. EATON MOVED, WITH MR. ASHMORE SECONDING, TO RECOMMEND
44 AMENDMENT 14 FOR APPROVAL AS PRESENTED. MOTION APPROVED 4-0.

45
46 **Article 15: Definition of Independent School**

1 It was noted this is an amended definition. This definition was supposed to have been
2 adopted last year but the wrong language was put on last year's warrant.
3

4 MS. EATON MOVED, WITH MR. ASHMORE SECONDING, TO RECOMMEND ARTICLE 15
5 FOR APPROVAL AS PRESENTED. MOTION APPROVED 4-0.
6

7 **Article 16: Road Setback for Marine Structures**

8 Chairman Hanley explained this proposed amendment affects marine structures and their
9 setback requirements from the road. The setback from the permanent structure to the road
10 would be amended. Mr. Hanley referred to the recent Lakeside Road boardwalk hearing.
11 Board members found that those accessing that boardwalk must make their way through the
12 marsh to access the boardwalk due to setbacks. CEO Keene noted there are some lots
13 bisected by a street that are affected. Ms. Eaton noted the access to the Lakeside Road
14 boardwalk is a steep dip, preventing cars from seeing pedestrians using the boardwalk. She
15 felt bringing the boardwalk closer, might make it safer. Ms. Andrews noted cars unloading
16 equipment might impede traffic. Chairman Hanley pointed out that having setbacks enhances
17 the streetscape by pushing structures away from the road. This concern may not be
18 applicable to a marine structure. Highway safety is an issue the Board reviews. Additionally,
19 structures cannot be built on marine structure in most cases.
20

21 Mr. Whitehouse noted that the wording is broad and has a large scope. It may be directed
22 toward inland waterways; however, it does have the potential to affect the coastline as well.
23 Removing the setback completely could adversely affect waterways. In addition to the
24 structures that could be added, structure support such as retaining walls would be necessary
25 in some cases. He felt a little more time and consideration should be had before
26 contemplating approval. The Board agreed.
27

28 MS. EATON MOVED, WITH MR. ASHMORE SECONDING, TO OPPOSE ARTICLE 16 FOR
29 APPROVAL AS PRESENTED, UNTIL FURTHER REVIEW CAN BE MADE. MOTION
30 APPROVED 4-0.
31

32 **IV. Subdivision Application(s):**

33 **Completeness Review: Continuation from February 22, 2017.**

34 **OWNER(S):** Richard Davis Irvin Jr.

35 **APPLICANT:** Matthew A. Morehouse

36 **AGENT:** Civil Engineering Services (CES), Inc.

37 **LOCATION:** Off Woods Road, Mount Desert

38 **TAX MAP:** 012 **LOT:** 013-029

39 **ZONING DISTRICT:** Rural Woodland 3 (RW3) & Shoreland Residential 5 (SR5)

40 **PURPOSE:** 6-lot Residential Subdivision
41

42 This item was continued from the last meeting.
43

44 The following items were left as conditions of approval:
45

- 46 - It was agreed to set as a condition the submittal of updated covenants that would

1 be recorded with the deeds.

- 2 - It was agreed to set as a condition to include a statement of the fact that no lots are
- 3 dedicated to public use.
- 4 - It was agreed to set as a condition the inclusion of the all road names, planned or
- 5 deemed required.
- 6 - It was agreed to set as a condition that the full driveway plan would need to be
- 7 submitted on the driveway sheet for review. Existing culverts should be shown and
- 8 will include information regarding any changes the system required.
- 9 - It was agreed to set as a condition the submission of a FEMA map showing
- 10 whether the subdivision is in a flood-prone area.
- 11 - It was agreed to set as a condition a reference to the Bill LaBelle letter received
- 12 from the Applicant, and noting 2-4 bedroom residences.
- 13 - It was agreed to set as a condition the requirement that the soil classification should
- 14 be referenced, per the SCS Soil Boundaries book.
- 15 - It was agreed to set as a condition the submittal of the Archaeological map.

16
17 All conditions of approval were found to be met and adequately included in the
18 application.

19
20 Mr. Morehouse noted that should the road design be found to need any additional
21 culverts they will be added. The intent was to build an easy-to-maintain road.

22
23 Ms. Andrews asked whether the mylars should include all covenants. Discussion
24 ensued regarding whether all covenants, or a reference to them, should be included on
25 the mylar plans. CEO Keene noted the deeds include all the covenants, and they are
26 not usually included on the plan. Mr. Morehouse confirmed covenants would be in the
27 property description in any deeds. Covenants were also included as part of the
28 application. Ms. Andrews voiced concern that currently only three covenants were
29 included, which may cause confusion with regard to the others. It was agreed that
30 reference to the covenants would be included on the plans.

31
32 MS. EATON MOVED, WITH MS. ANDREWS SECONDING, TO FIND THE
33 APPLICATION COMPLETE. MOTION APPROVED 4-0.

34
35 It was noted April 12th would be the next meeting available to begin the application
36 process.

37 38 **V. Adjournment**

39
40 MS. EATON MOVED, WITH MS. ANDRWES SECONDING, TO ADJOURN THE MEETING.
41 MOTION APPROVED 4-0.

42
43 Meeting was adjourned at 7:30 pm.
44