

**Town of Mount Desert Planning Board  
Regular Meeting Minutes  
Meeting Room, Town Hall  
6:00 PM, December 11, 2019**

**Public Present:**

Tom Benson, Jeff Teunisen, Erika Lindquist, Rick Savage, Benjamin C. Moore, Mia Thompson, Victoria Hamblen, Gloria Delsandro

**Board Members Present:**

Chair Bill Hanley, Christie Anastasia, Tracy Loftus Keller, Meredith Randolph

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

Chair Hanley called the meeting to order at 6:00 PM. Board Members were noted. Ms. Loftus Keller is an alternate, non-voting member.

MS. RANDOLPH MOVED, WITH MS. ANASTASIA SECONDDING, TO MAKE MS. LOFTUS KELLER A VOTING MEMBER FOR THE MEETING. MOTION APPROVED 3-0-1 (MS. LOFTUS KELLER IN ABSTENTION).

**II. Approval of Minutes**

**November 13, 2019**: Minutes were tabled, due to lack of a quorum.

**November 20, 2019**: Chair Hanley noted a sentence on Page 1 including the duplicate words "personal matter". The sentence was amended to remove the duplication.

MS. RANDOLPH MOVED, WITH MS. KELLER SECONDDING, APPROVAL TO THE NOVEMBER 20, 2019 MINUTES AS AMENDED. MOTION APPROVED 4-0.

**III. Section 4.6 Functional Land Divisions.**

1. Functional land divisions of lots are allowed provided the lots are as conforming as possible, reviewed, and approved by the Planning Board. The Planning Board will determine whether each division is a distinct, separate, and historical residential use. The following criteria shall be met for a functional land division to be approved:

1. The dwelling unit(s) located on the property all predate the adoption of this Ordinance or any amendment thereto which made the structures non-conforming.
2. The structures located on the property, together with appropriate curtilage (i.e. yard area used with and around structure/s), were separately occupied and used by tenants at the time of the adoption of this Ordinance or any amendment thereto which made the structures non-conforming.
3. The proposed use reflects the nature and purpose of the use prevailing when the zoning legislation took effect.

- 4. There is not created a use different in quality or character, as well as in degree.
- 5. The current use is not different in kind in its effect on the neighborhood.

**PROPERTY OWNER(S):** Paula B. Knudsen, Heirs of  
C/O Jennifer Tully, Pers. Rep.  
**AGENT:** Thomas W. Benson, PLS  
**PROPERTY LOCATION(S):** 41 & 43 Main Street, Seal Harbor  
**TAX MAP:** 030 **Lots:** 027 & 029 **Zone(s):** Village Residential 1 (VR1)  
**PURPOSE:** Functional Land Division – Amendment to Plan #039 No. #061

Chair Hanley read Section 4.6 of the LUZO.

It was confirmed adequate Public Notice was given. Abutters were notified.

Agent Tom Benson reported the land divisions in question were approved per a plan dated 2009. The property lines on the plan are confusing; The house on Lot B is 28 feet in width, wider than what was originally stated. Because of this discrepancy, the property line runs through the house on Lot B. Mr. Benson retained the same configuration of lines, and shortened the line running through the house by 3.88 feet. This is the only change in the plan. Mr. Benson confirmed the angle on the amended line has not changed.

The two lots are part of the same deed. The amendment was approved, and this is merely a minor change.

A review of the functional land division criteria was made.

**#1 - The dwelling unit(s) located on the property all predate the adoption of this Ordinance or any amendment thereto which made the structures non-conforming.**

The plan was previously approved in 2009.

**#2 - The structures located on the property, together with appropriate curtilage (i.e. yard area used with and around structure/s), were separately occupied and used by tenants at the time of the adoption of this Ordinance or any amendment thereto which made the structures non-conforming.**

Existing structures and curtilage were previously approved in 2009.

**#3 - The proposed use reflects the nature and purpose of the use prevailing when the zoning legislation took effect.**

Residential use was approved, and the property is in a residential neighborhood.

**#4 - There is not created a use different in quality or character, as well as in degree.**

No change of use is proposed.

**#5 - The current use is not different in kind in its effect on the neighborhood.**

The property is a residential use, in a residential neighborhood.

MS. RANDOLPH MOVED, WITH MS. LOFTUS KELLER SECONDING, THE PROPOSED AMENDMENT DOES NOT AFFECT THE CRITERIA OF FUNCTIONAL LAND DIVISION OF THE

1 PREVIOUSLY APPROVED 2009 FUNCTIONAL LAND DIVISION, FILE 039, NO. #61, AND  
2 THEREFORE, THE PROPOSED AMENDMENT IS APPROVED.

3  
4 MOTION APPROVED 4-0.

5  
6 IV. Land Use Zoning Ordinance **Section 6B.10 Lots § (2) Access** - No lot may be built upon or otherwise  
7 developed unless it has a private road or driveway for access to a public way by a valid right of way  
8 benefiting the lot (or a combination of driveway and/or one of more private roads) or by ownership  
9 of land abutting the public way. **If more than 2 lots are accessed by the same private road, then it**  
10 **must meet the Street Design and Construction Standards of Section 5.14 of the Subdivision**  
11 **Ordinance.** If no more than 2 lots are accessed by the same private road or driveway, then it must  
12 meet either the said Street Design and Construction Standards or the Driveway Construction  
13 standards of Section 6B.6 of this Ordinance. A pre-existing primary access drive that serves up to 2  
14 existing lots need not meet the requirements of Section 6B.6. All lots must maintain safe access for  
15 fire, police, and emergency vehicles, as determined by the Fire Chief.

16  
17 Subdivision Ordinance **Section 6. Waiver and Modifications of this Ordinance § 6.1.1** Where the  
18 Board finds that a private road providing access to a lot or lots cannot meet the Street Design and  
19 Construction standards of Section 5.14 because (a) the application of land use restrictions would  
20 prevent the work required to bring an existing road into compliance or (b) physical conditions of  
21 the site render strict compliance impossible, then the Board may waive such standards. However,  
22 in all such cases, the Board must find that (a) the proposed plan brings the road into compliance  
23 as much as is feasible, (b) the proposed plan will provide safe access to and from the property,  
24 and (c) the proposed plan will allow for access to the site for emergency vehicles.

25  
26 **PROPERTY OWNER(S):** Rye Field Partners, LP

27 **AGENT:** Thomas B. Wheatley, Esq.

28 **PROPERTY LOCATION:** Off Gatehouse Road

29 **TAX MAP:** 005 **Lot:** 009-004 **Zone(s):** Residential 2 (R2)

30 **PURPOSE:** Land Division, off a Non-compliant Private Road.

31 **SITE INSPECTION:** 3:00PM

32  
33 Chair Hanley read Sections 6.B10 and 6.1.1

34  
35 It was confirmed there was adequate Public Notice and Abutters were notified.

36  
37 No Conflict of Interest was found.

38  
39 Ms. Anastasia reported on the Site Visit. She noted she had been present at the earlier Site Visit  
40 at well. The area was flagged. Ms. Anastasia walked the length of the road with Jeff Teunisen of  
41 CES. The mouth of the road is narrow and requires widening. Flagging on both sides of the road  
42 showed the proposed road width and property lines.

43

1 Mr. Teunisen reported the driveway is currently 14 feet wide and is staked approximately two  
2 feet to show the proposed road width, in order to meet safety vehicle specifications.

3  
4 Agent Thomas B. Wheatley, Esq. was not in attendance.

5  
6 The road was originally thought to belong to the cemetery. However, it has been shown to belong  
7 to Jameson Clark.

8  
9 Fire Chief Bender has requested a road maintenance agreement. Mr. Teunisen referred to the  
10 draft agreement included in the Application packet presented.

11  
12 Concerns were raised over the lack of clarity to the Proposal. Questions raised include, but may  
13 not be limited to:

- 14 - Part of the road appears to be on Acadia National Park land. There is no written confirmation  
15 from the Park that the changes proposed are acceptable to them.
- 16 - Agents for the project have stated they intend to improve the entire length of the road. The  
17 plan submitted does not include mention of the final 800 feet.
- 18 - The combination of road and shoulders will be wider than the Right of Way. Currently the  
19 shoulder section of the road is not staked.
- 20 - There is no cross-section for the proposed road showing width, slope, and shoulder width.  
21 No information has been presented showing dimensional or composition constraints of the  
22 road.
- 23 - Road features such as culverts have not been included in the Proposal.
- 24 - The center line of the proposed road is not shown the entire length of the road.
- 25 - Rick Savage's property goes to the center of the Right of Way. It was not made clear how this  
26 will be affected by the proposed work.
- 27 - A plan for moving the exposed water line belonging to the Cemetery Association will have to  
28 be approved by the Cemetery Association.
- 29 - There is no indication that all property owners are in agreement with the plans proposed that  
30 affect their property.

31  
32 Additionally, the Board cautioned there was no surety a waiver of road width would be granted  
33 or to what extent, until the Applicant's submission was complete and reviewed.

34  
35 Chair Hanley stated it was not the Purview of the Board to assist with or dictate design. However,  
36 the more detail in the plan presented, the better. The Board will have to make Findings of Fact  
37 on each point of the review criteria based on the information received.

38  
39 It was agreed to table the discussion until the January 8, 2020 Planning Board Meeting. It was  
40 noted that tabling to a date certain does not require Public Notice or Abutter notification.  
41 Additional submittals would have a deadline for submission.

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43 MS. RANDOLPH MOVED, WITH MS. ANASTASIA SECONDING, TO TABLE THE ITEM UNTIL THE  
44 JANUARY 8, 2020 MEETING. MOTION APPROVED 4-0.

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2 MS. ANASTASIA MOVED, WITH MS. RANDOLPH SECONDING, TO RECESS FOR A SHORT BREAK.  
3 MOTION APPROVED 4-0.

4  
5 V. **Conditional Use Approval Application(s):**

6  
7 **Conditional Use Approval Application #009-2019**

8 **OWNER(S) NAME(S):** Hedgefield Garden, LLC

9 **AGENT:** Erika Lindquist

10 **LOCATION:** Off Kimball Road, Northeast Harbor

11 **TAX MAP:** 024 **LOT(S):** 057-002 & 057-003 **ZONE(S):** Village Residential  
12 Two (VR2)

13 **PURPOSE:** Section 3.4 – Excavation or Filling of >150 cubic yards.

14 **SITE INSPECTION: 3:45PM**

15  
16 Ms. Anastasia reported on the Site Visit. The upper left section of the property has an existing  
17 man-made trench with standing water in it. The Applicant is proposing to create a lined,  
18 contained water feature, and requires some excavation work. The area was not flagged but  
19 described to Ms. Anastasia as she walked the property.

20  
21 Agent Erika Lindquist reported there would be water supplied from a well on the property and  
22 circulated in the water feature with a pump. The water would also be fed with an irrigation  
23 system. When draining the feature in the fall, water would be drained through an underground  
24 irrigation system already on the property.

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26 Chair Hanley asked for public comment. There was none.

27  
28 MS. RANDOLPH MOVED, WITH MS. LOFTUS KELLER SECONDING, TO FIND THE APPLICATION  
29 COMPLETE. MOTION APPROVED 4-0.

30  
31 MS. RANDOLPH MOVED, WITH MS. LOFTUS KELLER SECONDING, TO APPROVE THE  
32 APPLICATION.

33  
34 MS. ANASTASIA MOVED, WITH MS. RANDOLPH SECONDING, TO USE THE SHORT FORM.  
35 MOTION APPROVED 4-0.

36  
37 A review was made of the Checklist and is attached to these Minutes.

38  
39 MOTION TO APPROVE THE APPLICATION APPROVED 4-0.

40  
41 VI. **Other**

42 There was no other Business.

43  
44 VII. **Adjournment**

1 MS. LOFTUS KELLER MOVED, WITH MS. RANDOLPH SECONDING TO ADJOURN. MOTION  
2 APPROVED 4-0.

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4 Meeting adjourned at 7:47PM.

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