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**Town of Mount Desert Planning Board  
Meeting Minutes  
January 19, 2022**

This meeting was a hybrid virtual/in-person meeting and was recorded.

**Board Members Present:** Meredith Randolph, Christie Anastasia, Chair William Hanley, Tracy Loftus Keller

Board Member David Ashmore was not in attendance.

**Public Present:** : Iys, cfh, Nikki Moser, Stephanie R., Katrina Carter, Dick Broom, Noel Musson, Aldo Adriazola, Steve Kursh, Kathy Miller, Sofia Balters, Greg Johnston, Kerri Sands, Rick Huck, Kelly Martinez, Millard Dority

**I. Call to order 6:00PM**

Chair William Hanley called the Meeting to order at 6:01. Board Members were noted.

Board Member David Ashmore was not in attendance.

**II. Approval of Minutes**

**December 8, 2021**

MS. ANASTASIA MOVED, WITH MS. RANDOLPH SECONDING, APPROVAL OF THE DECEMBER 8, 2021 MINUTES AS PRESENTED.

VOTE:

CHRISTIE ANASTASIA: AYE

MEREDITH RANDOLPH: AYE

TRACY LOFTUS KELLER: AYE

CHAIR WILLIAM HANLEY: AYE

MOTION APPROVED 4-0.

**III. Public Hearing – 6:05PM**

*Land Use Zoning Ordinance Amendments for the 2022 Special Town Meeting on March 8, 2022.*

CEO Keene confirmed adequate Public Notice.

There were two land use related Warrant Articles to discuss:

**WARRANT ARTICLE XX** - Shall an ordinance dated March 8, 2022, and entitled

1 “Amendments to the Land Use Zoning Ordinance to remove footnote 4 from some  
2 permitted uses in the Stream Protection (SP) District to be in conformance with  
3 Shoreland Zoning Standards” be enacted as set forth below?  
4

5 ***Explanation: This Article removes footnote 4 from the following permitted uses:***  
6 ***Clearing or Removal of Vegetation for activities other than timber harvesting;***  
7 ***Excavation or Filling < 50 cubic yards; Excavation or Filling of >50 to 150 cubic***  
8 ***yards; Excavation or Filling of > 150 cubic yards, and Road & driveway***  
9 ***construction. This change will be in conformance to the State’s shoreland zoning***  
10 ***requirements.***  

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11  
12 This Article is a carryover from the 2021 Town Meeting. It was not discussed or  
13 voted at that time due to an issue in the language. The intent is to remove Footnote  
14 4 from certain permitted uses in Stream Protection. This is consistent with State  
15 shoreland zoning requirements.  
16

17 Chair Hanley asked for Public Comment. There was none.  
18

19 MS. RANDOLPH MOVED, WITH MS. ANASTASIA SECONding, TO RECOMMEND FOR  
20 APPROVAL **WARRANT ARTICLE XX - SHALL AN ORDINANCE DATED MARCH 8, 2022,**  
21 **AND ENTITLED “AMENDMENTS TO THE LAND USE ZONING ORDINANCE TO**  
22 **REMOVE FOOTNOTE 4 FROM SOME PERMITTED USES IN THE STREAM PROTECTION**  
23 **(SP) DISTRICT TO BE IN CONFORMANCE WITH SHORELAND ZONING STANDARDS”**  
24 **BE ENACTED AS SET FORTH BELOW? AS PRESENTED.**

25 VOTE:

26 MEREDITH RANDOLPH: AYE

27 CHRISTIE ANASTASIA: AYE

28 TRACY LOFTUS KELLER: AYE

29 CHAIR WILLIAM HANLEY: AYE  
30

31 MOTION APPROVED 4-0.  
32

33 **WARRANT ARTICLE XX** - Shall an ordinance dated March 8, 2022, and entitled  
34 “Amendments to the Land Use Zoning Ordinance Section 6B.11 Lots regarding lot  
35 access” be enacted as set forth below?  
36

37 ***Explanation: This Article amends the lot access standards in the LUZO.***  

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38  
39 Mr. Musson explained this Article relates to Section 6.B.11 regarding Access  
40 provisions to lots. This will help address the issue of existing approved lots on  
41 currently nonconforming roads or driveway access. Lots created prior to 2015 will  
42 have more flexibility; landowners can work with the CEO and the Fire Chief for  
43 access and permitting with the priority being safe access for emergency vehicles.

1 Lots created after 2015 will use the application process through the Planning Board.  
2 The Article will give relief to lawful pre-existing nonconforming lots of record,  
3 specific to public roads.

4  
5 Chair Hanley asked for Public Comment.

6  
7 CEO Keene clarified a driveway has two or less lots, a private road has three or  
8 more. The Article will give her the authority to allow pre-existing roads to access  
9 lots created prior to June 6, 2015, provided the Fire Chief can confirm adequate  
10 emergency vehicle access. In that case, CEO Keene can issue a permit without  
11 requiring subdivision standards. For lots created after 2015, owners must apply for  
12 a permit. New lots created from a pre-existing lot must meet current standards.

13  
14 Ms. Randolph asked whether this would affect any recent rulings. Mr. Musson  
15 noted a ruling based on current standards is appropriate and viable. Chair Hanley  
16 pointed out that a ruling based on an issue such as right, title and interest would not  
17 be affected by this change.

18  
19 New lots will still have to go before the Board. The Article streamlines the process  
20 by letting the CEO and the Fire Chief determine safe access. Currently, if a 14-foot-  
21 wide road with a 20-foot ROW exists to an old lot, the access provisions are safe but  
22 a permit can be denied due to the narrow ROW.

23  
24 Ms. Randolph asked whether this won't just put the brunt of compliance onto  
25 landowners coming to the area in the future. Mr. Musson clarified the new Article  
26 applies only to already existing lots. New lots will have to abide by the Subdivision  
27 Ordinance or go to the Planning Board for a waiver.

28  
29 MS. RANDOLPH MOVED, WITH MS. ANASTASIA SECONding, TO RECOMMEND FOR  
30 APPROVAL **WARRANT ARTICLE XX - SHALL AN ORDINANCE DATED MARCH 8, 2022,**  
31 **AND ENTITLED "AMENDMENTS TO THE LAND USE ZONING ORDINANCE SECTION**  
32 **6B.11 LOTS REGARDING LOT ACCESS" BE ENACTED AS SET FORTH BELOW? AS**  
33 **PRESENTED.**

34 VOTE:

35 MEREDITH RANDOLPH: AYE

36 CHRISTIE ANASTASIA: AYE

37 TRACY LOFTUS KELLER: AYE

38 CHAIR WILLIAM HANLEY: AYE

39  
40 MOTION APPROVED 4-0.

41  
42 Mr. Musson gave a brief summary of potential Warrant Articles coming up for the  
43 Town Meeting in May of 2022.

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- IV. Conditional Use Approval Application(s):**
  - A. Conditional Use Approval Application: #024-2021**
    - OWNER NAME(S):** Mount Desert 365
    - APPLICANT(S):** College of the Atlantic
    - AGENT(S):** Millard Dority
    - LOCATION:** 141 Main Street, Northeast Harbor
    - TAX MAP:** 024    **LOT:** 078    **ZONING DISTRICT:** Village Commercial (VC)
    - PURPOSE:** Restaurant Use.
    - SITE INSPECTION:** 4:30PM

CEO Keene confirmed adequate Public Notice. Abutters were notified.

Chair Hanley reported on the Site Inspection. The first-floor space is proposed to be used as retail space for produce and also allow for limited seating at which a customer can get simple foods like a sandwich or pastry while waiting for an order. It will not be a full-blown restaurant, but it will have a commercial kitchen. The business will be on the first floor.

Agent Millard Dority reminded the Board that College of the Atlantic (COA) received a conditional use permit for the building, which included retail space. COA was approached by someone proposing to offer local produce and products from local artisans and farms. They would have a kitchen in the space for selling to-go only food. In winter, they want to have two tables where they can offer coffee and simple foods to customers waiting for a to-go order. The use is somewhere between retail space and restaurant. Restaurant classification is the most appropriate designation under the LUZO, and therefore, the use is required to come before the Planning Board. The space will be divided into a 300sf kitchen and 300sf retail front.

Chair Hanley asked for public comment.

Mr. Dority confirmed a single dumpster will be placed on the Tracy Road end of the building to serve the entire building.

Deliveries could happen from either end of the building but would likely occur from the Main Street side.

Ms. Randolph asked whether the Applicant would have to return to the Planning Board if the use changed to a full restaurant. It was confirmed that any sizable amendment must be revisited by the Planning Board.

There were no further questions. Chair Hanley closed the Public Comment.

1 No conflict of interest was found among the Board.

2

3 MS. RANDOLPH MOVED, WITH MS. ANASTASIA SECONDING, TO FIND THE  
4 APPLICATION COMPLETE.

5 VOTE:

6 MEREDITH RANDOLPH: AYE

7 CHRISTIE ANASTASIA: AYE

8 TRACY LOFTUS KELLER: AYE

9 CHAIR WILLIAM HANLEY: AYE

10

11 MOTION APPROVED 4-0.

12

13 MS. RANDOLPH MOVED, WITH MS. LOFTUS KELLER SECONDING, APPROVAL OF THE  
14 APPLICATION.

15

16 MS. ANASTASIA MOVED, WITH MS. LOFTUS KELLER SECONDING, TO USE THE SHORT  
17 FORM.

18 VOTE:

19 CHRISTIE ANASTASIA: AYE

20 TRACY LOFTUS KELLER: AYE

21 MEREDITH RANDOLPH: AYE

22 CHAIR WILLIAM HANLEY: AYE

23

24 MOTION APPROVED 4-0.

25

26 A review of the checklist was made and is attached to these Minutes.

27

28 It was confirmed that seven designated offsite parking spaces are required to be  
29 found by the Applicant prior to receiving Occupancy. Mr. Dority asserted the use  
30 proposed is identical to what the Applicant expected for retail space. It was agreed  
31 no parking above and beyond what is currently required is necessary.

32

33 VOTE:

34 MEREDITH RANDOLPH: AYE

35 TRACY LOFTUS KELLER: AYE

36 CHRISTIE ANASTASIA: AYE

37 CHAIR WILLIAM HANLEY: AYE

38

39 MOTION TO APPROVE THE APPLICATION APPROVED 4-0.

40

41 **V. Continued from December 10, 2021.**

42 Land Use Zoning Ordinance **Section 6B.11 Lots § (2) Access** - No lot may be built  
43 upon or otherwise developed unless it has a private road or driveway for access to a

1 public way by a valid right of way benefiting the lot (or a combination of driveway  
2 and/or one of more private roads) or by ownership of land abutting the public way.

3 **If more than 2 lots are accessed by the same private road, then it must meet the**  
4 **Street Design and Construction Standards of Section 5.14 of the Subdivision**

5 **Ordinance.** If no more than 2 lots are accessed by the same private road or  
6 driveway, then it must meet either the said Street Design and Construction  
7 Standards or the Driveway Construction standards of Section 6B.6 of this Ordinance.  
8 A preexisting primary access drive that serves up to 2 existing lots need not meet the  
9 requirements of Section 6B.6. All lots must maintain safe access for fire, police, and  
10 emergency vehicles, as determined by the Fire Chief.

11  
12 Subdivision Ordinance **Section 6. Waiver and Modifications of this Ordinance**

13 **§ 6.1.1** Where the Board finds that a private road providing access to a lot or lots  
14 cannot meet the Street Design and Construction standards of Section 5.14  
15 because (a) the application of land use restrictions would prevent the work required  
16 to bring an existing road into compliance or (b) physical conditions of the site  
17 render strict compliance impossible, then the Board may waive such standards.  
18 However, in all such cases, the Board must find that (a) the proposed plan brings  
19 the road into compliance as much as is feasible, (b) the proposed plan will provide  
20 safe access to and from the property, and (c) the proposed plan will allow for  
21 access to the site for emergency vehicles.

22  
23 **A. PROPERTY OWNER(S):** Hillary & Philip Kennedy

24 **AGENT(S):** Gregory Johnston, G.F. Johnston & Associates

25 **PROPERTY LOCATION:** Off Raspberry Lane, Northeast Harbor

26 **TAX MAP:** 027 **LOT:** 025 **ZONE(S):** Village Residential One (VR1)

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

29  
30 Agent Greg Johnston hoped to clarify some of the issues surrounding the Applicant's  
31 Request for Waiver.

32  
33 Raspberry Lane is a 16.5-foot-wide road. Widening the road per strict compliance  
34 with subdivision standards regarding road setback requirements would render an  
35 adjoining structure more nonconforming.

36  
37 Creating a 50-foot ROW would require taking 33.5 feet from the west abutter and  
38 render the structure on that lot nonconforming. Additionally, the abutter was  
39 approached and declined to relinquish the necessary property.

40  
41 There is a stream through the site that is regulated by the DEP. Widening a road in  
42 the area is not in the best interest of the stream and will limit potential access.  
43

1 The Ordinance states the road must be brought into compliance as much as is  
2 feasible. The road can be increased to a 16-foot width of stabilized travel way. This  
3 will maintain the neighborhood character and keep the road away from the stream.  
4 A 16-foot-wide road allows for a way that is two vehicles wide.

5  
6 The owners have committed to installing underground power lines to ensure the  
7 entire 16-foot width remains clear for vehicle access.

8  
9 Regarding subdivision standards in Section 5.14 of the Subdivision Ordinance there  
10 are three determining factors for whether a waiver can be granted:

11 (a) the proposed plan brings the road into compliance as much as is feasible

12 (b) the proposed plan will provide safe access to and from the property

13 (c) the proposed plan will allow for access to the site for emergency vehicles

14 To the extent practical the Applicant is meeting these factors. The Fire Chief has  
15 confirmed that safe access can be maintained.

16  
17 Chair Hanley asked for Public Comment.

18  
19 Ms. Randolph felt this was a more satisfactory explanation of the measures taken to  
20 meet code. The letter submitted from the abutter is helpful as well.

21  
22 Abutters Bill and Anne Metzger thanked the Board for their consideration. They  
23 confirmed they were in favor of the request.

24  
25 There were no further comments. Chair Hanley closed the Public Comment.

26  
27 MS. RANDOLPH MOVED, WITH MS. ANASTASIA SECONDING, THAT THE BOARD  
28 FINDS THE PROPOSED PLAN BRINGS THE ROAD INTO COMPLIANCE AS MUCH AS IS  
29 FEASIBLE, AS SHOWN IN ADDITIONAL C-1 PLAN AND LETTER DATED JANUARY 12,  
30 2022.

31 VOTE:

32 MEREDITH RANDOLPH: AYE

33 CHRISTIE ANASTASIA: AYE

34 TRACY LOFTUS KELLER: AYE

35 CHAIR WILLIAM HANLEY: AYE

36  
37 MOTION APPROVED 4-0.

38  
39 MS. ANASTASIA MOVED, WITH MS. LOFTUS KELLER SECONDING, THAT THE BOARD  
40 FINDS THE PROPOSED PLAN WILL PROVIDE SAFE ACCESS TO AND FROM THE  
41 PROPERTY, AS SHOWN IN THE ADDITIONAL C-1 PLAN AND LETTER DATED JANUARY  
42 12, 2022.

43 VOTE:

1 CHRISTIE ANASTASIA: AYE  
2 TRACY LOFTUS KELLER: AYE  
3 MEREDITH RANDOLPH: AYE  
4 CHAIR WILLIAM HANLEY: AYE

5  
6 MOTION APPROVED 4-0.

7  
8 MS. LOFTUS KELLER MOVED, WITH MS. RANDOLPH SECONDING, THAT THE BOARD  
9 FINDS THE PROPOSED PLAN WILL ALLOW FOR ACCESS TO THE SITE FOR EMERGENCY  
10 VEHICLES, PER THE LETTER FROM THE FIRE CHIEF DATED DECEMBER 8, 2021, AND  
11 THE ADDITIONAL C-1 PLAN.

12 VOTE:  
13 TRACY LOFTUS KELLER: AYE  
14 MEREDITH RANDOLPH: AYE  
15 CHRISTIE ANASTASIA: AYE  
16 CHAIR WILLIAM HANLEY: AYE

17  
18 MOTION APPROVED 4-0.

19  
20 Waiver request granted.

21  
22 **VI. Other**

23 Discussion ensued regarding the position of Vice Chair.

24  
25 Member Christie Anastasia agreed to take the role of Viced Chair, provided she has a  
26 chance to shadow and learn a bit prior to her first time stepping into it.

27  
28 Member Tracy Loftus Keller agreed to take the role of Planning Board Secretary.

29  
30 CEO Keene promised to keep an eye out for MMA trainings for Planning Board  
31 members.

32  
33 MS. RANDOLPH MOVED, WITH MS. LOFTUS KELLER SECONDING, CHRISTIE  
34 ANASTASIA AS VICE CHAIR.

35 VOTE:  
36 MEREDITH RANDOLPH: AYE  
37 TRACY LOFTUS KELLER: AYE  
38 CHAIR WILLIAM HANLEY: AYE

39  
40 MOTION APPROVED 3-0.

41  
42 MR. RANDOLPH MOVED, WITH MS. ANASTASIA SECONDING, TRACY LOFTUS KELLER  
43 AS PLANNING BOARD SECRETARY.



1 VOTE:  
2 MEREDITH RANDOLPH: AYE  
3 CHRISTIE ANASTASIA: AYE  
4 CHAIR WILLIAM HANLEY: AYE

5  
6 MOTION APPROVED 3-0.

7  
8 Chair Hanley reminded those in attendance there were two open positions on the  
9 Board.

10  
11 **IV. Adjournment**

12 MS. ANASTASIA MOVED, WITH MS. RANDOLPH SECONDING, TO ADJOURN.

13 VOTE:  
14 CHRISTIE ANASTASIA: AYE  
15 MEREDITH RANDOLPH: AYE  
16 TRACY LOFTUS KELLER: AYE  
17 CHAIR WILLIAM HANLEY: AYE

18  
19 MOTION APPROVED 4-0.

20  
21 The Meeting adjourned at 7:31PM.  
22