

**Town of Mount Desert Planning Board  
Planning Board Meeting Minutes  
Meeting Room, Town Hall  
6:00 PM, January 9, 2019**

**Public Present:**

Tracy Keller, Matt Morehouse, Greg Johnston, Joe Tracy

**Board Members Present:**

Chairman Bill Hanley, Meredith Randolph, Joanne Eaton, Beth Renault, and Christie Anastasia

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

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

**II. Approval of Minutes:**

November 14, 2018: Voting members were noted. MS. ANASTASIA MOVED, WITH MS. RANDOLPH SECONDING APPROVAL OF THE NOVEMBER 14, 2018 MINUTES AS PRESENTED. MOTION APPROVED 3-0-2 (HANLEY AND EATON IN ABSTENTION).

December 12, 2018: Voting members were noted. MS. EATON MOVED, WITH MS. RANDOLPH SECONDING, APPROVAL OF THE DECEMBER 12, 2018 MINUTES AS PRESENTED. MOTION APPROVED 4-0-1 (RENAULT IN ABSTENTION).

**III. Subdivision Application(s):**

**Sketch Plan:**

**Subdivision Approval Application #003-2018**

**OWNER(S):** Joseph P. Tracy

**LOCATION:** Off Beech Hill Cross Road

**TAX MAP:** 009 **LOT:** 094-003

**ZONING DISTRICT:** Rural Woodland 2 (RW2)

**PURPOSE:** Divide a lot previously approved in a subdivision – “5.3 Acre Subdivision” (File 30 Number 112).

**SITE INSPECTION:** 3:00PM

Public Notice was deemed unnecessary for the Sketch Plan Review.

Ms. Anastasia reported on the site inspection. The proposed property lines were flagged. The property drops quickly into a wetland. The area has been cleared. The lot is next to the Granite Museum.

Agent Matt Morehouse stated the original lot size is 5.3 acres. The lot is proposed to be divided in two. Mr. Morehouse noted the question to be addressed is the development of the access road. There is a fifty-foot right-of-way leading to a backlot. The backlot and the

1 subject property both have rights over the right-of-way. The property is under contract.  
2 The buyers want to install a driveway on the right-of-way, extending only to their building  
3 site midway of the lot. The question at hand is whether a full road design extending the full  
4 length of the right-of-way will be required of them. The applicant feels such a requirement  
5 would be onerous. Both subdivided lots have road frontage. They do not need to exercise  
6 the use of the right-of-way. Lot Three will be required to access their lot via road frontage.  
7 The Applicant feels the onus of developing a full road on the right-of-way is on the owner of  
8 the backlot. It's too great a burden on either the seller or buyer to be required to build a full  
9 road the entire length of the right-of-way that essentially benefits land they do not own.  
10 The back 9-acre lot is part of the subdivision.

11  
12 The right-of-way was part of the original subdivision plan. The Board agreed that the right-  
13 of-way road should have been built when the subdivision was created. CEO Keene noted  
14 this subdivision was created prior to her time.

15  
16 The Board is being requested to waive the requirement of building a subdivision-grade road  
17 and allow the owners to build a driveway that extends only to their building site. This would  
18 not preclude the backlot from building a subdivision-standard road over the right-of-way  
19 extending to their lot. A driveway built on that right-of-way would have to be improved to  
20 road standards when the backlot is developed.

21  
22 Ms. Eaton opined that if the requirement was not in the original subdivision, then it should  
23 not necessarily be made a requirement now.

24  
25 CEO Keene noted that when an access road is built to serve three or more lots, then it must  
26 be built to subdivision road standards. Property owner Joe Tracy argued the road would not  
27 be serving three or more lots. It will serve only one lot. If a third person comes in they are  
28 the ones required to build the road to subdivision standards. Mr. Morehouse agreed. The  
29 third lot owner carries the burden of building the road when they decide to develop.

30  
31 The developer at the time the subdivision was created was Blaine Haynes. Mr. Haynes is  
32 now deceased. The right-of-way is on the Haynes property.

33  
34 Ms. Randolph felt that if the right-of-way was being developed then it should be developed  
35 to the subdivision right-of-way standards. Subdivision requirements are triggered the  
36 moment the lots are subdivided.

37  
38 Mr. Morehouse felt asking other property owners to share the cost was impractical; they  
39 could not expect other landowners to share the cost on the property owner's schedule.

40  
41 Chairman Hanley felt the burden should be on the developer.

42  
43 Mr. Morehouse offered the following solution options:

44 - a driveway to the property built by the property owner

- 1 - a subdivision-grade road built by the property owner, extending to the property and no  
2 further.

3  
4 A review of the Subdivision Ordinance was made.

5  
6 Ms. Randolph opined that the property owner is acting as a subdivision developer and  
7 should be held to the regulations of developing a subdivision.

8  
9 None of the lots in question were developed.

10  
11 Ms. Eaton suggested another alternative; building a driveway that went up the property line  
12 between divided lots Two and Three from the road. Mr. Morehouse felt a shared driveway  
13 would devalue both lots. He added that Lot Three would forego their rights to the right-of-  
14 way access.

15  
16 Ms. Eaton felt that any road built on that right-of-way should be built to right-of-way  
17 standards but only to as far as the property owner needs. Or, a driveway could be built  
18 between the two lots. Chairman Hanley agreed.

19  
20 Chairman Hanley confirmed the Board would be looking for Subdivision Road standards for  
21 the length of road determined to be necessary to reach the property owner's building. If  
22 power is accessed via another route, then it is not required to be installed on the road. Mr.  
23 Morehouse noted the source of the power would be the choice of the future property  
24 owners. If the right-of-way will carry the utilities, then the subdivision utility pole  
25 regulations would apply. Further, it was recommended that any future landowner should  
26 review the situation with their attorney to better understand their responsibility.

27  
28 **Completeness Review:**

29 **Subdivision Approval Application #002-2018**

30 **NAME:** Deep Cove Holdings II, LLC

31 **AGENT:** Greg Johnston, G.F. Johnston and Associates.

32 **TAX MAP:** 012 **LOT:** 005 **ZONE(S):** Shoreland Residential 3 (SR3)

33 **PURPOSE:** The construction or placement of 3 or more dwelling units on a single tract  
34 or parcel of land within a 5-year period.

35  
36 There was no site visit made. CEO Keene confirmed that abutters were notified.

37  
38 Agent Greg Johnston reviewed the proposed subdivision, as discussed at the December 12, 2018  
39 Planning Board Meeting, i.e. the consideration of three three-bedroom individual dwelling units,  
40 each with a kitchen, within a single building. He presented a sketch of the proposed structure.  
41 The front of the building will be single-story entry. There will be a parking area at the rear. A  
42 greenhouse is planned at the site.

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44 A Completeness Review of sections 4.1, 4.2, and 4.3 ensued.

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**4.2.1 Information on the Applicant:**

- 1. Name of applicant (owner) – Found Complete**
- 2. Name of agent (if other than owner) with attached authorization for agent by owner. – Found Complete**
- 3. If Applicant is a corporation, state whether the corporation is 1 Administrative change: Eight changed to Ten per Planning Board vote March 8, 2004 licensed to do business in Maine and attach copy of Secretary of State's Registration. – Mr. Johnston noted the owner is a Limited Liability Corporation. The deed and incorporation information are included.**
- 4. Name of Applicant's authorized representative and authorization. – Found Complete**
- 5. Name, address, and number of Registered Professional Engineer, Land Surveyor, or Planner. – Found Complete**
- 6. Address to which all correspondence from the Board should be sent. – Found Complete**
- 7. What interest does the Applicant have in the parcel to be subdivided (option, land purchase contract, record ownership, etc.)? - Found Complete**
- 8. What interest does the applicant have in any property abutting parcel to be subdivided? Mr. Johnston noted the owners have interest in the adjacent property which is disclosed within Exhibit 5 of the application – Found Complete**
- 9. State whether preliminary plat plan covers entire, contiguous holdings of owner. – Found Complete**

**4.2.2 Information on Parcel to be Subdivided:**

- 1. Location of property: Map and Lot (from Town Tax Maps.) – Found Complete**
- 2. Survey maps of tract to be subdivided, as well as contiguous property of the owner of the tract, certified by a Registered Land Surveyor, tied to established reference points (attach to application). – Found Complete**
- 3. Current zoning district(s) of property. – Found Complete**
- 4. Acreage of parcel to be subdivided. – Found Complete**
- 5. An SSWD, by a licensed soil engineer identifying soil types and a map showing the location of soil test areas, unless the parcel will utilize public sewer. Based on soil test results, certain modifications of the Preliminary Plat Plan may be required (attach copy of soils report to application). There shall be at least one satisfactory soil test per lot. – Found Complete**
- 6. Names of property owners within 1,000 feet from the parcel to be subdivided, and on opposite side of any road from parcel to be subdivided (show on Plat). - Found Complete**
- 7. Any restrictive covenants to be placed on the deeds. – Mr. Johnston noted there were no restrictive covenants proposed specific to the Subdivision. The area in which the building will be located does have restrictions regarding what can and can't be developed there. It's noted on the tax maps and elsewhere in the application packet.**
- 8. Proposed soil erosion and sedimentation control – Found Complete**
- 9. Water supply. – Found Complete**

**4.2.3 Information on Subdivision:**

- 1. Proposed name of subdivision – Found Complete**
- 2. Number of lots – Found Complete**

- 1           **3. Date, north point, graphic map scale (show on Plat).** – Found Complete
- 2           **4. Proposed lot lines with approximate dimensions and suggested location where known of**
- 3           **buildings, subsurface sewage disposal systems, and wells (show on Plat).** – Found Complete
- 4           **5. Location of temporary markers so located as to enable the Board readily to locate lots and**
- 5           **appraise basic lots layout in the field (show on Plat)** – Found Complete
- 6           **6. Location of all parcels to be dedicated to public use, the conditions of such dedication, as**
- 7           **well as the location of all natural features of site elements to be preserved (show on Plat).** –
- 8           The area is private property.
- 9           **7. A location map, consisting of a USGS Topographical Map, showing the relation of the**
- 10           **proposed subdivision to adjacent properties and to the general surrounding area. The location**
- 11           **map shall show all the area within 2000 feet of any property line of the proposed subdivision**
- 12           **and shall be attached to application.** – Found Complete
- 13           **8. Location and size of existing buildings and other essential existing physical features (show**
- 14           **on Plat).** – Found Complete
- 15           **9. Location of all wetlands, regardless of size, all water bodies and areas within the State**
- 16           **Shoreland Zone (show on Plat).** – Found Complete
- 17           **10. Location of all drains which shall provide adequate storm water management.** – Found
- 18           Complete
- 19           **11. Location and size of any existing and proposed sewers and water mains, and culverts and**
- 20           **drains.** – Found Complete
- 21           **12. Location, names, and widths of existing and proposed streets, highways, easements,**
- 22           **building lines, parks, and other open spaces (shown on Plat).** – Found Complete
- 23           **13. Names of abutters (show on Plat).** – Found Complete
- 24           **14. The Subdivider will determine, based on the Federal Emergency Management Agency's**
- 25           **Flood Boundary and Floodway Maps, whether the subdivision is in a flood prone area. If the**
- 26           **subdivision, or any part of it, is in such an area the subdivider will determine the 100-year**
- 27           **flood elevation and flood hazard boundaries within the subdivision.** – Found Complete
- 28           **15. Other information not indicated above, as specified by the Board.** – There was no further
- 29           information specified by the Board.

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31           CEO Keene requested a review of Sections 5 and 6 of the Subdivision Ordinance.

32  
33           Discussion ensued regarding whether Sections 5 and 6 also needed to be reviewed for

34           Completeness.

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36           **Section 5:**

37           **Buffer Strip Buffering elements or screening in the form of architectural and/or landscape**

38           **design** – Mr. Johnston noted there is a landscaping plan. There will be some outdoor storage.

39           Fencing will be planned. The property is 400 feet from the boundary line.

40           **5.2 Conformance with other Laws, Regulations The proposed subdivision shall be in**

41           **conformance with all pertinent local, State, and Federal Ordinances, statutes, laws, and**

42           **regulations.** – Found Complete

43           **5.3 Construction Prohibited**

1           **No utility installations, no ditching, grading or construction of roads, no grading of land or lots,**  
2           **and no construction of buildings shall be commenced on any part of the proposed subdivision**  
3           **until a Final Plat Plan of the subdivision has been prepared, submitted, reviewed, approved,**  
4           **and endorsed as provided by this Ordinance, nor until an attested copy of the Final Plat Plan**  
5           **so approved and endorsed has been recorded by the subdivider in the Registry of Deeds.– Mr.**  
6           Johnston noted the project will not start construction until this application is approved. The  
7           road is already in due to previous development on the land.

8           **5.4 Ditches, Catch Basins**

9           **The Board may require the installation of ditches, catch basins, piping systems, and other**  
10           **appurtenances for the conveyance, control, or disposal of surface waters. – Found Complete**

11           **5.5 Easements**

12           **The Board may require easements for sewerage, drainage, utilities, or public access. – Mr.**  
13           Johnston noted there is a driveway easement on the site plan.

14           **5.6 Dedication for Year-round housing Reserved – Found Complete**

15           **5.7 Lots and Density**

16           **5.7.1 The lot size, width, depth, frontage, shape and orientation and the minimum setback**  
17           **lines shall be in accordance with the Land Use Zoning Ordinance. – Found Complete**

18           **5.7.2 Where individual, on-site sewage disposal systems are to be utilized, the size of each lot**  
19           **shall be based on soil characteristics, and shall, as a minimum, conform to M.R.S.A. Title 12,**  
20           **Section 4807- A as amended. – Mr. Johnston referenced the test pits, report, and letter**  
21           regarding septic. The design is not yet complete.

22           **5.7.3 The Planning Board shall determine if a division of land will be reviewed as a Cluster, a**  
23           **Workforce or a Conventional subdivision. – Not Applicable**

24           **5.8 Sewage Disposal**

25           **5.8.1 Where any part of a proposed subdivision is located within 1500 feet of a public sanitary**  
26           **sewer line, the subdivider shall connect with such sanitary sewer line by means of a main not**  
27           **less than 8 inches in diameter, provided however, that the appropriate municipal agencies**  
28           **shall first have certified that extending the services will not be an excessive burden on the**  
29           **system. – Not Applicable.**

30           **5.8.2 Where private subsurface sewage disposal is to be utilized, the subdivider must conform**  
31           **to all State of Maine Plumbing Code and LUZO requirements. Furthermore: 1. Disposal sites**  
32           **shall be totally contained within the lot being serviced. 2. Systems shall be designed to the**  
33           **highest standards for the specified use. 3. There shall be no contamination of existing or**  
34           **proposed wells, or any other water source. – Found Complete**

35           **5.9 Land not Suitable for Development – Found Complete**

36           **5.10 Open Space Provisions**

37           **5.10.1 The Board may require that a proposed subdivision design include a landscape plan**  
38           **that will show the preservation of existing trees (10" or more in diameter), the replacement of**  
39           **trees and vegetation, graded contours, streams, and the preservation of scenic, historic, or**  
40           **environmentally desirable areas. The street and lot layout shall be adapted to the topography.**  
41           **Extensive grading and filling shall be avoided. – Not Applicable**

42           **5.10.2 The Board may require that the subdivider reserve an area of land as an open space**  
43           **and/or recreational area for use by property owners in the subdivision. – Not Applicable**

44           **5.11 Wells – Found Complete**

- 1           **5.12 Performance Bond** – Not Applicable
- 2           **5.13 Plan Revisions After Approval** – Not Applicable
- 3           **5.14.3 The approval by the Board of a subdivision plan shall not be deemed to constitute or be**
- 4           **evidence of any acceptance by the Town of Mount Desert of any street, road, or right-of-way.**
- 5           – Not Applicable
- 6           **5.15 Access to Direct Sunlight**– Not Applicable
- 7           **5.16 Cluster and Workforce Subdivision** – Mr. Johnston noted the Applicant is not applying
- 8           under Workforce Housing.

9

10           **6. WAIVER AND MODIFICATIONS OF THIS ORDINANCE** – Found Complete

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12           MS. RANDOLPH MOVED, WITH MS. EATON SECONDING, TO FIND THE APPLICATION COMPLETE.

13           MOTION APPROVED 5-0.

14

15           Mr. Johnston noted that when the Conditional Use Application was heard concurrently with the

16           Compliance Application it may reference materials in the Compliance Application, rather than

17           duplicate them in a separate packet. CEO Keene noted it was the Board’s choice as to whether

18           that was acceptable.

19

20           Mr. Johnston inquired about grade transitions that are walls within the layout of the design.

21           CEO Keene noted that if it’s part of the development of the building, it wouldn’t be considered a

22           separate entity.

23

24           **IV. Other**

25           There was no other Business.

26

27           **V. Adjournment**

28           MS. RANDOLPH MOVED, WITH MS. EATON SECONDING, ADJOURNMENT. MOTION

29           APPROVED 5-0.

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31           The meeting adjourned at 7:28PM.