

**Town of Mount Desert Planning Board
Planning Board Meeting Minutes
Meeting Room, Town Hall
6:00 pm, November 30, 2016**

Public Present

Annette Carvajal, Greg Benz, Susan Ferrante-Collier, John Collier, Dick Broom, Jules Opton-Himmel, Sandra K. Wilcox, Jack Russell, Vickie Vandenburg, Jim Russell, Andy Hamilton, Attorney for the Board

Board Members Present

David Ashmore, Chairman Bill Hanley, Meredith Randolph, Joanne Eaton

Also present was Recording Secretary Heidi Smallidge.

I. Call to Order

Chairman Hanley called the meeting to order at 6:05 PM. Voting members were noted.

II. Conditional Use Approval:

Public Hearing:

A. Conditional Use Approval Application #032-2014

OWNER(S): James Owen Parker Harris c/o Shepard Harris

APPLICANT(S): Parker Harris

AGENT(S): Jules Opton-Himmel and Erick Swanson

LOCATION: Lakeside Road/Echo Lake Road, Mount Desert

TAX MAP: 009 **LOT:** 120-009 **ZONE(S):** Shoreland Residential 2 (SR2)

PURPOSE: Sections 3.4 & 6C.7 – Marine and Freshwater Structure Performance Standards

SITE VISIT: 3:30 PM

Ms. Eaton confirmed adequate public notice. Abutters were notified.

Ms. Eaton reported on the site visit. All Planning Board members at the meeting were in attendance, as was Planning Board Attorney Andy Hamilton, Agent for the Applicant Jules Opton-Himmel, and a number of area residents. The Planning Board was shown the location of the new entryway. The walk curves at the point of new entry, making it less visible to the roadside. The walk goes between the trees. Some fill will be required as previously discussed. The angle of the walk has changed slightly, but it ends at the same place previously discussed. Maps will be presented to reflect the boardwalk changes.

Mr. Opton-Himmel presented new drawings. The length of the final platform has changed and the structure is now 150 feet in length.

With regard to the conditions requested by the area residents, Mr. Opton-Himmel felt that the applicant could accept numbers 4 and 11. The others he deemed onerous and unfair.

1
2 Mr. Russell stated the residents are concerned with the community asset of the northern wetland.
3 The LUZO's opening statements charge the Planning Board to protect the resources of the Town.
4 The boardwalk in question serves only seven private property lots and puts at risk an asset that's
5 taken millennia to develop. Mr. Russell notes the residents have requested a number of
6 conditions to be placed on the proposal should it be approved. He felt the conditions were not
7 unreasonable given the goal of protecting the town.
8

9 The Board agreed the rest of Section 6A of the checklist, and Section 5.9 were left to address.
10 Discussion of the requested conditions would follow.
11

12 **Section 6A.4 – Impact on Town Services** – Chairman Hanley read the Section description.
13 Chairman Hanley felt Section 6A.4 was Not Applicable. The Board agreed.
14

15 Attorney Hamill suggested determining the conditions have been met.
16

17 MS. RANDOLPH MOVED, WITH MS. EATON SECONDING, TO FIND THE STANDARD HAS
18 BEEN MET. THE PROPOSED USE WILL NOT UNDULY BURDEN THE CAPACITY OF THE
19 TOWN'S FACILITIES. MOTION APPROVED 4-0.
20

21 **Section 6A.5 – Land Suitability** – Chairman Hanley read the Section description. It was felt that
22 this issue has been discussed. Chairman Hanley noted there is an erosion control plan
23 presented. Previously discussed wood treatment was reviewed. Mr. Ashmore read a submission
24 from Attorney Harris describing the submissions applicable.
25

26 MR. ASHMORE MOVED, WITH MS. EATON SECONDING, THAT THE STANDARD IS MET
27 BASED ON THE SUBMISSIONS NOTED. MOTION APPROVED 4-0.
28

29 **Section 6A.6 – Lighting** – It was noted there is no lighting planned. Section 6A.6 was deemed
30 Not Applicable.
31

32 **Section 6A.7 – Stormwater** – Chairman Hanley read the Section description.
33

34 Mr. Opton-Himmel felt the project would have no impact on stormwater. The proposed area in
35 question is small, and the gaps between the boards allow for water to run through.
36

37 MS. RANDOLPH MOVED, WITH MS. EATON SECONDING, THE STANDARD HAS BEEN
38 MET. MOTION APPROVED 4-0.
39

40 **Section 6A.8 – Vegetation** – Chairman Hanley noted the five conditions making up this Section;
41 Clearing, Tree Removal Near Town or State Roads, Slash, CEO Permit, Conditional Use
42 Approval.
43

44 Attorney Hamill felt the issue of Clearing was the only part of the Section that might apply. He felt
45 the Standard is Met.
46

1 A condition of approval has been set that no trees be cut with regard to Section 6C.3.

2
3 MS. RANDOLPH MOVED THAT THE STANDARD WAS MET WITH THE CONDITION THAT
4 NO TREES ARE CUT PER THE CONDITION SET IN SECTION 6C.3. FURTHERMORE,
5 SECTIONS 6A.8.2-5 ARE NOT APPLICABLE. MS. EATON SECONDED THE MOTION.
6 MOTION APPROVED 4-0.

7
8 **Section 6A.9 – Dust, Fumes, Vapors, Odors, Gases** - Chairman Hanley read the Section
9 Description.

10
11 MS. EATON MOVED THAT, GIVEN THE NATURE OF THE PROJECT, SECTION 6A.9
12 STANDARDS HAVE BEEN MET. MS. RANDOLPH SECONDED THE MOTION. MOTION
13 APPROVED 4-0.

14
15 The question of public discussion of Section 6A was considered. It was agreed to move forward
16 with Section 5.9.

17
18 **Section 5.9.1 – Will Maintain Safe and Healthful Conditions** – Chairman Hanley asked for
19 Public Comment. There was no public comment. It was agreed Section 5.9.1 should be
20 classified “See Application”.

21
22 **Section 5.9.2 - Will not result in water pollution, erosion, or sedimentation to surface**
23 **waters** – It was agreed Section 5.9.2 should be classified “See Application”.

24
25 **Section 5.9.3 - Will adequately provide for the disposal of all wastewater** – It was agreed
26 Section 5.9.3 was “Not Applicable”.

27
28 **Section 5.9.4 - Will not have an adverse impact on spawning grounds, fish, aquatic life,**
29 **bird or other wildlife habitat** – It was agreed Section 5.9.4 should be classified “See
30 Application”.

31
32 **Section 5.9.5 - Will conserve shore cover and visual, as well as actual, points of access to**
33 **inland and coastal waters** – It was agreed Section 5.9.5 should be classified “See Application”.

34
35 **Section 5.9.6 - Will protect archaeological and historic resources as designated in the**
36 **comprehensive plan** – It was agreed Section 5.9.6 should be classified “See Application”.

37
38 **Section 5.9.7 - Will not adversely affect existing commercial fishing or maritime activities**
39 **in a Shoreland Commercial district** – It was agreed Section 5.9.7 should be classified “Not
40 Applicable”.

41
42 **Section 5.9.8 - Will avoid problems associated with floodplain development and use; (In**
43 **compliance with Floodplain Management Ordinance of the Town of Mount Desert –**
44 **Amended March 7, 2006.)** – It was noted the Application states the section is deemed “See
45 Application”.

46

1 **Section 5.9.9 - Is in conformance with the provisions of Sections 6A, 6B and 6C – It was**
2 **deemed Section 5.9.9 is deemed “Standard Met”.**

3
4 MS. EATON MOVED TO FIND THAT SECTIONS 5.9.1, 2, 4, 5, 6, AND 8 ARE DETERMINED
5 TO BE “SEE APPLICATION”. SECTIONS 5.9.3 AND 7 ARE DETERMINED TO BE NOT
6 APPLICATION. SECTION 5.9.9 IS DETERMINED TO BE STANDARD IS MET. THE
7 CONCLUSION OF LAW IS THAT THE REQUIREMENTS FOR SECTION 5.9 HAVE BEEN
8 MET. MR. ASHMORE SECONDED THE MOTION. MOTION APPROVED 4-0.

9
10 A discussion of conditions of approval was held.

11
12 The Conditions of approval already set include (in italics):

13
14 *6C3: Ms. Eaton moved, with Mr. Ashmore seconding, to find Section 6C3 standard is met, with*
15 *the condition that no clearing of trees occur, as defined in the LUZO, for the installation of the*
16 *bark mulch footpath.*

17
18 MS. RANDOLPH MOVED, WITH MS. EATON SECONDED, TO MAKE THE MOTION
19 REGARDING SECTION 6C.3 A CONDITION OF APPROVAL OF THE APPLICATION.
20 MOTION APPROVED 4-0.

21
22 *6C7.3: Mr. Ashmore moved, with Ms. Eaton seconding, to find Section 6C7.3 Standard is met,*
23 *with the condition of certification by the design professional and the CEO that construction is*
24 *consistent with design and two monitoring visits occur, one during construction and one after.*

25
26 MS. EATON MOVED TO AMEND THE MOTION REGARDING SECTION 6C7.3, TO REPLACE
27 THE WORD “PRODUCT” WITH “CONSTRUCTION”. MS. RANDOLPH SECONDED THE
28 MOTION. MOTION APPROVED 4-0.

29
30 With regard to Section 6C7.13, MS. RANDOLPH MOVED, WITH MS. EATON SECONDED,
31 THE APPLICANT CONSTRUCT THE PROJECT CONSISTENT WITH THE PLAN DATED UP
32 TO 11/28/2016 (REVISED) WITH THE LENGTH FROM THE UPLAND EDGE OF THE
33 FRESHWATER WETLAND TO THE END OF THE MARINE STRUCTURE AS MEASURED
34 DOWN THE CENTER OF THE PERMANENT STRUCTURE. LENGTH MUST NOT EXCEED
35 150 FEET. MOTION APPROVED 4-0.

36
37 *6C7.10: Ms. Eaton moved, with Mr. Ashmore seconding, Standards of Section 6C7.10 have*
38 *been met with the condition that the applicant will perform periodic checks and minimize*
39 *interference with the natural flow of any surface or subsurface waters and correct any*
40 *interferences with the natural flow of any surface or subsurface waters found, in conformance*
41 *with the standards of Section 6C7.10.*

42
43 MS. RANDOLPH MOVED, WITH MS. EATON SECONDED, TO MOVE THE WORDING AS A
44 FINAL CONDITION OF THE APPLICATION. MOTION APPROVED 4-0.
45

Chairman Hanley asked for input with regard to additional conditions. Attorney Hamilton noted there were a number presented.

Mr. Opton-Himmel felt that with regard to the Residents' Proposed Conditions, **Condition 4** – *"The Applicant, his agents or assigns, shall periodically remove all debris from the wetland area around the boardwalk."*, and **Condition 11** – *"The Applicant, his agents or assigns, shall provide the Echo Lake Road Association and the Echo Lake Owners Association with a current name and contact information or a responsible party of the Applicant who can be contacted to report violations of conditions and enforce adherence to the above conditions."* Are acceptable Conditions of approval, and have in large part been addressed in earlier discussions and conditions.

MS. EATON MOVED, WITH MS. RANDOLPH SECONDING, THAT THE APPLICANT, HIS AGENTS OR ASSIGNS, SHALL PERIODICALLY REMOVE ALL DEBRIS FROM THE WETLAND AREA AROUND THE BOARDWALK. MOTION APPROVED 4-0.

MS. RANDOLPH MOVED, WITH MS. EATON SECONDING, THAT THE APPLICANT, HIS AGENTS OR ASSIGNS, SHALL PROVIDE THE ECHO LAKE ROAD ASSOCIATION AND THE ECHO LAKE OWNERS ASSOCIATION WITH A CURRENT NAME AND CONTACT INFORMATION OR A RESPONSIBLE PARTY OF THE APPLICANT WHO CAN BE CONTACTED TO REPORT VIOLATIONS OF CONDITIONS AND ENFORCE ADHERENCE TO THE ABOVE CONDITIONS. MOTION APPROVED 4-0.

A further review was made of the conditions proposed by the residents.

Residents' Proposed Condition 2 – Indemnification from Safety Hazard Liability:

The Planning Board did not have the authority to impose such a condition. Attorney Hamill stated the Board's responsibility under the LUZO does not extend to imposing indemnification unless perhaps under some circumstances of clear risk. A boardwalk would not be considered a clear risk. Such risk should be addressed within the bylaws of a road association.

Residents' Proposed Condition 1 – Road Safety:

Attorney Hamill felt that regulating activity on a private road is irregular for a Planning Board unless there's substantial risk found. Greg Benz stated he was a professional transportation consultant. Mr. Benz stated that if the Planning Board approves the application they are effectively imposing risk and potential cost on the associations and the members of the associations. All residents in the area will be vulnerable to litigation for any accidents occurring in the area. The Board will be creating a serious safety hazard, and risk of cost and litigation if they approve the application. Attorney Hamill stated the Maine Tort Claims states that Municipal officials and officers acting within the official scope of their duties are immune to claims. Risk issues have been reviewed by the Board. A Board can't act outside their duties as laid out in the standards, and unfortunately, the standards do not give the Board power to review traffic congestion on private roads. This was an issue the private road associations should work out.

1 Mr. Benz reiterated that the Board's decision is imposing a quantitative, demonstrative risk on the
2 residents. He felt it wasn't fair to make a decision in favor of the applicant, while creating a
3 burden on the residents.

4
5 Chairman Hanley stated the Board does not have jurisdiction because the roads in question are
6 private. Mr. Benz felt the Board does have discretion. The Board can exercise discretion to do
7 the right thing, particularly if the LUZO does not say specifically that it can't. Chairman Hanley
8 stated that the Board's attorney is confirming the Board has no authority to do such a thing.

9
10 Ms. Randolph suggested that an accident of any kind can occur on the road. Attorney Hamilton
11 noted there are three standards that can be referred to with accidents or other issues, subdivision
12 covenants, road association bylaws, courts making a determination of fault and responsibility.
13 Maine Municipal Association advises Planning Boards that they are not in place to resolve private
14 disputes. Further, Attorney Hamilton disagreed with Mr. Benz' statement that the Planning Board
15 is putting this into motion; the Applicant has put this in motion by proposing the project.

16
17 Mr. Benz stated that the Planning Board, while not creating the situation is enabling it. Attorney
18 Hamilton reiterated that the Planning Board is only empowered to determine if the application is
19 acceptable by LUZO standards or not.

20
21 Mr. Russell referred to the opening of the LUZO that mentioned public safety. He opined this
22 language allows the Planning Board the power to review the application for the egregious danger
23 it will create.

24
25 Ms. Randolph asked how the right of way works with regard to the residents. Annette Carvajal
26 noted there is no road association per se. Shep Harris owns the road in question. Ms. Randolph
27 inquired whether the road association doesn't have any power to enforce the conditions they are
28 asking the Planning Board to enforce. Ms. Carvajal said no, the association can't impose the
29 conditions.

30
31 Ms. Eaton noted the application states "*it will be made clear in all the deeds to future residents of*
32 *Lakeside 2 and 3 that access to and from the boardwalk will be limited to foot traffic only. Given*
33 *that there will be no parking dedicated or created for this project. The only use of a vehicle for*
34 *access that is permissible will be the periodic and brief unloading and loading of a kayak or*
35 *canoe. In this instance a vehicle can be parked for 15 minutes any time at the intersection of*
36 *Echo Lake Road and Lakeside Road. There is a cleared gravel space at this location with ample*
37 *space to park two or three without interfering with traffic either/or the quiet residential roads."* Mr.
38 Benz argued that a car parked for even one minute creates undue hazard.

39
40 Mr. Ashmore asked who owned the land where the cleared gravel space is. It was noted
41 Applicant Parker Harris owns the land. No other landowners have rights to the property, however
42 it was noted residents in the area have been using the space for their garbage pickup. Mr.
43 Ashmore noted that parking a vehicle on the Applicant's own property is not interfering with any
44 other residents. Mr. Opton-Himmel noted the area is not parking, and designated only for 15-
45 minute loading and unloading.

46

1 Discussion ensued regarding the question of the gravel area designated for 15-minute unloading
2 and loading is parking, and should the Board simply state that no parking of any kind is allowed.
3

4 MS. EATON MOVED, WITH CHAIRMAN HANLEY SECONDING, THAT VEHICLE ACCESS TO
5 THE PROJECT BE LIMITED TO THE FOLLOWING: THAT IT WILL BE MADE CLEAR IN THE
6 DEEDS TO FUTURE RESIDENTS OF LAKESIDE 2 AND 3 THAT ACCESS TO AND FROM
7 THE BOARDWALK WILL BE LIMITED TO FOOT TRAFFIC ONLY. THE ONLY USE OF ONE
8 VEHICLE FOR ACCESS THAT IS PERMISSIBLE WILL BE FOR THE PERIODIC AND BRIEF
9 UNLOADING AND LOADING OF A KAYAK OR A CANOE. THERE IS A CLEAR GRAVEL
10 SPACE AT THIS LOCATION FOR LOADING AND UNLOADING, WITH NO PARKING. WITH
11 SIGNAGE DESIGNATING UNLOADING AND LOADING ONLY.
12

13 Lengthy discussion ensued.
14

15 Mr. Russell requested that the LUZO be reviewed to define parking. Mr. Russell remembered a
16 previous discussion with regard to the gravel space and thought the area was found to be not in
17 conformance to an offset requirement. Susan Ferrante-Collier noted that the Board was not
18 taking into consideration the visibility of cars coming from Echo Lake Road and the hazard two
19 cars will create. She asked what would happen if two cars are parked there and additional cars
20 come. She suggested just requiring residents to walk their kayak or canoe down. Summer traffic
21 is too heavy for cars to be there.
22

23 Attorney Hamilton stated the ordinance notes a difference between "parking area shoreland
24 zone" and "parking lot". A parking lot is "*a lot in which three or more motor vehicles are parked, in
25 which use is not associated with or accessory to another use established on such lot.*" The
26 motion does not refer to more than one car. There's nothing impermissible to use an area as a
27 loading and unloading area.
28

29 Mr. Benz noted that even more than the vehicle stopped in the area, the people getting out of the
30 vehicle present a hazard. Mr. Benz submitted a statement and requested it be added to the
31 public record. Attorney Hamilton cautioned that accepting submittals after the public hearing was
32 closed, and conditions of approval were being set was improper procedure and out of order. Mr.
33 Benz felt the hazard grew when the change of entry was made.
34

35 Ms. Carvajal requested that it be stated that only a single car can be in the loading/unloading
36 area. Additionally, could the cleared gravel area be more clearly defined as the space for cars to
37 load and unload. Additionally, Ms. Carvajal requested a sign to more clearly specify exactly
38 where cars are allowed.
39

40 Chairman Hanley noted the applicant agreed to signage. The survey plan shows the gravel
41 triangle location. A review of the survey was made.
42

43 Discussion ensued regarding whether to simply state no parking of any kind would be the better
44 choice.
45

Ms. Randolph suggested that simply saying parking was not permitted, puts the onus of a car being there and causing a dangerous situation on the car owner. Mr. Opton-Himmel felt that it would be a burden to not allow residents to store craft at the boardwalk and not allow them to use a vehicle to bring a craft down. Carrying a kayak or canoe along the road would create a dangerous road situation as well. Additionally, Mr. Opton-Himmel felt that it was not acceptable to forbid the owner to store a canoe or kayak on his own property. Mr. Ashmore felt that dragging or otherwise carrying a canoe or kayak to the site for use is unreasonable. Ms. Randolph felt that if a loading zone is set, then it is implied that those using the loading zone are safe using it. Ms. Eaton suggested that without a loading zone designated, residents could theoretically call to report every time a car pulls in there to load or unload.

Ms. Ferrante-Collier suggested residents could use Ike's Point to put their kayak or canoe in.

MOTION APPROVED 3-1 (RANDOLPH).

Residents' Proposed Condition 3 – Signage:

Mr. Opton-Himmel hoped signage for "private daytime use only" would not be required, however, he stated the Applicant would be happy to put the sign up should it prove necessary.

CHAIRMAN HANLEY MOVED, WITH MS. EATON SECONDING, THAT THE APPLICANT SHALL POST AND MAINTAIN A "PRIVATE USE ONLY" SIGN AT THE BOARDWALK ENTRANCE ON LAKESIDE ROAD. MOTION APPROVED 4-0.

Residents' Proposed Condition 5 – No Storage of Watercraft or Accessories:

Mr. Opton-Himmel stated he would be amenable to not allowing storage of craft on the wetland or on the road.

MS. EATON MOVED THAT USERS OF THE BOARDWALK SHALL NOT STORE WATERCRAFT OR ACCESSORIES ON THE WETLAND OR ON THE ROAD. MR. ASHMORE SECONDED THE MOTION.

Mr. Benz voiced concern about the possibility of canoes or kayaks being dragged through the wetlands, as opposed to being carried over the boardwalk. He believed a communal canoe or kayak was agreed upon last Spring as the only watercraft allowed. He felt it was a condition of the application and asked why it was absent now. Mr. Opton-Himmel noted that the vision of the project was to have a canoe or kayak available, however not as the only craft allowed. Mr. Benz inquired what the DEP had determined as to number of craft allowed. Mr. Opton-Himmel noted the DEP had no interest in the number of potential watercraft.

Mr. Russell felt that the number of kayaks or canoes was the issue. Residents did not want to see numbers of watercraft in the area. Mr. Opton-Himmel could not speak to the future potentiality of residential usage.

Ms. Ferrante-Collier noted that loading and unloading has already been allowed. She feared racks could be built and left on the roads. Watercraft should not be allowed to stay on site now that loading and unloading is allowed. Mr. Opton-Himmel disagreed, and did not understand why

1 a private property should be restricted as to how many craft if has stored, nor was it in the
2 purview of the Board to make the decision.

3
4 Attorney Hamilton felt that prohibiting storage on the wetlands and on the road was reasonable.

5
6 Mr. Ashmore felt that prohibiting storage will increase road traffic.

7
8 MOTION APPROVED 4-0.

9
10 **Residents' Proposed Condition 6 - Wetland Conditions for Construction of Boardwalk:**

11 Mr. Opton-Himmel stated that how the Applicant constructs the boardwalk and the length of the
12 construction should be up to the Applicant. Every effort to prevent erosion will be made.

13
14 Attorney Hamilton suggested the Applicant, his agents or assigns, shall carry out construction of
15 the boardwalk in a manner that will not violate DEP limitations to prevent soil erosion and to avoid
16 damage to the wetlands. Chairman Hanley felt this was implied in the review of the application.
17 Mr. Ashmore stated the Applicant has the required permitting.

18
19 It was the Board's consensus that the issue was covered in other sections of the application
20 checklist and therefore no motion was necessary.

21
22 Mr. Benz inquired if the construction method was explicitly stated. The Board assured him it was
23 in detail. Mr. Benz insisted the wording must state the construction method must be stated as a
24 commitment as opposed to an intent.

25
26 Attorney Hamilton noted that the application states how the project will be built, supported by the
27 inspection of the CEO and an approved engineer during the construction process. Mr. Benz
28 again insisted the wording must be a commitment to construct the project per the application.
29 Attorney Hamilton noted it was a construction plan, which was more than an intent.

30
31 **Residents' Proposed Condition 7 – No Further Permanent or Temporary Elements Added
32 to Boardwalk:**

33 Attorney Hamilton suggested wording to the effect of "the Applicant, his agents or assigns, shall
34 not construct permanent or temporary additions to the boardwalk marine structure without
35 securing prior Planning Board approval for any additions."

36
37 CHAIRMAN HANLEY MOVED, WITH MS. EATON SECONDING, THE APPLICANT, HIS
38 AGENTS OR ASSIGNS, SHALL NOT CONSTRUCT PERMANENT OR TEMPORARY
39 ADDITIONS TO THE BOARDWALK MARINE STRUCTURE WITHOUT SECURING PRIOR
40 PLANNING BOARD APPROVAL FOR ANY ADDITIONS. MOTION APPROVED 4-0.

41
42 **Residents' Proposed Condition 8 – Mismanagement of Watercraft:**

43 Chairman Hanley suggested watercraft shall not be walked or dragged through or over the
44 wetland.

45
46 Mr. Benz requested wording to prohibit anyone launching their kayak or canoe from the shore.

1 Mr. Opton-Himmel noted that per the DEP if the soils are not disturbed or eroded, a person can
2 walk across the wetland as often as they want, short of establishing a path. He felt prohibiting a
3 resident on private property to walk through their land was unreasonable. Mr. Opton-Himmel
4 suggested stating no soil erosion could occur.

5
6 Mr. Russell felt it was an aesthetic issue as well. The LUZO is in place because property owners
7 are not allowed to do anything they want to on their land.
8

9 MS. EATON MOVED, WITH MR. ASHMORE SECONDING, WATERCRAFT SHALL NOT BE
10 WALKED OR DRAGGED THROUGH OR OVER THE WETLAND. MOTION APPROVED 4-0.
11

12 **Residents' Proposed Condition 9 – Use of the Boardwalk:**

13 Mr. Opton-Himmel hoped that the motion suggested would not be tied to the current lot number.
14 Attorney Hamilton felt that the residents' wording "in perpetuity, and with no additional easements
15 allowed to other parties" was not something the Board can decree.
16

17 MS. RANDOLPH MOVED, WITH MR. ASHMORE SECONDING, THE USE OF THE
18 BOARDWALK SHALL BE RESTRICTED TO THE RESIDENTS AND THEIR GUESTS, OF
19 CURRENT AND FUTURE LOTS WITHIN THE CURRENT PERIMETER BOUNDARY OF
20 LAKESIDE II AND LAKESIDE III. MOTION APPROVED 4-0.
21

22 **Residents' Proposed Condition 10 – Road Maintenance:**

23 It was stated that members of the Lakeside Association have responsibility for maintenance of the
24 roads. They do a shared maintenance of the portion of Echo Lake Road from where it intersects
25 Lakeside Road down to Route 102. Ms. Carvajal stated Shep Harris owns both the roads from
26 the stream through Lakeside and Echo Lake Road. Her association maintains in part the road
27 they share with Lakeside and maintain the other road themselves. She added there has never
28 been maintenance support from Mr. Harris.
29

30 It was the Board's consensus that while they understand the concerns of the residents, this road
31 maintenance is an issue that should be resolved within the residential community.
32

33 Ms. Carvajal asked what would happen if there is damage to the area. Attorney Hamilton felt it
34 would have to be resolved within the residential community.
35

36 MS. EATON MOVED TO APPROVE THE APPLICATION WITH THE CONDITIONS AS STATED
37 IN THE PERMIT CONDITIONS. MR. ASHMORE SECONDED THE MOTION. MOTION
38 APPROVED 4-0.
39

40 **V. Adjournment**

41
42 MS. EATON MOVED, WITH MS. EATON SECONDING, TO ADJOURN THE MEETING.
43 MOTION APPROVED 4-0.
44

45 Meeting was adjourned at 9:20PM.
46