

**TOWN OF MOUNT DESERT
PLANNING BOARD MINUTES
January 25, 2023**

Board Members Present: Tracy Loftus Keller, David Ashmore, Chair William Hanley, Meredith Randolph

Members of the Public Present: Jen Tamedl, Brian Tamedl, Jay Habermann, Lynne Wheat, James Crowley, Ellie Grassi, JTR, Noel Musson, Betsy Kelly, Lynn Janney, Tracey Aberman Inness, James Crowley, Paul Monyok, Carmen Sanford

I. Call to order 6:00 p.m.

Chair William Hanley called the meeting to order at 6:00PM. Planning Board Members were noted.

Alternate Board Members Christie Anastasia and Gloria Kunje were not in attendance.

II. Approval of Minutes

January 11, 2023:

MS. RANDOLPH MOVED, WITH MS. LOFTUS KELLER SECONDING, APPROVAL OF THE JANUARY 11, 2023 MINUTES AS PRESENTED.

VOTE:

MEREDITH RANDOLPH: AYE

TRACY LOFTUS KELLER: AYE

DAVID ASHMORE: AYE

CHAIR WILLIAM HANLEY: AYE

MOTION APPROVED 4-0.

III. Proposed Land Use Zoning Ordinance and Land Use Map Amendments for the 2023 Annual Town Meeting on May 2, 2023.

Noel Musson was in attendance. He noted the purpose of the discussion is to give the Planning Board an overview of what will be voted on at the February 8 Meeting.

Mr. Musson's overview included:

Revised Short-Term Rental Ordinance

The Selectboard asked the LUZO Committee to work on a short-term rental ordinance. The ordinance will not require Planning Board approval.

Amendments to the Land Use Zoning Ordinance to amend the deadline for establishment of use

The amendments will extend the deadline for establishment of use after conditional use has been granted to 24 months, up from 12 months.

Amendments to the Land Use Zoning Ordinance to remove the air landing sites

1 The amendment will eliminate air landing sites as an item in the performance
2 standards. Air landing sites are not included in the allowed uses table. The section will
3 be reserved in the Ordinance to avoid having to renumber the Ordinance.

4
5 **Amendments to the Land Use Zoning Ordinance Regarding Lots within the Village**
6 **Commercial District in the Village of Northeast Harbor**

7 The proposal will amend the section 3.5 footnote to add clarity that only lots in the
8 village of Northeast Harbor qualify for the Village Commercial Zoning District 1000sf per
9 lot.

10
11 **Amendments to the Land Use Zoning Ordinance to amend the date for when a lot was**
12 **created for access purposes**

13 This amendment corrects the date shown in the Ordinance. The Town voted to change
14 the standards last year for lots existing before a certain date. The date is being
15 corrected to May 5, 2015, from June 6, 2015.

16
17 **Amendment regarding additional one-family or two-family dwellings**

18 This amendment proposes to clarify the dimensional standards for lots for both single
19 family residences and duplexes and any potential additions of other residences.

20
21 **Amendments to the Land Use Zoning Ordinance to clarify where the setback is**
22 **measured from a road or right-of-way**

23 This amendment clarifies from where a road setback is measured from.

24
25 **Amendments to the Land Use Zoning Ordinance to add Barns/Stable and Garage/Shed**
26 **as permitted uses in Section 3.4**

27 This amendment will allow a property owner to build a barn or garage on a residential
28 lot without requiring a residence be on the lot to which the barn or garage can be tied.

29
30 **Amendments to the Land Use Zoning Ordinance the footprint lamination for principal**
31 **and accessory structures in the shoreland zone**

32 This amendment corrects the ordinance to increase the percentage of principal and
33 accessory structures' footprint to 20%, up from 15%, making it consistent with
34 shoreland zoning.

35
36 **Amendments to the Land Use Zoning Ordinance regarding the definition of Marina**
37 **and Expansion of Use**

38 This amendment clarifies that adding moorings does not constitute an expansion of an
39 approved use, and also clarifies that such an issue is regulated by the Harbormaster and
40 not the CEO or Planning Board.

41
42 **Amendments to the Land Use Zoning Ordinance to change the Land Use District**
43 **designation of Tax Map 003: Lot 026 and Map 003: Lot 027**

44 This is a zone change request from two parcels adjacent to each other. They request to
45 move from Zone SR2 to R2. Their request came in after the deadline set for last year's

1 Zoning District change requests. Both parcels are fully outside the shoreland zone.

2
3 Mr. Musson noted the possibility that more changes resulting from new shoreland
4 zoning amendments regarding floodplain and shoreland zoning heights could be added.
5 Mr. Musson has not received official language from the DEP.

6
7
8 Mr. Musson asked for questions. There were none.

9
10 A schedule of the upcoming meetings was shared –
11 February 8 – Planning Board public hearing at which the Planning Board will vote
12 February 13 – Selectboard warrant article review
13 February 21 – Public hearing on short-term rental
14 February 22 – Planning Board additional public hearing if deemed necessary
15 February 28 – Warrant Committee

16
17 Mr. Musson reported that all proposed changes and the proposed Short-Term Rental
18 Ordinance are on the Town’s website.

19
20 **IV. Conditional Use Approval Application(s):**

- 21
- 22 **A. Conditional Use Approval Application #001-2023**
- 23 **OWNER(S) NAME(S):** Union Meeting House Society **AGENT(S):**
- 24 Carmen Sanford & Robert Moore, Board of Trustees **LOCATION:** 1132
- 25 Main Street, Somesville
- 26 **TAX MAP:** 020 **LOT:** 019 **ZONE(S):** Village Residential 2 (VR2) &
- 27 Shoreland Residential 2 (SR2)
- 28 **PURPOSE:** Section 3.4 – Church - Expansion of a Physically Challenge Ramp and
- 29 Deck on front of church.
- 30 **SITE INSPECTION:** 4:30PM

31 CEO Keene confirmed adequate Public Notice. Abutters were notified.

32
33 Chair Hanley noted that this Application was approved by the Planning Board
34 approximately a year ago. The Application approval lapsed; therefore, the owners are
35 returning for another approval. Chair Hanley had the previous Checklist and Minutes to
36 refer to.

37
38 Ms. Loftus Keller reported on the site visit. She and Chair Hanley observed the deck is in
39 the same condition as at their last visit. The intent of the work is to extend both the deck
40 and the ramp by 2 feet 6 inches to allow two people to pass each other on it. Upright
41 balusters of the deck will also be replaced.

42
43 Agent Carmen Sanford noted there was nothing more to add. The Meeting House trustees
44 didn’t realize it was a one-year permit. It took time to move forward and find a carpenter.
45 Nothing has changed in the project since the original Application, and they hope to finish

1 the project this summer.

2

3 Chair Hanley asked for public comment.

4

5 There was none.

6

7 Chair Hanley closed public comment.

8

9 MS. RANDOLPH MOVED, WITH MR. ASHMORE SECONDING, TO USE THE SHORT FORM.

10 VOTE:

11 MEREDITH RANDOLPH: AYE

12 DAVID ASHMORE: AYE

13 TRACY LOFTUS KELLER: AYE

14 CHAIR WILLIAM HANLEY: AYE

15 MOTION APPROVED 4-0.

16

17 No conflict of interest found was found among the Board.

18

19 MS. RANDOLPH MOVED, WITH MS. LOFTUS KELLER SECONDING, TO FIND THE

20 APPLICATION COMPLETE.

21 VOTE:

22 MEREDITH RANDOLPH: AYE

23 TRACY LOFTUS KELLER: AYE

24 DAVID ASHMORE: AYE

25 CHAIR WILLIAM HANLEY: AYE

26 MOTION APPROVED 4-0.

27

28 MS. RANDOLPH MOVED, WITH MR. ASHMORE SECONDING, TO APPROVE THE

29 APPLICATION.

30

31 A review of the Application Checklist was made and is attached to these Minutes.

32

33 VOTE:

34 MEREDITH RANDOLPH: AYE

35 DAVID ASHMORE: AYE

36 TRACY LOFTUS KELLER: AYE

37 CHAIR WILLIAM HANLEY: AYE

38 MOTION APPROVED 4-0.

39

40 **V.** Land Use Zoning Ordinance Section 6B.11 Lots § (2) Access - Lots created on or after
41 June 6, 2015. No lot created on or after June 6, 2015, shall be built upon or otherwise
42 developed unless it has a private road or driveway for access to a public way by a valid
43 right of way benefiting the lot (or a combination of driveway and/or one or more private
44 roads) or by ownership of land abutting the public way. If more than 2 lots are accessed
45 by the same private road, then it must meet the Street Design and Construction

1 Standards of Section 5.14 of the Subdivision Ordinance. If no more than 2 lots are
2 accessed by the same private road or driveway, then it must meet either the said
3 Street Design and Construction Standards or the Driveway Construction standards of
4 Section 6B.6 of this Ordinance. A pre-existing primary access drive that serves up to
5 2 existing lots need not meet the requirements of Section 6B.6. All such lots must
6 maintain safe access for fire, police, and emergency vehicles, as determined by the
7 Code Enforcement Officer. In determining whether lots maintain safe access, the Code
8 Enforcement Office may seek guidance from the Fire Chief.

9
10 *Subdivision Ordinance* Sections **3.1.1 Road Standard Review**. When the development of a
11 lot involves access over a private road that will serve more than 2 lots, such development
12 may be submitted for approval as a Road Standard Review, provided that the
13 development does not otherwise require approval as a Subdivision & **6. Waiver and**
14 **Modifications of this Ordinance § 6.1.1** Where the Board finds that a private road
15 providing access to a lot, or lots cannot meet the Street Design and Construction
16 standards of Section 5.14 because (a) the application of land use restrictions would
17 prevent the work required to bring an existing road into compliance or (b) physical
18 conditions of the site render strict compliance impossible, then the Board may waive
19 such standards.

20
21 However, in all such cases, the Board must find that (a) the proposed plan brings the road
22 into compliance as much as is feasible, (b) the proposed plan will provide safe access to
23 and from the property, and (c) the proposed plan will allow for access to the site for
24 emergency vehicles.

25
26 **PROPERTY OWNER(S):** Jennifer & Brian Tamedl

27 **AGENT(S):** Paul Monyok, PE, Haley Ward, Inc.

28 **PROPERTY LOCATION:** Off Wetlands Way, Seal Harbor

29 **TAX MAP:** 031 **Lot:** 033 **Zone(s):** Village Residential 1 (VR1)

30 **PURPOSE:** Request a waiver of the Street Design and Construction Standards of
31 Section 5.14 of the Subdivision Ordinance for an existing private road.

32 **SITE INSPECTION:** 3:45PM

33 CEO Keene confirmed adequate Public Notice. Abutters were notified.

34
35 Chair Hanley reported on the site visit. The Agent, Applicant, and an abutter were in
36 attendance. Wetlands Way is a private road off Jordan Pond Road. The property owner's
37 lot is the biggest lot on the road, expanding to the North. Wetlands Way transitions from
38 paved to gravel west of the property owner's lot. Wetlands Way is heavily wooded with
39 trees close to the existing road edges. There is a fence line on the south side of the road.
40 There is a stream with an associated wetland on the lot. The property owners have been
41 in contact with Fire Chief Bender. There's a hammerhead for a turn-around proposed for
42 the property owner's lot. Five properties abut Wetlands Way Road. Not all abutters use
43 this section of road. It's a quiet, heavily wooded setting.

44
45 Agent Paul Monyok reported that the property owners want to put a house on the

1 property. To do so they are required to improve the road. Wetlands Way was created in
2 approximately 1940, before current street standards were in place. The property owners
3 are trying to update the road as best they can to meet fire safety vehicle access
4 requirements. The road will remain a private road. The property owners must bring the
5 road up to subdivision standards.

6
7 The property owners are asking for a waiver on the minimum 50-foot-wide Right of Way
8 (ROW). Mr. Monyok believed that typically a ROW of this width is required to
9 accommodate conditions of the road such as slopes or ditching, or to provide for a turn
10 lane. This area is a dead-end street on flat terrain with no sloping other than
11 approximately a foot of gravel. The property owners are proposing to widen what's
12 already there with as little disturbance as possible. The property owners hope to build
13 without affecting abutters and with as little impact to the road as possible. A 50-foot ROW
14 would require asking for property from abutters on the road, which would result in a
15 number of abutters' lots becoming non-conforming.

16
17 The property owners are proposing a sixteen-foot road width. They proposed the width
18 and a hammerhead turn-around to the Fire Chief, who confirmed it as acceptable. The
19 clearance required by the Fire Chief is for both width and height. This will require some
20 tree trimming.

21
22 Property Owner Brian Tamedl mentioned the question of a cul de sac versus hammerhead
23 was also part of the waiver. Mr. Monyok agreed a cul de sac is recommended in the
24 ordinance. The hammerhead was approved by the Fire Chief.

25
26 CEO Keene stated that in the past the Fire Chief has required 14.5-foot vertical and
27 horizontal clearance. This is not mentioned in the Fire Chief's letter. Mr. Monyok noted
28 that height was not mentioned, but the property owner would have no objections to a
29 14.5-foot clearance.

30
31 CEO Keene inquired about ditching. Mr. Monyok explained the road is an elevated grade.
32 The proposed fill slope is 1.5 to 2 feet deep. And then a foot width. There is a slight pitch
33 in the road towards Jordan Pond Road. There are no drainage issues toward the south.
34 Most of any water runoff should end up in the stream.

35
36 Mr. Monyok confirmed they are proposing a 16-foot travel way with two two-foot
37 shoulders. There is no difference between the travel way and the shoulders.

38
39 CEO Keene believed at one point the property owners were planning to divide the lot. Mr.
40 Monyok confirmed the property owners discussed dividing the lot. They are not dividing
41 the lot at this time.

42
43 Chair Hanley reported there was no concern voiced from the abutter present at the Site
44 Visit. Connecting to the water and sewer systems was discussed. The property owners
45 intend to connect to water and sewer.

1
2 Mr. Monyok reported on the wetland delineation done in 1994 by a previous owner.
3 MDEP visited the site to look at the stream. Wetlands of special significance are deemed
4 more important. At this time the only wetland of special significance is the wetland within
5 the 25-foot stream setback.

6
7 Mr. Tamedl stated nothing on the property qualified per the Town Ordinance as wetland.
8 The DEP qualifies the stream and 25 feet around it as wetland.

9
10 There were no other questions.

11
12 Chair Hanley closed Public Comment.

13
14 No conflict of interest found among the Board.

15
16 Chair Hanley read Section 6.1.1 of the Subdivision Ordinance:
17 *Where the Board finds that a private road providing access to a lot, or lots*
18 *cannot meet the Street Design and Construction standards of Section 5.14*
19 *because (a) the application of land use restrictions would prevent the*
20 *work required to bring an existing road into compliance or (b) physical*
21 *conditions of the site render strict compliance impossible, then the Board*
22 *may waive such standards.*

23
24 *However, in all such cases, the Board must find that (a) the proposed plan*
25 *brings the road into compliance as much as is feasible, (b) the proposed*
26 *plan will provide safe access to and from the property, and (c) the*
27 *proposed plan will allow for access to the site for emergency vehicles.*

28
29 The proposed hammerhead was presented to the Fire Chief as depicted on the site plan.
30 The Fire Chief approved the hammerhead as presented.

31
32 MS. RANDOLPH MOVED, WITH MR. ASHMORE SECONDING, THAT THE EXISTING ROW IS 25
33 FEET. STREET DESIGN AND CONSTRUCTION UNDER SECTION 5.14 OF THE SUBDIVISION
34 ORDINANCE REQUIRES A ROW MINIMUM OF 50 FEET. THE ROW CANNOT BE WIDENED
35 BECAUSE WIDENING CREATES NONCONFORMITIES DUE TO LOT AREA AND SETBACKS ON
36 THE PROPERTIES ABUTTING THE PRIVATE ROADWAY/ROW. THEREFORE, THE STREET
37 DESIGN AND CONSTRUCTION STANDARDS OF SECTION 5.14 OF THE SUBDIVISION
38 ORDINANCE REGARDING THE MINIMUM ROW WIDTH CANNOT BE MET.

39 VOTE:
40 MEREDITH RANDOLPH: AYE
41 DAVID ASHMORE: AYE
42 TRACY LOFTUS KELLER: AYE
43 CHAIR WILLIAM HANLEY: AYE
44 MOTION APPROVED 4-0.

45

1 With regard to the shoulders, Mr. Monyok explained that the road width of 16 feet
2 matches the section of road that is paved. Two three-foot shoulders would be six feet in
3 width, bringing the combined road-width and shoulder-width close to the capacity of the
4 25-foot ROW. The survey information along the road shows that a fence along the road
5 may be on or over the property line, constricting the ability to expand the shoulders.
6 Additionally, widening the shoulders would require extensive tree cutting along the ROW,
7 and the property owners would prefer not to clear six feet of trees along the road.

8
9 Minimum width of shoulders required under Section 5.14 of the Subdivision Ordinance is
10 three feet on each side.

11
12 Ms. Randolph agreed there were areas along the road where shoulders could not be
13 added. Chair Hanley felt each road waiver request is specific to the circumstance. The
14 Motions and Findings must also be specific to the circumstance. It was his experience that
15 the road is heavily wooded. Maintaining the existing character of the road has merit. Only
16 one other property owner accesses this end of the road.

17
18 CEO Keene pointed out the cross section showing the 16-foot road, with two two-foot
19 reinforced grass shoulders. The Fire Chief has allowed grass shoulders in the past,
20 providing they can withstand the weight of the safety vehicles. It appears the shoulder
21 waiver request is to reduce the required shoulder width on either side from three feet to
22 two feet.

23
24 MS. RANDOLPH MOVED, WITH MR. ASHMORE SECONDING, THAT WHILE ACHIEVING THE
25 REQUIRED 16-FOOT ROAD WIDTH, THE APPLICANT CAN PROVIDE A TWO-FOOT SHOULDER
26 ON EACH SIDE OF THE ROAD. CONCLUSION OF LAW IS THE APPLICANT IS ACHIEVING THE
27 STANDARD AS FEASIBLY AS POSSIBLE WHILE MAINTAINING MINIMAL TO NO FURTHER
28 IMPACT ON MATURE TREE GROWTH.

29 VOTE:
30 MEREDITH RANDOLPH: AYE
31 DAVID ASHMORE: AYE
32 TRACY LOFTUS KELLER: AYE
33 CHAIR WILLIAM HANLEY: AYE
34 MOTION APPROVED 4-0.

35
36 The property owner is proposing a hammerhead as shown on the C101 proposed site plan,
37 for which the fire chief has submitted approval of, via an email.

38
39 MS. RANDOLPH MOVED, WITH MS. LOFTUS KELLER SECONDING, THE FIRE CHIEF HAS
40 APPROVED THE PROPOSED HAMMERHEAD. THE CONCLUSION OF LAW IS THAT THE
41 PROPOSED PLAN WITH A HAMMERHEAD INSTEAD OF A CUL DE SAC WILL PROVIDE SAFE
42 ACCESS TO AND FROM THE PROPERTY AND THE PROPOSED PLAN WILL ALLOW FOR ACCESS
43 TO THE SITE FOR EMERGENCY VEHICLES.

44 VOTE:
45 MEREDITH RANDOLPH: AYE

1 DAVID ASHMORE: AYE
2 TRACY LOFTUS KELLER: AYE
3 CHAIR WILLIAM HANLEY: AYE
4 MOTION APPROVED 4-0.

5
6 MS. RANDOLPH MOVED, WITH MR. ASHMORE SECONDING, THE PROPOSED ROW WAIVER
7 REQUEST, SHOULDER REQUEST, AND HAMMERHEAD CONFIGURATION WILL BRING THE
8 ROAD INTO COMPLIANCE AS MUCH AS IS FEASIBLE, WILL PROVIDE SAFE ACCESS TO AND
9 FROM THE PROPERTY, AND WILL ALLOW FOR SAFE ACCESS TO THE SITE FOR EMERGENCY
10 VEHICLES.

11 VOTE:
12 MEREDITH RANDOLPH: AYE
13 DAVID ASHMORE: AYE
14 TRACY LOFTUS KELLER: AYE
15 CHAIR WILLIAM HANLEY: AYE
16 MOTION APPROVED 4-0.

17
18 **VI. Other**

19 There was no Other Business.

20
21 **VII. Adjournment**

22 MR. ASHMORE MOVED, WITH MS. RANDOLPH SECONDING, TO ADJOURN THE MEETING.

23 VOTE:
24 DAVID ASHMORE: AYE
25 MEREDITH RANDOLPH: AYE
26 TRACY LOFTUS KELLER: AYE
27 CHAIR WILLIAM HANLEY: AYE
28 MOTION APPROVED 4-0.

29
30 The meeting adjourned at 7:37PM.
31