

Minutes for Tuesday, January 21, 2014 Planning Board Meeting

1. Call to Order: Laura Chadbourne (filling in for Chair David Johnson) called the meeting to order at 7:00 PM.

2. Introduction of Attendees: Present were: Secretary Laura Chadbourne and Members Julie Frum and Gail Bartlett. Absent: Chairman David Johnson, Alternate Member Ron Kiesman, and CEO Eric Gulbrandsen.

3. Minutes from November 19, 2013 Meeting: Minutes from November 19, 2013 were reviewed by the group. Julie Frum moved and Gail Bartlett seconded the acceptance of the minutes as written. The motion passed unanimously.

4. CEO's Reports for November and December 2013: CEO reports for November and December 2013 had been provided ahead of the meeting by CEO Eric Gulbrandsen, who was not able to attend this meeting. Planning Board Members present reviewed the reports. The following activity occurred:

November 2013:

1. BUILDING PERMITS ISSUED:

Pietree Orchard LLC, R5, 28 & 29, 32'x20' agricultural accessory shed \$277.60

Camp Encore/Coda, U7, 2 Remove and replace portion of storm damaged Dining Hall \$356.50

2. R. V. PERMITS ISSUED:

NONE

3. CERTIFICATES OF OCCUPANCY ISSUED:

Taylor, R9, 31-B, Smarts Hill Rd.

4. VIOLATION NOTICES ISSUED:

NONE

5. TIMBER HARVEST NOTIFICATIONS:

Diane Eastman, R5, 12 Black Mountain Rd.

6. OTHER:

NONE

Laura Chadbourne moved and Julie Frum seconded the acceptance of the CEO's November 2013 report. The motion passed unanimously.

December 2013:

1. BUILDING PERMITS ISSUED:

NONE

2. R. V. PERMITS ISSUED:

NONE

3. CERTIFICATES OF OCCUPANCY ISSUED:

NONE

4. VIOLATION NOTICES ISSUED:

NONE

5. TIMBER HARVEST NOTIFICATIONS:

Howard & Joan Buker, R4, 10-B Lovell Rd.

6. OTHER:

Sweden Appeals Board, Ashe dock appeal.

Gail Bartlett moved and Julie Frum seconded the acceptance of the CEO's December 2013 report. The motion passed unanimously.

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5. Communication & Bills

A. Correspondence Received (by date):

1. 11/27/13: rec'd by Chairman David Johnson via email from Steve Collins, Chair of the Bridgton Planning Board (PB), notification that Bridgton had received notification that the Patriot Way subdivision application was being withdrawn. Steve thanked the Sweden PB for its effective and cooperative work with the Bridgton PB in handling the application.
2. 12/3/13: rec'd in PB mailbox, letter dated 11/22/13 from George Sawyer (as Agent for Lance Colwell) to the Sweden Planning Board, notifying the Board that the 14 lot subdivision application is being withdrawn. Letter asks the board to close out all records and other information previously submitted.
3. 12/3/13: rec'd in PB mailbox, letter dated 11/27/13 from the Southern Maine Planning & Development Commission (SMPDC) to the Sweden Board of Selectmen Chairman. Planning Board is a cc on the letter. Letter notifies Town of Sweden of an upcoming 3% increase in fees for the upcoming fiscal year beginning on July 1, 2014, and also outlines the services and benefits SMPDC offers members.
4. 12/19/13: rec'd from Julie McQueen, block ad from The Bridgton News, informing the public of a Board of Appeals site walk and public hearing to be held on Dec. 30, 2013 regarding the application of Shawn and Michael Ashe for appeals regarding the denial of a permit to construct a dock on Stearns Pond on Pine Point Road.
5. 12/30/13: rec'd via hand delivery at the Public Hearing for the appeal of the Ashe CUP, letter from Attorney Robert Santomenna to the Sweden Board of Appeals. Letter argued in favor of the original decision by the Sweden Planning Board to deny the dock CUP application.
6. 1/12/14: rec'd in PB mailbox, Notice of Administrative Appeal Decision dated 1/4/14 from the Appeals Board to Shawn and Michael Ashe. The Board of Appeals approved the Ashe application for an administrative appeal, subject to a condition that the Planning Board decide those issues that the Board agreed to "revisit" if necessary, and also revisit section E.2 on page 49 of the Zoning Ordinance.
7. 1/12/14: rec'd in PB mailbox, letter dated 1/8/14 from Attorney Robert Santomenna to the Sweden Board of Appeals. Letter requests that the Appeals Board reconsider its administrative appeal granted to the Ashes on 12/31/13.
8. 1/15/14: rec'd via email from CEO Eric Gulbrandsen, forward of email text received from Appeals Board Chair Ann Diskin. Ann was informing Eric via email of a meeting planned by the Appeals Board on 1/28/13 at 5:00 PM at the Town Office to address the request dated 1/12/14 from Robert Santomenna for reconsideration of the administrative appeal granted to the Ashes.

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B. Correspondence Sent (by date):

1. 11/25/13: sent via email from Secretary Laura Chadbourne to Georgiann Fleck, note asking whether the Bridgton Planning Board had received any material related to the proposed Patriot Way subdivision ahead of the planned 12/3 joint Bridgton/Sweden PB meeting. Georgiann replied on the same day via email that Bridgton had received notification that the application was being withdrawn.
2. 1/1/14: sent via email from Secretary Laura Chadbourne to Shawn Ashe, Michael Ashe, and Attorney Alan Perry (at their collective request from the 12/30 public hearing), copy of the Planning Board Letter of Decision dated 7/21/13 regarding the Ashe CUP. Michael Ashe responded with a "thank you" email on 1/1/14.

6. Old Business:

- A. Laura Chadbourne made a motion to discuss Ashe CUP issues that were remanded to the Board from the Board of Appeals as outlined in its Notice of Administrative Appeal decision dated 1/4/14. Julie Frum seconded the motion.

As a starting point, the Board members spent about 30 minutes re-reviewing materials and correspondence related to the Ashe CUP.

The specific items the Appeals Board asked the Planning Board to review are listed below. The **bold** text is what the Planning Board decided on these factors back in July 2013 (and communicated in the Letter of Decision to the Ashes). The *italic* text is what the Planning Board discussed and determined.

XIII.E.2, page 49: The use will conserve shore cover and visual, as well as actual, access to water bodies. **The proposed dock does not appear to impact shore cover or visual impact to Stearns Pond.**

The Board determined that - should the Appeals Board not reverse their decision - the Planning Board would place the following condition on the applicants: due to the dock being extremely close to the property line of the abutter, the dock must not be placed over the location of the Marx property line, were that line extended out into Stearns Pond for the length of the Ashe dock.

XIII.E.4, page 49: The need for a particular location for the proposed use. **The Board believed there could be an issue with the proposed dock location being nearly on the property line of the abutter; Board will decide to revisit this question if all other conditions were met.**

Upon revisiting this issue, the Board determined that there is no other viable location for the proposed use.

XIII.E.12, page 50: The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development such as, but not limited to, noise, glare, fumes, dust, odor and the like. **The Board had a potential concern with noise from the dock since**

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the proposed placement of the dock is just next to the abutter's property. Board decided to revisit this question if all other conditions were met.

Upon revisiting this issue, the Board agreed that the proposed dock will not produce noise, glare, odor or other detrimental features.

Additionally, Members re-reviewed the Zoning Ordinance and concurred that the Board had erred in interpreting section X.L.2.b.7 as a performance standard. The applicants applied for a CUP so therefore met this requirement:

Section X.L., page 26, "Piers, Docks, and other Shoreland Construction"

2. In other than Natural Resource Protection Zones:

b. Any permanent structure shall require a permit from the Department of Environmental Protection and a Conditional Use Permit from the Planning Board, if:

(7) Increases the number of structures to more than one per each 100 feet of shoreline of the lot.

Finally, Members discussed MMA's information (given to Julie McQueen and passed to Laura Chadbourne) of state law around waterfront structures.

Maine State Law Title 38 Subsection 439-A Subsection 4. Setback requirements states, "all new principal and accessory structures and expansions of such structures within the shoreland zone as established by section 435 must meet the water body or wetland setback requirements approved by the board, except functionally water-dependent uses...". Laura noted that the state law allows for an exemption to this setback requirement only, not to town structure setback laws.

The proposed Ashe dock is not compatible with the Structure side lot setback requirement for a Limited Residential Zone in accordance with the Sweden Zoning and Land Use Ordinance Section VIII.C.5.c. "Zone Requirements, Limited Residential Zone, Dimensional Requirements, Structure Setbacks", page 9, which states: "Height of structure from rear and side lot lines, *but not less than 30 feet* [emphasis added]." Since the width of the ROW is 25 feet, the proposed dock situated in the ROW would be less than 30 feet from the abutting lot (Marx, Map U-8, Lot 4). Therefore, the proposed dock does *not* meet this particular performance standard in the Zoning and Land Use Ordinance. The dock is exempt only from the structure setback from the high water line requirement by State law.

Laura Chadbourne made a motion that the Planning Board send a letter to the Appeals Board, in accordance with the Zoning Ordinance Section XII.D.3 which states: "The Board of Appeals shall render a decision within 20 days after a Public Hearing. Notice of any decision shall be mailed or hand delivered to the appellant or his agent, the Selectmen of the Town of Sweden, the Sweden Code Enforcement Officer, and the Chairman of the Sweden Planning Board within seven days of such decision. However, *Board of Appeals members have 30 days in which to reconsider their decision.*" [emphasis added].

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The motion proposed that the letter to the Appeals Board (cc: applicants, town officials, and applicant/town/abutter lawyers) be sent within the next day or two so it would be received before the Appeals Board met on January 28th. The letter would outline the Planning Board's decision on remanded items, and also include information reinforcing why the Planning Board had made its original decision to deny the CUP, along with clarification about how State Law regarding waterfront structures does not impact Sweden Zoning setback requirements. The letter would also contain a revised Findings of Fact, correcting the Board's interpretation of section X.L.2.b.7.

Julie Frum seconded the motion to send a letter to the Appeals Board. The vote was unanimous.

7. New Business:

A. Laura Chadbourne noted that the Planning Board has a new Member. Town Clerk Alberta Ridlon had told Laura that afternoon that a new Planning Board Member, resident Kevin Taylor, had been appointed by the Sweden Board of Selectmen and sworn in that day (January 21st). Alberta gave Laura Kevin's information. Laura had called Kevin that afternoon to invite him to that evening's meeting but was unable to reach him.

8. Announcements:

- A. The next regular Meeting will be **Tuesday, February 18, 2014** at 7:00 PM at the Sweden Town Office.
- B. The board has an opening for one Alternate Member (Alternate Members serve a 1-year term). Should anyone express interest, they can be appointed by the Selectmen.

Gail Bartlett moved that the meeting be adjourned at 8:15 PM. Secretary Laura Chadbourne adjourned the meeting.

Respectfully submitted,
Laura Chadbourne
Secretary