

**Town of Mount Desert Planning Board  
Meeting Minutes  
6:00 PM, March 24, 2021**

This meeting was held virtually and was recorded.

**Public Present:** Judy McPherson, Greg Johnston, Steven DePaul, Joseph LaPalombara, Constance LaPalombara, Heather Poole, MJ Penn, Commodore Seal Harbor Yacht Club Representative Michael Strawbridge, Michael Tadenev on behalf of James F. Marcogliese, Trustee of the James Frank Marcogliese Revocable Trust Agreement, dated July 23, 2001, Noel Musson, Eleanor Kinney, Christopher Willis, George C Ballantyne, Eleanor Kinney, Ann Misenheimer, Hillery.....,

**Board Members Present:** Chair Bill Hanley, Christie Anastasia, Tracy Loftus Keller, Meredith Randolph, Joanne Eaton

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

Chair Hanley called the meeting to order at 6:01PM.

Board Members were noted.

It was noted that CEO Kimberly Keene was not in attendance at the Meeting.

Planning Board Member David Ashmore was not in attendance.

Planning Board Member Tracy Loftus Keller is an Alternate, non-voting member.

MS. RANDOLPH MOVED, WITH MS. ANASTASIA SECONDING, MAKING MEMBER TRACY LOFTUS KELLER A VOTING MEMBER FOR THE MEETING.

VOTE:

MEREDITH RANDOLPH: AYE

CHRISTIE ANASTASIA: AYE

JOANNE EATON: AYE

CHAIR BILL HANLEY: AYE

MOTION APPROVED 4-0.

**II. Approval of Minutes**

**March 10, 2021:**

MS. ANASTASIA MOVED, WITH MS. EATON SECONDING, APPROVAL OF THE MARCH 10, 2021 MINUTES AS PRESENTED.

VOTE:

CHRISTIE ANASTASIA: AYE

JOANNE EATON: AYE

TRACY LOFTUS KELLER: AYE

1 MEREDITH RANDOLPH: AYE  
2 CHAIR BILL HANLEY: AYE  
3 MOTION APPROVED 5-0.  
4

5 **III. Conditional Use Approval Application(s):**

6 **A. Conditional Use Approval Application #005-2021**

7 **OWNER(S) NAME(S):** Ringing Point, LLC & Mount Desert Water District

8 **AGENT:** Gregory Johnston, G.F. Johnston & Associates

9 **LOCATION:** 39 Cooksey Drive/Steamboat Wharf Road, Seal Harbor

10 **TAX MAP:** 029 **LOT:** 002-001 **ZONE(S):** Shoreland Residential 1 (SR1)

11 Shoreland Commercial (SC)

12 Shoreland Residential 2 (SR2)

13 Resource Protection (RP)

14 **PURPOSE:** Section- 3.4 Public Utilities & Other Essential Services. The  
15 installation of a 10" watermain. Adjacent to the Town lift station on Steamboat Wharf  
16 Road 1000 feet south to a location adjacent to Steamboat Wharf Road and 39 Cooksey  
17 Drive. To provide year-round public water supply and fire protection to 39 Cooksey  
18 Drive.

19 **SITE INSPECTION:** 3:30PM Masks Required During Site Inspection.  
20

21 It was confirmed that there was adequate Public Notice. Abutters were notified.  
22

23 No Conflict of Interest was found among the Board Members.  
24

25 Ms. Loftus Keller reported on the Site Visit. Mr. Johnston shared the general location of  
26 the utilities on site, and where the water main would go. The line will be installed in  
27 1000-foot segments.  
28

29 Chair Hanley added that the water line is proposed to be installed primarily on the East  
30 side of the road. The first 1000 feet will run from the entrance of the line to the Ringing  
31 Point property. Line extending North of Ringing Point will establish permanent year-  
32 round water service to residences in that area.  
33

34 Agent Greg Johnston reported that the owners of Ringing Point would like year-round  
35 water at the residence. Currently the property uses well water. Maintaining well water  
36 conditions can be challenging. The Mount Desert Water District is a partner in the  
37 project.  
38

39 Mr. Johnston shared a plan of the area. The end of the seasonal line is where the red  
40 hydrant is located. A tap will be installed at that point. The water must be shut down  
41 when the tap is installed. Any anticipated water disturbance will be broadcast to  
42 landowners and caretakers prior to its occurrence. The shutdown could last an hour or  
43 more. The seasonal line will remain active during the installation process. The project is  
44 anticipated to begin in April.

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The sanitary sewer line occupies the middle of the road.

The water line will be installed on the East side of the road. The line will traverse past Steamboat Wharf. A new hydrant will be installed on that end of the road to enhance fire protection. The hydrant will allow for waterline maintenance and flushing. The Water District will connect residents to the new line. At the end, a looped line will run through the Ox Hill neighborhood. That line will connect to the main.

Mr. Johnston shared images of a typical valve box and water line. Valve boxes are along the East side of the road. The water line is currently above ground. The line will eventually be buried and reconnected to the valve boxes. Connections to homes will happen individually. The Water Company has contact information for all residences in the area.

An erosion control silt block will be deployed during construction to keep the road clean and contain the spread of silt. Work will be done around any heavy rain events and can be closed down to avoid rain-related erosion. The intent is to start on April 1 and be done and paved before Memorial Day Weekend.

The SelectBoard has already approved the project.

Once done, the waterline will be handed to the Water District to own and operate, and a large portion of the above-ground line can be removed.

Chair Hanley asked for public comments or questions.

Resident Judy McPherson inquired about the above-ground line that runs between her property and that of her abutter. Mr. Johnston noted that portion of line is not in the public way and would remain. The seasonal line will be connected and the main will continue to the large red valve at the right of way. It was confirmed the line spanning between Ms. McPherson's connection and the valve is intended to be removed. Mr. Johnston explained how Ms. McPherson's line would connect.

Michael Strawbridge representing the Seal Harbor Yacht Club requested information on the work proposed in front of the club. Mr. Johnston explained that the service connection for the Yacht Club comes out from under the wall underneath the boardwalk. A new curb stop will be installed. The line under the wall and boardwalk will be inspected and determined whether a line replacement is needed. A new service connection is planned. Mr. Johnston did not believe there was a need to dig up the line beyond the boardwalk. If the line needs to be replaced the curb box can be relocated to a better part of the line.

Mr. Johnston showed on a drawing where the water main will go. Additionally, the

1 sewer lines have been TV'd and all individual sewer locations have been found. Crossing  
2 the sewer lines will be avoided.

3  
4 Mr. Strawbridge asked when it would be determined the yacht club will receive a new  
5 line from the curb box. Mr. Johnston believed the Water District was purchasing the  
6 parts for a new curb box. Until the Water District decides they want to move all the way  
7 out of the right of way it is not part of the scope of the project because it's shared and  
8 there's a significant investment in the line. The yacht club would have to talk with the  
9 Water District. As far as the work currently stands, a new service box will be provided.  
10 If the line is in good condition, there's no reason to move it further out. The yacht club  
11 should discuss their preferences with the Water District.

12  
13 Mr. Strawbridge inquired how wide the trench will be during construction and whether  
14 the entire road would close during construction.

15  
16 Mr. Johnston stated the road would not be closed to local traffic during the project.  
17 Portions of the road might be shut down for periods of time, but there will always be  
18 flaggers and signage. Mr. Johnston has been made aware of several activities that must  
19 be accommodated during construction. Special accommodations can be made,  
20 including filling the trench entirely if necessary.

21  
22 Mr. Strawbridge informed Mr. Johnston that the yacht club is undertaking some  
23 significant landscaping work during the proposed construction time. Landscaping crews  
24 must be able to get in and out of the property. Additionally, the club plans to open June  
25 7. Construction delays would seriously impact operations.

26  
27 Mr. Johnston assured Mr. Strawbridge he was mindful of events and activities that could  
28 be impacted by the work. The goal is to finish the work prior to Memorial Day  
29 Weekend. Every expectation is that this goal can be met. The work will start at the end  
30 with the tap and work towards the yacht club. Mr. Johnston added that if the work  
31 threatens to bleed into June, the entire project can be shut down for the summer and  
32 resume later in the year. Mr. Strawbridge asked for a guarantee that the work will not  
33 continue beyond Memorial Day Weekend. Mr. Johnston hoped the project would be  
34 allowed the flexibility to remain open should a small amount of time beyond Memorial  
35 Day Weekend be required to finish the project. Mr. Strawbridge reiterated the club  
36 intends to open on June 7. Mr. Johnston made note of the date. He requested contact  
37 information for the landscapers in order to begin communications with them regarding  
38 their schedule.

39  
40 Mr. Strawbridge stated that the road was recently repaved and significant work was  
41 done to the retaining wall. He asked if the road would be completely replaced or just  
42 patched.

43  
44 Mr. Johnston reported the road would be patched. The Water District is planning other

1 work in the area. In 2022 a full repaving of the entire road is planned.

2  
3 Mr. Strawbridge inquired about runoff encroaching on the yacht club grounds.

4  
5 Mr. Johnston reported the project includes employing a silt sock. Any ground water will  
6 be filtered. If the work requires dewatering, the water will be pumped. Water runoff  
7 due to rain events will be addressed with multiple levels of erosion control.

8  
9 There were no further questions. Chair Hanley closed the public comment portion of  
10 the meeting.

11  
12 MS. EATON MOVED, WITH MS. ANASTASIA SECONDING, TO FIND THE APPLICATION  
13 COMPLETE.

14 VOTE:

15 JOANNE EATON: AYE

16 CHRISTIE ANASTASIA: AYE

17 MEREDITH RANDOLPH: AYE

18 TRACY LOFTUS KELLER: AYE

19 CHAIR BILL HANLEY: AYE

20 MOTION APPROVED 5-0.

21  
22 MS. ANASTASIA MOVED, WITH MS. RANDOLPH SECONDING, TO USE THE SHORT FORM.

23 VOTE:

24 CHRISTIE ANASTASIA: AYE

25 MEREDITH RANDOLPH: AYE

26 JOANNE EATON: AYE

27 TRACY LOFTUS KELLER: AYE

28 CHAIR BILL HANLEY: AYE

29 MOTION APPROVED 5-0.

30  
31 MS. EATON MOVED, WITH MS. ANASTASIA SECONDING, TO APPROVE THE  
32 APPLICATION.

33  
34 A review of the Section 6 Checklist was made and is attached to these Minutes.

35  
36 Ms. Randolph inquired about Section 6B.7, Excavation and Fill. Mr. Johnston reported  
37 that the Ordinance states excavation and fill created as a byproduct of a permitted  
38 activity is deemed incidental by the Ordinance. Chair Hanley noted it was relative to the  
39 Zone in which the work is occurring, and the quantity of excavation or fill. Amounts of  
40 fill less than 150 cubic yard do not require Planning Board approval.

41  
42 Mr. Johnston noted Section 6B.7 of the Ordinance states that *“Excavation or filling shall*  
43 *be permitted in any district only to the extent such activities are essential or are*  
44 *incidental to any permitted, conditional, or other lawful use.”*

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VOTE:  
MEREDITH RANDOLPH: AYE  
CHRISTIE ANASTASIA: AYE  
JOANNE EATON: AYE  
TRACY LOFTUS KELLE: AYE  
CHAIR BILL HANLEY: AYE  
MOTION TO APPROVE THE APPLICATION APPROVED 5-0.

Mr. Johnston reiterated the goal is to avoid any inconvenience to community members. He encouraged those with concerns to reach out to him and provided his contact information. Every effort would be made to accommodate the needs of those living and working in the area.

**B. Conditional Use Approval Application #006-2021**  
**OWNER(S) NAME(S):** Ann M. Lapidés  
**AGENT:** Noel Musson, The Musson Group  
**LOCATION:** 90 Mill Cove Road, Mount Desert  
**TAX MAP:** 011 **LOT:** 053 **ZONE(S):** Shoreland Residential 3 (SR3)  
**PURPOSE:** Sections 3.4 & 6C.7 Marine Structures – Pier, Ramp & Float  
**SITE INSPECTION:** 4:30PM Masks Required During Site Inspection.

Adequate Public Notice was confirmed. Abutters were notified.  
No conflict of interest was found among the Board.

Chair Hanley reported on the Site Visit. The pier is proposed to be located behind the house. The backyard slopes down to the exposed ledge shoreline. A site where a fixed portion of the pier would be located was pointed out. It is an exposed, sloped ledge face. Agent Noel Musson explained the fixed portion of the pier will be 6x12 feet in length and will be pinned to the existing ledge. No portion of it will be in the water. A 3x48-foot seasonal ramp will connect to the fixed portion of pier. The ramp will lead to a 12x20-foot seasonal float. The total length of the pier will be 80 feet. Those in attendance at the Site Visit walked the shoreline and tried to identify where the other homes were located and whether there were any other piers in the cove. The section of shoreline for the pier was chosen because the Northern end of the property would require a longer pier.

Ms. Loftus Keller noted that the views of the neighbors was also discussed. The shorter pier proposed was intended to mitigate the impact of the view from the neighboring properties.

Ms. Randolph pointed out that the pier looked to be sitting on mud at low tide. Chair Hanley agreed it would be on the mud.

1  
2 Mr. Musson shared the plan with those in attendance. Other sites along the property  
3 were looked at prior to deciding where to place the pier. Other sites would have  
4 resulted in pushing the pier further into the viewshed or requiring a longer fixed  
5 portion. The option presented was deemed best for the location. Rails will be on the  
6 bottom of the float to minimize impact of the structure sitting in the mud at low tide.  
7 Environmental, visual, and habitat reviews have been completed with State agencies  
8 and the Army Corps of Engineers. Permits have been obtained from the DEP and Army  
9 Corps. The Town's Harbormaster has confirmed there will be no navigation issues. It is  
10 essentially a small marine structure to provide access to the Applicant's 17-foot whaler,  
11 and to help her access her kayaks from the shoreline.

12  
13 No habitat will be impacted by the proposed cribwork for the fixed section.

14  
15 Mill Cove resident Steven DePaul inquired about the location of the Applicant's boat.  
16 Mr. Musson stated a mooring has not been obtained yet, but a boat would have to be  
17 moored in deeper water. Mr. DePaul asserted that from his deck the pier will be clearly  
18 visible. Additionally, the owner may moor her boat in what is essentially the middle of  
19 the cove. Mr. Musson reiterated that a site for a mooring has not been determined. He  
20 pointed out that there are already boats moored in the area.

21  
22 Mr. Musson did not believe there were any other piers in the cove. There is a pier  
23 visible just outside the cove. It was visible from the Applicant's property.

24  
25 Chair Hanley noted from the map that there were a number of residences in the area.  
26 Mr. Musson concurred.

27  
28 Mill Cove resident Heather Poole stated that the application presented is  
29 misrepresentative of the marine organisms present in the cove. The Application states  
30 the only thing present in the cove is rockweed. This is not true. The cove has extensive  
31 marine life – she did not understand how it could be reported that marine life there was  
32 absent. The pier Mr. Musson referred to as being in the vicinity is in much deeper water  
33 and opens out into the bay. Mill Cove itself is quite shallow.

34  
35 Additionally, Ms. Poole stated the structure would be quite visible from her property.  
36 She believed all those living on the cove are unhappy with the proposed pier. She  
37 believed a number of residents wrote to the Planning Board to voice their  
38 dissatisfaction.

39  
40 Mr. Musson clarified that the Application asks how marine life will be affected by the  
41 location. The DEP has visited the site and determined that there will be no habitat  
42 disturbance in the area resulting from the construction of a pier. The rails proposed for  
43 the bottom of the pier will prevent the pier from suctioning to the mud at low tide. The  
44 Department of Marine Resources looks at every pier application. They have determined

1 the pier will have no adverse effect on the marine life in the area.

2

3 Ms. Poole disagreed. There will be a detrimental effect to the cove if the pier is  
4 installed. The cove is small and empties out nearly completely. The fact that the pier is  
5 seasonal does not affect impact, as residents are all at the cove at approximately the  
6 same time of year.

7

8 Chair Hanley confirmed the letters sent by Mill Cove residents have been received and  
9 distributed to all Planning Board Members for review.

10

11 Mill Cove Resident Joseph LaPalombara asked whether alternative piers that would not  
12 affect the cove were considered, and if so, why were other alternatives rejected. Mr.  
13 Musson confirmed that alternatives were considered. They were rejected because they  
14 failed to provide an adequate level of access.

15

16 Chair Hanley requested Mr. Musson discuss the pier studies conducted and the results.

17

18 Mill Cove Resident Constance LaPalombara objected to the pier on the basis of  
19 aesthetics. A pier will change the view of Mill Cove and out into the bay. The view  
20 stretches to Trenton, and has very few boats, and no piers. The pier in the bay pointed  
21 out by Mr. Musson is not visible to those living in Mill Cove. A pier will disturb the views  
22 and natural formation of the cove severely.

23

24 Mr. Musson reiterated that alternatives were considered for the location of the pier.  
25 Part of the application process and part of the design process is to determine the best  
26 option for avoiding or minimizing impacts.

27

28 Mr. LaPalombara requested an option that does not disturb the cove. Mr. Musson  
29 stated that other locations were looked at on the property with a focus on whether  
30 those locations could minimize visual impact and environmental impact. Other sites  
31 resulted in creating more visual impact overall and a larger environmental footprint.

32

33 Mr. LaPalombara requested clarification on the term "overall". Mr. Musson noted the  
34 entire area must be considered. The alternative site he referred to created more visual  
35 impact from several different directions. Mr. LaPalombara stated that wherever the  
36 pier is placed on the property it will affect the neighbors and the cove.

37

38 Chair Hanley tried to explain that if the pier were located at the Northern end of the  
39 property it would have to be longer.

40

41 Mr. LaPalombara asserted it would cost more if it were longer. Mr. Musson stated that  
42 cost was not a consideration in the decision. Putting the pier on the north end creates  
43 more visual and environmental impact. A pier on the north end of the property would  
44 require 80 to 100 feet of fixed pier fastened into the ground with cribwork or pilings.



1 Mr. LaPalombara asked who would be affected by a location on the north of the  
2 property. He demanded to be shown on a map the location and its effect. Mr. Musson  
3 pointed out the site.

4  
5 Chair Hanley pointed out that the task at hand was to review the Application and the  
6 site chosen, and not to discuss alternate sites. Mr. Hanley confirmed that he had visited  
7 the site and a pier on the north end of the property would absolutely be longer, more  
8 visible, and have a greater impact due to a fixed, permanent structure being required to  
9 extend out into the water for some length.

10  
11 Ms. Poole pointed out that Bartlett's Landing was very close to Mill Cove. Larger boats  
12 use Bartlett's Landing. Residents are not concerned only about the pier and its location.  
13 This pier indicates that larger boats will be moored in the cove, bringing with them the  
14 gas and oils associated with larger boats. A larger boat may be completely out of water  
15 at low tide and sitting on mud. This issue should be addressed. Chair Hanley noted that  
16 there is an Application review process that has not started yet. Issues such as this would  
17 likely be reviewed there.

18  
19 Ms. Poole reiterated that all residents in the cove are concerned about the prospect of a  
20 pier. She believed all residents have written letters opposing the project. There is no  
21 chance a pier in the cove will not affect the cove.

22  
23 Mr. DePaul stated that residents swim in the cove regularly. Having a boat there will  
24 mean gas and oils in the water. A pier may bring other boats to the cove. This will have  
25 an adverse impact on the water residents swim in. There are currently no moorings in  
26 Mill Cove. During some low tides the entire cove empties.

27  
28 Mr. LaPalombara stated that a pier is not acceptable.

29  
30 Mr. Musson reiterated that the Applicant has not discussed a mooring with the  
31 Harbormaster. There is no way to know where a mooring might be located. It could be  
32 completely outside the cove. Mr. Musson showed where another mooring outside the  
33 cove was located. Mr. DePaul argued that the mooring Mr. Musson identified was  
34 never in use.

35  
36 Ms. Poole argued that the Applicant would have no need of a pier and float system if  
37 she did not intend to bring her boat in to it. Mr. Musson asserted that the Applicant's  
38 boat would not be able to stay on the float all the time. A smaller boat or a kayak would  
39 be required to get to a boat on a mooring further off. Mr. DePaul stated a smaller  
40 motorboat would mean two boat engines using the area.

41  
42 Mr. LaPalombara asked why the proposed pier and possible mooring was not  
43 recommended for an area where other piers and moorings are located. Mr. Musson  
44 reiterated that any other proposal results in more disturbance of the shoreline.

1  
2 Mr. DePaul noted that from the description of the possible alternative, it appears the  
3 float must be out a certain distance. The float's location appears to be a determining  
4 factor. Mr. Musson agreed. He pointed out the edge of the low-water line and the  
5 intertidal area. The Application does not propose to go out beyond the low water line,  
6 but they need to get to beyond the rocky shoreline to provide access to water. The  
7 Ordinance allows a pier to try to get to 6 feet of mean low water – a point much further  
8 into the cove than the Applicant is proposing. The Applicant just wants a small structure  
9 to provide access to the water.

10  
11 Chair Hanley explained that due to the shape of the shoreline, a pier on the northern  
12 end of the property would require a longer fixed section to get to the same point of  
13 water access. The location proposed in the Application is the shortest stretch of  
14 shoreline to reach water access.

15  
16 Ms. Randolph inquired whether there was anywhere along the property the pier could  
17 go that the Mill Cove residents would not feel was disruptive.

18  
19 Ms. Poole stated there is nowhere the pier could go that would not be disruptive. In  
20 light of that fact, Ms. Randolph believed there was no point in discussing alternative  
21 sites. The complaints would still be valid. Mr. Musson stated that per the DEP the site  
22 proposed was the best place for the pier, environmentally speaking. The property has  
23 approximately 200 feet of shoreline.

24  
25 Mr. LaPalombara inquired about moving the pier north. Mr. Musson reiterated moving  
26 the pier north is not what is being proposed. Additionally, the DEP would not be in  
27 favor of other locations on the property. Ms. LaPalombara asserted no consideration  
28 was made of any of those living on the cove. Mr. Musson stated the DEP has both an  
29 environmental impact assessment and a visual impact assessment that must be  
30 completed.

31  
32 Ms. LaPalombara wanted to know how the concerns of the residents weigh against the  
33 Application. Chair Hanley believed the residents have been given ample opportunity to  
34 weigh in with their concerns and the Planning Board will take these concerns into  
35 consideration.

36  
37 Ms. Poole argued that the DEP's assessment that the site is the "least" harmful admits  
38 that all potential sites are harmful to some degree. This is the point the residents are  
39 trying to make; any pier will create more negative impact than no pier.

40  
41 Mr. Musson reiterated that no one has alleged that there is no habitat in the area or  
42 that there is no potential impact resulting from the project. The DEP's process is to  
43 assess alternatives – assessing what can be done to avoid impact. This option avoids as  
44 much impact as possible with a short, fixed section and a seasonal ramp and float.

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Ms. Poole reiterated that all the residents on the cove are disturbed by the project. It is the hope the pier will not occur because it will affect the cove in a detrimental way.

Chair Hanley hoped the Application review could commence. He asked for final, closing comments from the public.

Ms. LaPalombara stated she supports the sentiments expressed by Ms. Poole and Mr. DePaul.

Mr. LaPalombara reiterated that the effect of this pier in the cove is unacceptable.

Chair Hanley asked for further comment. There was none.

Chair Hanley closed the public comment section of the discussion.

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

VOTE:

MEREDITH RANDOLPH: AYE

CHRISTIE ANASTASIA: AYE

TRACY LOFTUS KELLER: AYE

JOANNE EATON: AYE

CHAIR BILL HANLEY: AYE

MOTION APPROVED 5-0.

MS. RANDOLPH MOVED, WITH MS. ANASTASIA SECONDING, TO USE THE SHORT FORM.

VOTE:

MEREDITH RANDOLPH: AYE

CHRISTIE ANASTASIA: AYE

TRACY LOFTUS KELLER: AYE

JOANNE EATON: AYE

CHAIR BILL HANLEY: AYE

MOTION APPROVED 5-0.

MS. ANASTASIA MOVED, WITH MS. RANDOLPH SECONDING, TO APPROVE THE APPLICATION.

Ms. Randolph informed those in attendance that a Motion for approval is procedural and necessary to allow discussion to ensue.

A review of the Section 6 checklist ensued and is attached to these Minutes.

Chair Hanley stated he was struggling with the question of Compatibility of the

1 proposed structure. Ms. Eaton concurred. The pictures of the area indicate shallow  
2 water. It does not seem a particularly appropriate place for a pier. Chair Hanley noted  
3 the uniqueness of Mill Cove. There were no other visible piers or visible moorings. Mill  
4 Cove appears to be a uniquely untouched cove. Most other pier applications the Board  
5 reviews are for areas where there are already piers and boat traffic. Mill Cove appears  
6 to be devoid of that activity.

7  
8 Ms. Randolph agreed. Having kayaked into the cove, she's seen first-hand how quiet  
9 and pristine the cove is from the water. The cove is a shared resource, and the  
10 Applicant's requested pier would have a large impact on all those living in the area.

11  
12 The Board concurred that Mr. Musson's work was exemplary. Chair Hanley agreed the  
13 site Mr. Musson chose was the one causing the least adverse impact of all the potential  
14 locations on the property. The question of the compatibility of such a structure in the  
15 cove is the sticking point.

16  
17 Ms. Anastasia agreed. In reading the Ordinance she notes it states the proposed use  
18 shall be compatible with the permitted uses within the district in which it is located, as  
19 measured in terms of it. Ms. Anastasia felt there was a disconnect between the tenor of  
20 the cove and how a pier would change it.

21  
22 Chair Hanley felt the sub-criteria under compatibility are incongruent with the unique  
23 nature of cove. The pier being proposed is the shortest, most modest structure  
24 possible. Other locations would provide longer and more impactful piers. Regardless, it  
25 seems the location and the structure proposed are not compatible.

26  
27 Ms. Loftus Keller agreed. The structure proposed is well designed but does not fit within  
28 the cove.

29  
30 Chair Hanley noted that while the pier is modest, within a cove with no history of  
31 marine structures it creates a unique situation.

32  
33 Mr. Musson stated that the DEP does a visual assessment of the viewshed area in which  
34 all marine structures are proposed to be located. This pier was determined to have no  
35 negative visual impact. The Standards of Section 6 discuss the permitted uses within the  
36 District. Marine structures are a permitted use within the Shoreland Residential District.  
37 A pier is visible across from the cove. This proposed pier will not be the only structure in  
38 the area. The structure proposed will be at the mouth of the cove. Mr. Musson  
39 appreciates the consideration of visual impact. This is the driving reason behind the  
40 proposed short, modest design.

41  
42 Ms. Eaton did not believe the Board could get past the issue of Compatibility. Chair  
43 Hanley agreed.

44

1 Mr. Musson requested a ruling on each of the standards of Section 6A.1.

2

3 Ms. Randolph felt that the objection, with regard to the sub-criteria issues at hand, are  
4 that the pier will be in the shared resource of the cove. The visual impact in the cove is  
5 due to no other piers being located there which would alter the experience of the cove  
6 for everyone sharing that resource. The issue with Proximity is there are no other piers  
7 in the cove. Regarding density of development, there are no other marine structures in  
8 the cove. Chair Hanley added another issue regarding proximity is that the lots in the  
9 cove are all long and narrow. It creates a concentrated grouping of multiple properties  
10 at the cove, with shorter amounts of shoreline. Due to the lot configuration and their  
11 close proximity, the impact of the pier will be greater.

12

13 Ms. Anastasia agreed with Chair Hanley's assessment. Looking at the map for other  
14 similar coves shows that most have much larger lots that are not all coming down to the  
15 water.

16

17 With regard to physical size, Chair Hanley agreed the pier proposed is modest in size and  
18 length.

19

20 Ms. Eaton agreed the physical size was modest. In relation to other issues such as  
21 proximity and density is where the pier creates some compatibility issues.

22

23 MS. EATON MOVED, WITH MS. ANASTASIA SECONDING, THE FINDINGS OF FACT WITH  
24 REGARD TO PHYSICAL SIZE, THAT THE PROPOSED PIER ATTEMPTS TO BE MODEST IN ITS  
25 COMBINED LENGTH OF A 12-FOOT FIXED PORTION, 48-FOOT SEASONAL RAMP, AND 20-  
26 FOOT SEASONAL FLOAT. DESPITE THE ATTEMPT AT MODEST SIZE, THE RELATIONSHIP  
27 OF THE PIER TO THE SMALL SIZE OF THE COVE MAKES IT A SIGNIFICANT STRUCTURE.

28

29 VOTE:  
JOANNE EATON: AYE

30 CHRISTIE ANASTASIA: AYE

31 TRACY LOFTUS KELLER: AYE

32 MEREDITH RANDOLPH: AYE

33 CHAIR BILL HANLEY: AYE

34 MOTION APPROVED 5-0.

35

36 MS. RANDOLPH MOVED, WITH MS. EATON SECONDING, THE FINDINGS OF FACT WITH  
37 REGARD TO VISUAL IMPACT TO BE THAT THE COVE IS A SHARED RESOURCE. THE  
38 VISUAL IMPACT TO THE RESIDENTS OF THE COVE IS SIGNIFICANT DUE TO THE SMALL  
39 SIZE OF THE COVE AND THE NONEXISTENCE OF ANY OTHER MARINE STRUCTURES IN  
40 THE AREA.

41

42 VOTE:  
MEREDITH RANDOLPH: AYE

43 JOANNE EATON: AYE

44 CHRISTIE ANASTASIA: AYE

1 TRACY LOFTUS KELLER: AYE  
2 CHAIR BILL HANLEY: AYE  
3 MOTION APPROVED 5-0.

4  
5 MS. RANDOLPH MOVED, WITH MS. EATON SECONDING, THE FINDINGS OF FACT WITH  
6 REGARD TO PROXIMITY TO BE THAT THE PROXIMITY OF OTHER STRUCTURES IS NOT  
7 COMPATIBLE BECAUSE THERE ARE NO OTHER MARINE STRUCTURES IN THE COVE.  
8 VOTE:

9 MEREDITH RANDOLPH: AYE  
10 JOANNE EATON: AYE  
11 CHRISTIE ANASTASIA: AYE  
12 TRACY LOFTUS KELLER: AYE  
13 CHAIR BILL HANLEY: AYE  
14 MOTION APPROVED 5-0.

15  
16 With regard to the Density of Development, Chair Hanley noted that while the area is  
17 not densely developed, scale plays a large role in the consideration. With the narrow  
18 lots each having a small amount of shore frontage, a single modest pier affects a  
19 number of lot owners.

20  
21 MS. RANDOLPH MOVED, WITH MS. EATON SECONDING, THE FINDINGS OF FACT WITH  
22 REGARD TO DENSITY OF DEVELOPMENT TO BE MANY LONG, NARROW LOTS WITH  
23 LIMITED SHOREFRONTAGE AND NO MARINE STRUCTURES ON THE COVE. THE  
24 PROPORTIONAL IMPACT OF ONE PIER TO MANY PROPERTY OWNERS IS  
25 DISPROPORTIONATE IN THE LOCATION OF THE INNER COVE.

26 VOTE:  
27 MEREDITH RANDOLPH: AYE  
28 JOANNE EATON: AYE  
29 CHRISTIE ANASTASIA: AYE  
30 TRACY LOFTUS KELLER: AYE  
31 CHAIR BILL HANLEY: AYE  
32 MOTION APPROVED 5-0.

33  
34 VOTE TO APPROVE THE APPLICATION:

35 MEREDITH RANDOLPH: NAY  
36 CHRISTIE ANASTASIA: NAY  
37 TRACY LOFTUS KELLER: NAY  
38 JOANNE EATON: NAY  
39 CHAIR BILL HANLEY: NAY  
40 MOTION DENIED 0-5 (RANDOLPH, ANASTASIA, LOFTUS KELLER, EATON, HANLEY  
41 OPPOSED).

42  
43 Chair Hanley lauded Mr. Musson's work on the Application.  
44

1 MS. ANASTASIA MOVED, WITH MS. RANDOLPH SECONDING, A FIVE-MINUTE RECESS.

2 VOTE:

3 CHRISTIE ANASTASIA: AYE

4 MEREDITH RANDOLPH: AYE

5 TRACY LOFTUS KELLER: AYE

6 JOANNE EATON: AYE

7 CHAIR BILL HANLEY: AYE

8 MOTION APPROVED 5-0.

9  
10 There was a five-minute recess.

11  
12 **IV. Subdivisions:**

13 **5.13 Plan Revisions After Approval**

14  
15 **5.13.1** No changes, erasures, modifications, or revisions shall be made in  
16 any Final Plat Plan after approval has been given by the Board and its written  
17 endorsement has been recorded on the Plan, unless the Plan is first resubmitted  
18 and the Board approves any modifications.

19 **5.13.2** Applicants for revisions shall submit at least eight (8) copies of any proposed  
20 revision. If the revision involves the creation of additional lots or units, or  
21 extends the boundaries of the subdivision, a public hearing shall be required.  
22 Otherwise the Board shall determine if a  
23 public hearing is required.

24  
25 **A. OWNER(S) NAME(S):** James F. Marcogliese Revocable Trust.

26 **AGENT:** Michael Tadenev, Eaton Peabody, Esq.

27 **TAX MAP:** 008 **LOT(S):** 134-003

28 **ZONE(S):** Shoreland Residential 3 (SR3) & Rural Woodland 3 (RW3)

29 **PURPOSE:** Modifications to a previously approved and recorded Subdivision.

30 (Amendment #1 of the 3.02 Acres Subdivision – File 45 Number 61 recorded October 25,  
31 2018).

32  
33 Agent for the Owner, Attorney Michael Tadenev, clarified that the Applicant Owner's  
34 Name is changed to James F. Marcogliese Revocable Trust. The owner is not 66 Quarrys  
35 Edge, LLC as was stated in the original Agenda.

36  
37 Attorney Tadenev explained the issue at hand is a minor proposed revision of an existing  
38 subdivision. The Subdivision was created in 2001 and revised in 2018. The 2018  
39 revision created an additional lot. The Owner is not requesting the creation of any  
40 additional lots, or the relocation of any lot lines. The Owner is requesting:

- 41 - to remove the notation known as a "land hook" that appeared on the 2018  
42 amended subdivision plan. The land hook appears between Lot Number 1, owned  
43 by Mr. Marcogliese and land owned by Mr. Marcogliese north of the subdivision, but  
44 is not a part of the subdivision.

- 1 - Additionally, the Owner is requesting a change to the line between the two lots from  
2 a dashed line to a solid line.

3  
4 The reason for the changes is that Mr. Marcogliese is considering a transaction involving  
5 the property north of the subdivision. The 2018 amended subdivision plan can be  
6 interpreted to mean the land north of the subdivision is included within the subdivision.  
7 Mr. Marcogliese would like to clear the record.

8  
9 Ms. Randolph inquired the significance of the dashed line.

10  
11 Attorney Tadenev explained that in the time between the initial subdivision plan and the  
12 revised plan, land north of the subdivision was acquired by Mr. Marcogliese. That land  
13 is a single lot. Mr. Marcogliese is considering breaking the lot out as it had once been  
14 historically.

15  
16 Attorney Tadenev shared the plan for the Planning Board. The original subdivision plans  
17 clearly delineate the subdivision land from the land north of the subdivision. In 2018,  
18 the subdivision plan was changed to include the land hook and the dashed line between  
19 the subdivision property and the property north of the subdivision. The land to the  
20 north of the subdivision is being considered for sale by Mr. Marcogliese. That land was  
21 never a part of the subdivision. In an updated survey, the dashed line was made solid  
22 and the land hook was removed. No other changes were made.

23  
24 Chair Hanley felt that in accordance with Section 5.13.2, a Public Hearing was not  
25 necessary for the changes. Ms. Randolph agreed it was not a change to the subdivision,  
26 just the representation shown on the plat.

27  
28 MS. RANDOLPH MOVED, WITH MS. EATON SECONDING, THAT A PUBLIC HEARING IS  
29 NOT REQUIRED, AS THERE IS NO CREATION OF ADDITIONAL SUBDIVISION LOTS OR A  
30 CHANGE TO THE SUBDIVISION BOUNDARIES.

31 VOTE:

32 MEREDITH RANDOLPH: AYE

33 JOANNE EATON: AYE

34 CHRISTIE ANASTASIA: AYE

35 TRACY LOFTUS KELLER: AYE

36 CHAIR BILL HANLEY: AYE

37 MOTION APPROVED 5-0.

38  
39 MS. RANDOLPH MOVED, WITH MS. ANASTASIA SECONDING, APPROVAL OF THE  
40 PROPOSED CHANGE TO THE SUBDIVISION PLAT IDENTIFIED AS *AMENDMENT NUMBER 2*  
41 *FOR 3.02-ACRE SUBDIVISION, SOMES SOUND, MOUNT DESERT MAINE, DATED*  
42 *FEBRUARY 15, 2021.*

43 VOTE:

44 MEREDITH RANDOLPH: AYE



1 CHRISTIE ANASTASIA: AYE  
2 TRACY LOFTUS KELLER: AYE  
3 JOANNE EATON: AYE  
4 CHAIR BILL HANLEY: AYE  
5 MOTION APPROVED 5-0.

6  
7 **B. OWNER(S) NAME(S):** Maitland Jade Penn, Trustee Maitland Jade Penn, Trust 4/5/99  
8 Chessie Way Properties, LLC  
9 **TAX MAP:** 011 **LOT(S):** 116 & 117  
10 **ZONE(S):** Residential One (R1)  
11 **PURPOSE:** Modifications to a previously approved and recorded Subdivision. Woodland  
12 Acres Subdivision – Amendment #1 File 20 Number 125). Merging Lots #1 & #2.

13  
14 Owner MJ Penn explained that, as part of her estate planning, she is requesting to  
15 merge two lots to simplify the planning. No additional lots or units would be created.  
16 The boundaries of the subdivision would not change.

17  
18 MS. RANDOLPH MOVED, WITH MS. EATON SECONDING, THAT A PUBLIC HEARING IS  
19 NOT REQUIRED, AS THERE IS NO CREATION OF ADDITIONAL SUBDIVISION LOTS OR A  
20 CHANGE TO THE SUBDIVISION.

21 VOTE:  
22 MEREDITH RANDOLPH: AYE  
23 JOANNE EATON: AYE  
24 CHRISTIE ANASTASIA: AYE  
25 TRACY LOFTUS KELLER: AYE  
26 CHAIR BILL HANLEY: AYE  
27 MOTION APPROVED 5-0.

28  
29 MS. EATON MOVED, WITH MS. RANDOLPH SECONDING, APPROVAL OF THE PROPOSED  
30 MODIFICATION, NOTED AS THE COMBINATION OF LOTS 1 AND 2, WHICH IS NOT  
31 CREATING ADDITIONAL LOTS OR EXTENDING THE BOUNDARY OF THE SUBDIVISION.

32 VOTE:  
33 JOANNE EATON: AYE  
34 MEREDITH RANDOLPH: AYE  
35 CHRISTIE ANASTASIA: AYE  
36 TRACY LOFTUS KELLER: AYE  
37 CHAIR BILL HANLEY: AYE  
38 MOTION APPROVED 5-0.

39  
40 **V. Adjournment**

41 MS. RANDOLPH MOVED, WITH MS. EATON SECONDING, TO ADJOURN.  
42 VOTE:  
43 MEREDITH RANDOLPH: AYE  
44 JOANNE EATON: AYE

- 1 CHRISTIE ANASTASIA: AYE
- 2 TRACY LOFTUS KELLER: AYE
- 3 CHAIR BILL HANLEY: AYE
- 4 MOTION APPROVED 5-0.
- 5
- 6 The Meeting adjourned at 8:58PM.