

**Town of Mount Desert Planning Board
Meeting Minutes
6:00 PM, November 18, 2020**

This meeting was held virtually and was recorded.

Public Present:

Dick Broom, Lincoln Millstein, John Gordon, Katrina Carter, Millard Dority, Stephanie Reece,
Greg Johnston, Keating Pepper, Kathy Miller, Noel Musson

Board Members Present:

Chair Bill Hanley, Tracy Loftus Keller, Meredith Randolph, Christie Anastasia, Joanne Eaton,
Dave Ashmore

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

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

Chair Hanley called the Meeting to order at 6:04PM.

Board Members were noted.

II. Approval of Minutes

OCTOBER 28, 2020:

MS. EATON MOVED, WITH MR. ASHMORE SECONDDING, APPROVAL OF THE OCTOBER 28,
2020 MINUTES AS PRESENTED.

VOTE:

JOANNE EATON: AYE

DAVE ASHMORE: AYE

CHRISTIE ANASTASIA: AYE

MEREDITH RANDOLPH: AYE

CHAIR BILL HANLEY: AYE

MOTION APPROVED 5-0.

SEPTEMBER 30, 2020:

MS. EATON MOVED, WITH MS. RANDOLPH SECONDDING, APPROVAL OF THE SEPTEMBER
30, 2020 MINUTES AS PRESENTED.

VOTE:

JOANNE EATON: AYE

MEREDITH RANDOLPH: AYE

CHRISTIE ANASTASIA: AYE

DAVE ASHMORE: AYE

CHAIR BILL HANLEY: AYE

MOTION APPROVED 5-0.

1 **III. Section 5 Conditional Use Approvals:**

2
3 **A. Conditional Use Approval Application #019-2020**

4 **OWNER(S) NAME(S):** Somesville Landing Corp.

5 **AGENT(S):** Noel Musson, The Musson Group.

6 **LOCATION:** Off Main Street, Somesville

7 **TAX MAP:** 021 **LOT:** 032 **ZONE(S):** Shoreland Residential 2 (SR2)

8 **PURPOSE:** Section 3.4 – Excavation or Filling of >150 cubic yards.
9 Shoreline Stabilization.

10 **SITE INSPECTION:** 3:00PM **Masks Required During Site Inspection.**

11 CEO Keene confirmed adequate Public Notice. Abutters were notified.

12
13 No Conflict of Interest was found among the Board.

14
15 Ms. Anastasia reported on the Site Visit. The shoreline in the area was inspected.
16 Erosion along the shoreline to the North and South was apparent. Soil is gone and tree
17 roots are exposed. The areas where rocks will be placed to begin stabilization were
18 pointed out. There is an access for kayaks on the site. This access area will remain an
19 access area.

20
21 Agent for the Applicant Noel Musson concurred with Ms. Anastasia that there is
22 significant shoreline erosion all along the property. The proposal is a standard shoreline
23 stabilization project. Riprap will be installed along the shoreline to stabilize the shore
24 from further erosion. Vegetation will be integrated along the shore as well. Tree
25 removal will be kept to a minimum in an effort to take advantage of the root system
26 there to help stabilize the shore.

27
28 Mr. Musson shared pictures of the shoreline.

29
30 Mr. Musson noted that erosion is heavier beyond the boat launch area. There is an
31 informal stairway leading up to the boat ramp from the beach area. Erosion continues
32 past the pier and around the point. More shoreline stabilization will be needed around
33 the point, and some of the stones will need to be reset on the existing pier.

34
35 Chair Hanley asked for public comment or questions. There were none. Chair Hanley
36 closed the Public Hearing.

37
38 MS. ANASTASIA MOVED, WITH MR. ASHMORE SECONDDING, TO FIND THE APPLICATION
39 COMPLETE.

40 VOTE:

41 CHRISTIE ANASTASIA: AYE

42 DAVE ASHMORE: AYE

43 MEREDITH RANDOLPH: AYE

44 JOANNE EATON: AYE

1 CHAIR BILL HANLEY: AYE
2 MOTION APPROVED 5-0.

3
4 MS. EATON MOVED, WITH MS. RANDOLPH SECONDING, TO USE THE SHORT FORM.
5 VOTE:

6 JOANNE EATON: AYE
7 MEREDITH RANDOLPH: AYE
8 CHRISTIE ANASTASIA: AYE
9 DAVE ASHMORE: AYE
10 CHAIR BILL HANLEY: AYE
11 MOTION APPROVED 5-0.

12
13 MS. RANDOLPH MOVED, WITH MS. ANASTASIA SECONDING, TO APPROVE THE
14 APPLICATION.

15
16 A review of the Checklist was made and is attached to these Minutes.

17
18 VOTE TO APPROVE THE APPLICATION:

19 MEREDITH RANDOLPH: AYE
20 CHRISTIE ANASTASIA: AYE
21 JOANNE EATON: AYE
22 DAVE ASHMORE: AYE
23 CHAIR BILL HANLEY: AYE
24 MOTION APPROVED 5-0.

25
26 IV. **Section 4 Non-Conformities:**

27
28 **4.3.5 - Relocation.** A non-conforming structure may be relocated within the boundaries
29 of the parcel on which the structure is located provided that the site of relocation
30 conforms to all setback requirements to the greatest practical extent as determined by
31 the Planning Board. Determination of Conformity. In the shoreland zone the Planning
32 Board is responsible for determining whether conformity is met to the greatest practical
33 extent.

34
35 **A. OWNER NAME(S):** Ginsburg Family, LLC
36 **APPLICANT(S):** Brian D. Shaw
37 **AGENT(S):** Greg Johnston, G.F. Johnston and Associates
38 **LOCATION:** 12 Sleepy Hollow, Mount Desert
39 **TAX MAP:** 009 **LOT(S):** 015 **ZONE(S):** Shoreland Residential Five
40 (SR5)
41 **PURPOSE:** Relocate a Non-Conforming Structure within the boundaries of
42 the parcel on which the structure is located provided that the site
43 of relocation conforms to all setback requirements to the greatest
44 practical extent as determined by the Planning Board.

SITE INSPECTION: 2:30PM Masks Required During Site Inspection.

CEO Keene confirmed adequate Public Notice. Abutters were notified.

No Conflict of Interest was found among the Board.

Ms. Randolph reported on the Site Visit. The deck was approved by the Planning Board as part of a previous application. The deck proposed for relocation is on the water side. It will be relocated to the back of the house, and stairs installed. Trees have been planted on the site. The changes proposed will make the building less nonconforming.

CEO Keene explained that technically, the Applicant is relocating; moving a portion of the building back from the water and making it less nonconforming. There is no way to amend a nonconforming relocation. The entire process of relocation must be revisited.

Agent for the Applicant Greg Johnston concurred with Ms. Randolph that all relocation proposed is away from the water.

Mr. Johnston shared the plan with the Planning Board. The foundation and all piers approved in the previous Application are being used. Square footage on the water side will be relocated to the back. The setback standards change at the 25-foot mark. This change will allow the Applicant to install a stair accessing the second floor. All other aspects of the previously approved Application remain the same.

Chair Hanley asked for public comment.

It was noted the height of the building in the back was approximately 19'6".

There were no questions from the public. The Public Hearing was closed.

CEO Keene explained that the Board is looking at footprint relocation of a non-conforming structure, and therefore Section 4.3.5 would be reviewed.

Chair Hanley suggested a review of each portion of Section 4.3.5 with a single final Motion and Vote at the end of the checklist, rather than a Motion and Vote on each portion. The Board concurred.

Ms. Randolph was confused as to how to address the Issue. Section 4.3.6 is typically reviewed as part of this sort of Application, to determine whether 50% of the market value of the structure will be or has been lost. The building in the previous Application was completely destroyed by fire. Now, however, there is a building in place. The Board cannot void the previous structure's existence. Chair Hanley suggested perhaps it be acknowledged in the final Motion that the Application has been before the Board previously and was approved and the primary focus of the current Application is simply a reorganization of the previously approved Application, referencing the original

1 decision throughout the process.

2

3 Ms. Eaton noted that nothing is changing from the original intent except the floorplan.

4

5 Ms. Randolph maintained that the question of reconstruction is only in reference to a
6 platform on piers. The Board must reference it as a relocation of the original building
7 that burnt down.

8

9 Mr. Johnston stated that regardless of referencing the original building, the description
10 for each one of the sections in Section 4.3.5 is addressed in the current Application, for
11 the sake of clarity in the record. The earlier Application was for a different Applicant, so
12 Mr. Johnston hoped the previous Application did not have to be referenced.

13

14 Ms. Randolph suggested that if the original Application was not referenced, the new
15 Application would have to address Section 4.3.6, and the question of whether 50% of
16 the value was being replaced.

17

18 CEO Keene explained that relocation was the only issue being addressed, and not
19 reconstruction or replacement. Therefore, a review of Section 4.3.6 was not necessary.

20

21 Mr. Johnston noted that the Ordinance states that once the foundation is placed, the
22 Permit has been vested. A change to the structure is all that is being requested.

23

24 Mr. Ashmore likened it to a Phase 1 that was approved, and Phase 2 is a relocation of a
25 section of the approved Phase 1.

26

27 Chair Hanley felt a review of Section 4.3.5 would make things clearer. He thought
28 referencing the previous Application would make sense.

29

30 The Board concurred.

31

32 A review of the Section 4.3.5 Checklist ensued and is attached to these Minutes.

33

34 MS. RANDOLPH MOVED, WITH MS. ANASTASIA SECONDING, TO APPROVE THE
35 APPLICATION AS PRESENTED.

36 VOTE:

37 MEREDITH RANDOLPH: AYE

38 CHRISTIE ANASTASIA: AYE

39 JOANNE EATON: AYE

40 DAVE ASHMORE: AYE

41 CHAIR BILL HANLEY: AYE

42 MOTION APPROVED 5-0.

43

44 V. **Section 4.1 Pre-Application Procedures for Subdivisions:**

1
2 Sketch Plan:

3
4 **Subdivision #002-2020**

5 **A. OWNER NAME(S):** Mount Desert 365

6 **APPLICANT(S):** College of the Atlantic

7 **AGENT(S):** John Gordon, Architect

8 Gregory Johnston, G.F. Johnston & Associates

9 **LOCATION:** 141 Main Street, Northeast Harbor

10 **TAX MAP:** 024 Lot: 078

11 **ZONING DISTRICT:** Village Commercial (VC)

12 **PURPOSE:** A division accomplished by sale, lease, development, buildings or
13 otherwise. The term "subdivision" also includes the division of a new structure or
14 structures on a tract or parcel of land into 3 or more dwelling units within a 5-year
15 period, **the construction or placement of 3 or more dwelling units on a single**
16 **tract or parcel of land** and the division of an existing structure or structures
17 previously used for commercial or industrial use into 3 or more dwelling units
18 **within a 5-year period.**

19 **SITE VISIT:** 3:45PM **Masks Required During Site Inspection.**

20 CEO Keene confirmed adequate Public Notice. It was not required to notify Abutters.

21
22 No Conflict of Interest was found among the Board.

23
24 Ms. Eaton reported on the Site Visit. The visit started from Tracy Road. There are three
25 components to the proposed building. The front facing Main Street will have ground
26 level retail. Above the retail will be an apartment. Towards the back of the building
27 there will be three more apartments, totaling four apartments in the building. Parking
28 for three cars is available on the lot. From the parking space there is a long driveway to
29 Tracy Road. There will be some space between The Colonel's Restaurant and the
30 proposed building. Closer to Main Street the space between the buildings will be
31 tighter. The old foundation wall on The Colonel's side will be used. The other side will
32 be approximately two feet from The Kimball Shop property. A sewer line comes up the
33 proposed driveway and crosses from The Colonel's to The Kimball Shop, going
34 underneath the proposed building.

35
36 Chair Hanley added that Agents for the Applicant John Gordon and Greg Johnston
37 attended the Site Visit. Mr. Johnston reported on the general site constraints, as well as
38 utilities, orientation and access. Mr. Gordon explained the organization of the building
39 design. The location of the sewer line was pointed out.

40
41 Mr. Johnston reported that access to the building will be from Tracy Road on a Right of
42 Way that leads to the back of the building. The middle of the building will have a foyer.
43 Several meetings have occurred with the Town with regard to the sewer line. The line is
44 a sewer main and serves virtually all of the downtown area. There is no documented

1 easement for it. It has existed there since approximately 1989. Mr. Johnston has been
2 working with the Town to formalize their accessibility to the line. One potential solution
3 is to create a semi-heated basement space for the Town's use where the sewer line
4 would remain exposed. This would eliminate the problem of getting a piece of
5 equipment to the line. A sleeve can be used on the foundation that can slide in and out
6 from underneath the building in order to allow work to occur on the line. Mr. Johnston
7 believed an appropriate location has been found for the sleeve. More information
8 would be available by the time the Completeness Review occurred. The recent Main
9 Street improvements have resulted in water for fire suppression already stubbed into
10 the property. The building is proposed to have a sprinkler system. A four-inch water
11 service as well as two domestic services are stubbed through the front of the property in
12 conduits under the sidewalk.

13
14 The lot is relatively impervious; it consists primarily of pavement, impacted gravel, and
15 rooftops. The Main Street improvements have resulted in some storm drainage
16 improvements. The building will be able to tap into that system. Water runoff from the
17 roof will use the Main Street stormdrain system. Runoff from footing drains will use the
18 Tracy Road stormdrain system. It is not expected that the footing drains will create
19 large quantities of water.

20
21 Mr. Johnston reminded those in attendance that this initial discussion was an informal
22 phase of the project. A substantial submittal process would follow.

23
24 Agent for the Applicant, Architect John Gordon, presented photographic renderings and
25 plans of the site, looking towards Main Street from Tracy Road, and towards Tracy Road
26 from Main Street. The building is essentially three floors. The first level is a partial
27 basement at the lower level of the building. The second floor is at Main Street level,
28 and there is retail space facing Main Street. The third floor is apartment space. There is
29 a connector hall, stairway, and elevator planned. The rear section facing Tracy Road
30 comprises a roughly 20'x50' three-story apartment block, with one apartment on each
31 floor.

32
33 The partial basement will allow for access from the outside to the sewer line, allowing
34 for Town personnel to walk down into the area to inspect and maintain the pipe as
35 necessary. The Town only would have access to and use of this space. The College
36 would not be using it.

37
38 Mr. Gordon shared the floorplans. The partial basement will be approximately 30'x30'.
39 The floor will be approximately 2 to 2.5 feet below grade. The connector, elevator,
40 stairs and hallway were pointed out on the plans. First floor will be a five-single-
41 bedroom apartment with kitchen, living, dining, and bathroom space. The group
42 apartments on the second and third floor are identical in layout to the first-floor
43 apartment. On the second floor level the retail area will be facing Main Street. The
44 retail space is approximately 715sf. There is a corridor allowing access from Main Street

1 to the rear of the building. Above the retail space is a two-bedroom apartment. The
2 College intends this space to be for a faculty or staff member. Additionally, there is a
3 third-floor apartment identical to the others. The roof will be gabled in the front. The
4 connector roof will be low-pitched. The rear of the building has a modestly pitched
5 roof. Two solar arrays are planned for the roof. Energy models have not been
6 completed, so it is currently unknown how much energy the arrays will provide. The
7 intent is that the building will be well-insulated and therefore energy requirements will
8 be relatively low. The arrays will offset the energy cost.

9
10 Mr. Gordon shared what the storefront area would look like with sidewalk, retail space,
11 and the overlooking apartment with the gabled roof. The height of the proposed
12 building is roughly between the height of the two buildings on either side. The goal is a
13 maximum building height of 40 feet, measured from the lowest level on the rear of the
14 building. Mr. Gordon shared images of what the building would look like from The
15 Colonel's. The building will be built on the property line. On that side there will be no
16 windows or openings. A one-hour or two-hour wall is required for safety and the
17 building will be sprinklered. The walls will be sheathed with metal siding or a cement
18 fiber siding. Efforts have been made to get adequate natural lighting into the
19 apartments, despite the close proximity to The Colonel's.

20
21 Mr. Gordon shared images of the building elevations from the West, coming up the
22 driveway from Tracy Road, and elevations from the North. He noted there were no
23 windows on the North end of the building due to its proximity of less than five feet from
24 the neighboring building on that side.

25
26 Mr. Johnston clarified that the building is built along the North line of the property, but
27 there is space along the South line. Mr. Gordon concurred and shared the site plan
28 noting the layout of the building on the lot.

29
30 Chair Hanley reviewed the Subdivision Review process, the first step being the sketch
31 plan review currently underway. It consists of a general introduction of the project and
32 an informal discussion about the scope and intent of the project. Chair Hanley
33 encouraged any public in attendance with questions or comments to please feel free to
34 participate in the discussion.

35
36 CEO Keene asked what percentage of the lot will be covered by the building and
37 walkway. It was noted the lot area is 5,913sf and the coverage of the lot by building and
38 walkway was 2,965sf. Close to 50% of the lot is covered.

39
40 Ms. Randolph asked about the ownership of the lot and building. The lot is owned by
41 MD365. Will they also own the building?

42
43 MD365 Director Kathy Miller explained that MD365 owns the lot and will continue to
44 own the lot. They will have a long-term lease arrangement with College of the Atlantic,

1 who will be building and will own the building and improvements upon the lot.

2

3 Ms. Eaton voiced concern regarding the limited parking at the lot. There are parking
4 spaces for three vehicles, and the apartments will total 17 bedrooms. She felt more
5 parking would be needed for the number of people the building can house. She hoped
6 suitable off-property parking could be found and added to the plan. She felt parking
7 would have to be reconciled before the project could proceed too far.

8

9 Director of Campus Planning, Millard Dority, understood the concern. College Housing
10 on campus in Bar Harbor is required to provide one parking space per housing unit. The
11 students attracted to the college are often not heavy drivers. 24% of the students bring
12 cars to campus. Additionally, the school has a night and day bus that runs trips to and
13 from campus to Bar Harbor. A similar bus service has been discussed for the Northeast
14 Harbor housing. The details have not been currently worked out, but Mr. Dority
15 understood the concern raised. He expected to have a viable solution prior to the
16 project coming to Completeness Review.

17

18 Chair Hanley has heard concern from the community regarding deliveries, particularly in
19 the summer months. He hoped the Applicant would be mindful of the impact of the
20 coming and going of general services to the building. Deliveries should come off of
21 Tracy Road. Mr. Dority noted the request.

22

23 The Colonel's owner, Stephanie Reece, agreed that the parking was a little worrisome.
24 Despite that, she was happy to have neighbors again on the lot. Ms. Reece noted she'd
25 been in touch with Ms. Miller and Mr. Dority about the project. Construction noise
26 might create a rough summer, but currently she had no major concerns.

27

28 Chair Hanley asked if there were any representatives from The Kimball Shop in
29 attendance at the meeting. There appeared to be none.

30

31 Ms. Miller noted that before beginning the process with the Planning Board, MD365 and
32 the College of the Atlantic reached out to neighbors. They held a Zoom meeting for any
33 interested people to discuss the project. She reported that about 50 people
34 participated at that meeting. The questions and concerns raised at that meeting were
35 absorbed and addressed prior to the presentation to the Planning Board. Ms. Miller
36 pointed out that parking is an issue all over Town, and it's a growing issue. The
37 Comprehensive Plan wants to attract more people, yet parking is increasingly
38 inadequate. Every new apartment will require parking. And Parking gets worse in Town
39 in the winter because street parking and lot parking are prohibited. The limited parking
40 inhibits the Comprehensive Plan's goals.

41

42 Resident Katrina Carter noted her only concern would be the uncertainty of how many
43 sewer lines will be impacted. She guessed that the line crossing the property could be
44 used by all of Main Street. Mr. Johnston agreed it was a high priority when

1 contemplating the project. The basement area will allow for Town access. Other than
2 that, there's really no way to change the situation. In 1989 a renovation occurred, but
3 the easement process for the line never occurred. Mr. Johnston felt the proposed
4 approach was a good one. The line will be in an accessible, heated space, and no longer
5 buried. This seemed to be the best way to protect it. Ms. Carter felt it was an
6 opportunity to die-test the line to determine who is using the sewer. Mr. Johnston
7 noted there was an as-built plan at the Wastewater Division showing what buildings are
8 connected.

9
10 Mr. Dority stated that COA is very excited at the possibility of expanding into the village
11 of Northeast Harbor. He thanked the Planning Board for their consideration.

12
13 Chair Hanley asked for any further questions or comments.

14
15 Mr. Johnston noted the Applicant would be before the Board for Conditional Use in
16 addition to the subdivision application process. He requested to know when in the
17 process that would occur. CEO Keene felt the process of Subdivision Review must occur
18 first. Once approved, Conditional Use can be applied for. Chair Hanley agreed. Mr.
19 Johnston wondered if it would be possible to address Conditional Use at the same
20 meeting and directly after the Completeness Review for the subdivision. CEO Keene and
21 Chair Hanley felt it would likely be too much to address in a single meeting. CEO Keene
22 added that the plan would have to be recorded prior to applying for Conditional Use.
23 Once that plan has been recorded, the Conditional Use Application can be applied for.
24 Chair Hanley agreed with the CEO's assessment.

25
26 There were no other questions or comments.

27
28 **VI. Other**

29 Chair Hanley noted that the Agenda did not list Section VI., Other, however there was an
30 additional item to discuss.

31
32 Somesville resident Keating Pepper noted that the original Somesville Wharf is located
33 on his property. He is considering installing a walkway, ramp, and float. He has
34 reviewed LUZO Section 6.C.7. One interpretation of the Section is that a property that
35 cannot reach a water depth of 6 feet within 225 feet cannot have a dock and float.
36 Another interpretation is that a dock and float can be installed in depths less than six
37 feet. He requested the opinion of the Board regarding what their interpretation is on
38 whether he can put a walkway, ramp, and float on his property. He noted it can all be
39 removed each year. Even the walkway could be removed if necessary. The only
40 permanent part would be the installation of two to four pilings necessary because the
41 wall is eroding and requires support. The pilings would firm up the wall and be
42 incorporated as part of the ramp.

43
44 Mr. Pepper estimated the wharf has been on his property since approximately the

1 1800s. There had been vertical structure with multiple pilings years ago. It has since
2 deteriorated, leaving only the horizontal structure and the remnants of pilings
3 embedded in the rocks.
4

5 Ms. Randolph's perception was that the Applicant can build to a length of 225 feet, or
6 until a water depth of 6 feet is reached, whichever is less. It is an attempt to minimize
7 the length. She did not interpret it to mean a float could not be created in tidal
8 wetlands.
9

10 CEO Keene explained that the maximum length is 225 feet, and includes the pier, ramp,
11 and float. The LUZO seems to indicate that 6 feet of depth must be reached. In that
12 case, Mr. Pepper would have to extend the ramp considerably longer than 225 feet. Ms.
13 Randolph interpreted it the opposite. It seemed to indicate a ramp must stop when six
14 feet depth is reached. She felt there was nothing in the Section that stated a float must
15 have a depth of six feet. Any small craft can be launched in under six feet of water.
16

17 CEO Keene noted this could mean the float would sit on mud at low tide. Ms. Randolph
18 felt many floats were on mud at low tide. Ms. Eaton concurred with Ms. Randolph. Mr.
19 Ashmore noted that a float at 6 feet of depth at high tide would likely be sitting on mud
20 at low tide anyway.
21

22 Ms. Randolph did not recall determining water depth of other similar projects. Chair
23 Hanley noted an Application regarding a boardwalk that did not have six-foot depth.
24

25 Ms. Eaton reiterated it seemed to mean 225 feet or reaching 6 feet in depth, whichever
26 length is shortest.
27

28 Chair Hanley felt the intent was to try to constrain the scale of the pier, rather than the
29 float sitting in mud at low tide.
30

31 Mr. Pepper reiterated the ramp and float would be in the water only seasonally. The
32 only permanent part would be using pilings to shore up the wall. The walkway may or
33 may not be permanent; that issue has not yet been decided.
34

35 CEO Keene apprised the Board of upcoming Agenda items.
36

37 VII. **Adjournment**

38 MS. RANDOLPH MOVED, WITH MS. EATON SECONDING, ADJOURNMENT.

39 VOTE:

40 MEREDITH RANDOLPH: AYE

41 JOANNE EATON: AYE

42 CHRISTIE ANASTASIA: AYE

43 DAVE ASHMORE: AYE

44 CHAIR BILL HANLEY: AYE

- 1 MOTION APPROVED 5-0.
- 2
- 3 Meeting adjourned at 8:05PM
- 4