



Town of Harpswell
Planning Board Minutes
March 16, 2016
Adopted April 20, 2016

Members Present

David I. Chipman, Chair
Paul Standridge, Vice Chair
Burr Taylor
Debora Levensailor
John Papacosma, Associate Member

Members Absent

Aaron Fuchs
Frank Wright IV, Associate Member

Staff Present

Mark Eyerman, Planner
Diane Plourde, Recording Secretary

The Town of Harpswell Planning Board meeting was called to order at 6:30 p.m. by David Chipman, Chair. The Pledge of Allegiance was recited and Board members were introduced. The Chair appointed John Papacosma a full voting member for this meeting.

16-01-01 – Walter Moody, Sr. Map 53 Lot 43, 134 Wallace Shore Road – Site Plan Review – Aquaculture Facility

Mr. Moody told the Board that he has addressed the issues brought up at the previous meeting including moving the building from the wetlands, having the Site Plan drafted, addressing the equipment and noise issues. He also met with several abutters and discussed the plan.

Amber Mason, abutter gave the Board information regarding rare plants in the area of this proposed building. She read the definition of functionally water dependent use from the Definition Addendum and mentioned that this kind of business can function elsewhere without sacrificing the RP area. She feels this business still does not meet the definition of functionally water dependent use. Ms. Mason has concerns about the number of trees and vegetation clearing on this property. Mr. Taylor asked Ms. Mason where the rare plants were in that area and even though Ms. Mason did not have the exact location, Mary Ann Nahf, Conservation Commission, said that a study was done when the bridge was being built on the road and it might show the location of those plants. Ms. Nahf noted the reason to expand the culvert was to flush more salt water into the wetlands.

Mr. Eyerman told the Board that this application is submitted as an aquaculture use which is permitted in the RP district with the approval of the Planning Board. The issue of functionally water dependent use comes into play with regard to the setback requirements from the upland edge of the wetland which is 250 feet. Some exceptions include functionally water dependent uses and with the definition of functionally water dependent use. Mr. Eyerman read the definition for the Board and public.

***Functionally Water-Dependent Uses** – those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses may include, but are not limited to commercial and recreational fishing and boating facilities excluding recreational boat storage buildings, fin fish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and*

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channels, industrial uses dependent upon water-borne transportation, and uses which primarily provide general public access to marine or tidal waters.

Mr. Eyerman told the Board that they must decide whether this proposed facility meets the definition of a functionally water dependent use otherwise it does not meet the 250 foot setback requirement. The Board discussed the facility use.

David Chipman moved seconded by Debora Levensailor that it is functionally water dependent. Motion carries 5-0.

Mr. Eyerman noted the 40% limit of tree removal available on this property and noted that Code Enforcement should take a look at the tree cutting and if they are in violation. Mr. Moody said there was no extra cuttings since the first site visit and what was cut down, most were dead.

Paul Standridge moved that this be a condition of approval. There was no second. Motion failed.

Under Section 13.2.3

David Chipman moved seconded by Debora Levensailor to waive the formal boundary requirement. Motion carries 5-0.

Debora Levensailor moved seconded by Paul Standridge that the application is complete. Motion carries 5-0.

Site Plan Review Ordinance Sections:

Under Section 15.1 Dimensional Requirements

David Chipman moved seconded by Debora Levensailor that the project does meet the dimensional requirements of the Basic Land Use Ordinance and/or Shoreland Zoning Ordinance, based on the fact that this is a lot of record and is in separate ownership. Motion carries 5-0.

Under Section 15.2 Utilization of the Site

David Chipman moved seconded by Debora Levensailor that the proposal does conform to this requirement based on the fact that the building has been relocated further up the hill and back from the road. The lot is located within the 500-year floodplain but there are no development limitations that apply. The relocation of the building will raise the elevation of the building. Motion carries 5-0.

Under Section 15.3 Adequacy of Road System

David Chipman moved seconded by Debora Levensailor that this section is not applicable. The project will not generate this level of traffic. Motion carries 5-0.

Under Section 15.4 Access into the Site

David Chipman moved seconded by Paul Standridge that the project does demonstrate that vehicular access to and from the site is safe and convenient and meets the eight (8) driveway and access ways standards of Section 1.4, based on the fact that the proposal provides for a single 30' wide driveway from the road, and the Fire Chief and Road Commissioner have both been there and provided a 30' wide driveway which was not on the last plan. Motion carries 5-0.

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Under Section 15.5 Access/Egress Way Location and Spacing

David Chipman moved seconded by Debora Levensailor that this requirement is not applicable. Motion carries 5-0.

Under Section 15.6 Internal Vehicular Circulation

David Chipman moved seconded by Debora Levensailor that the proposal does conform to this requirements based on the fact that the proposal provides for parking in the front of the building that should provide adequate access for the proposed uses. Motion carries 5-0.

Under Section 15.7 Parking

David Chipman moved seconded by Debora Levensailor that the proposal does conform to this requirement of 15.7 Parking. Motion carries 5-0.

Under Section 15.7.1 Layout and Design

David Chipman moved seconded by Debora Levensailor that the proposal does conform to this requirement based on the fact that the parking layout is adequate and should not be a problem. Motion carries 5-0.

Under Section 15.8 Pedestrian Circulation

David Chipman moved seconded by Debora Levensailor that this requirement is not applicable. Motion carries 5-0.

Under Section 15.9 Stormwater Management

David Chipman moved seconded by Paul Standridge that the proposal does conform based on the fact that the proposal calls for stormwater from the building and parking area to be directed primarily by sheet flow and a culvert will be provided under the driveway/parking area at the edge of the road. Motion carries 5-0.

Under Section 15.10 Erosion Control

David Chipman moved seconded by Paul Standridge that the proposal does conform based on the fact that the plan indicates that erosion and sediment controls will be provided in accordance with DEP Best Management Practices. Motion carries 5-0.

Under Section 15.11 Water Supply and Groundwater Protection

David Chipman moved seconded by Paul Standridge that the proposal does conform to this requirement based on the fact that the building will be serviced by a well and will only be used for domestic water supply and process water for the tanks will be withdrawn and returned to the river. Motion carries 5-0.

Under Section 15.12 Subsurface Waste Disposal

David Chipman moved seconded by Debora Levensailor that the proposal does conform. Motion carries 5-0.

Under Section 15.13 Utilities and Essential Services

David Chipman moved seconded by Paul Standridge that the proposal does conform to this requirement. Motion carries 5-0.

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Under Section 15.14 Natural Features and Buffering

David Chipman moved seconded by Debora Levensailor that the proposal does conform to this requirement that we are obliged to take into account. Motion carries 5-0.

Under Section 15.15 Lighting

David Chipman moved seconded by Paul Standridge that the proposal does conform to this requirement of lighting. Motion carries 5-0.

Under Section 15.16 Water Quality Protection

David Chipman moved seconded by Paul Standridge that the proposal does conform to this requirement based on the fact that there is State approved for the withdrawal from and discharge of water to the river in conjunction with the operation of the tanks. Motion carries 5-0.

Under Section 15.17 Hazardous, Special and Radioactive Materials

David Chipman moved seconded by Paul Standridge that this requirement is not applicable. Motion carries 5-0.

Under Section 15.18 Solid, Special and Hazardous Waste Disposal

David Chipman moved seconded by Paul Standridge that the proposal does conform to this requirement and there will be a small dumpster on site. Motion carries 5-0.

Under Section 15.19 Historic and Archaeological Resources

David Chipman moved seconded by Debora Levensailor that the proposal does conform based on the fact that there are no identified historic or archeological resources on the site. Motion carries 5-0.

Under Section 15.20 Floodplain Management

David Chipman moved seconded by Debora Levensailor that the proposal does conform to this requirement.

Discussion:

Mark Eyeran clarified for the Board that the flood insurance rate maps identify the 100-year flood plain and the 500-year flood plain. The Ordinance mentions special flood hazard area that is really the 100-year flood plan area.

Motion carries 5-0.

Under Section 15.21 Technical and Financial Capacity

David Chipman moved seconded by Debora Levensailor that the proposal does conform to this requirement. Motion carries 5-0.

David Chipman moved seconded by Debora Levensailor that the applicant, Walter Moody has met the standards of the Town of Harpswell Site Plan Review Ordinance and approves the application with the standard conditions of approval. Motion carries 5-0.

1. This approval is not final until such time as final plans, showing all conditions of approval and any waivers granted, have been signed by the Planning board.

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2. This approval is based on the approved plans, and on all submissions and information provided by the applicant at final approval, whether referenced in any findings or conditions of approval.
3. This approval is dependent upon and limited to the proposal and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plan, proposals, an supporting documents, except de minimis changes as determined by the Town Planner that do not affect approval standards, is subject to the review and approval of the Planning board prior to implementation.
4. If necessary, no work shall be started until the applicant has established a performance guarantee acceptable to the Planning Board.
5. The applicant shall obtain all necessary State and federal approvals before the applicant commences any land use activity pursuant to this site plan approval. If a State or federal agency imposes any more stringent conditions on the applicant or if the other agency's conditions of approval in any way impact the substantive site plan review criteria, the applicant shall return to the Planning Board for review and approval of an amended application.
6. All work shall be completed in accordance with Best Management Practices for Soil Erosion and Sedimentation Control.
7. All work shall be completed in accordance with Section 15.16 of the Shoreland Zoning Ordinance.

16-03-01 – Charity Shore Road Association Inc. (Applicant) Emile Clavet (Owner) Map 48 Lot 92 – Charity Shore, Harpswell – Community Wharf System

Emile Clavet spoke to the Board that applications were made for a community dock and float at the Charity Shore subdivision. Mark Eyerman said the Definitions Addendum defines a community dock as a single wharf, pier, dock and/or float located: on a lot in a subdivision approved by the Planning Board and having a common right of use by the association. The proposed community dock and easement is not part of the subdivision the Planning Board approved. Mr. Eyerman said he spoke with legal counsel and was told the Planning Board must decide whether this is or is not part of subdivision approved by Planning Board last year.

Mr. Clavet said he had some waterfront there and wanted a better siting for it and that they anticipated a community dock would have less impact on property.

David Chipman moved seconded by Debora Levensailor that this is part of the original application. Motion carries 5-0.

Discussion continued regarding the road association and conformance of standards. Mr. Chipman asked Mr. Clavet to read the conclusion part of the report which states:

As presented, the application does not meet the applicable requirements for a community dock. The Board needs to address the following questions:

1. Is this application in order for consideration by the Planning Board as a community dock in the Shoreland Residential District given the definition of a community dock? If the Board determines that it is, then it should address the following issues.
2. Who will be allowed to use the community dock? Will use be restricted to the owners of the eight lots in the Charity Shores subdivision that are the members of the Charity Shore Road

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Association or can it also include the owners of lots that are not part of the subdivision? This raises questions of who has the easement for the community dock, the existing road association or some other home association. The easements submitted as part of the application run to the benefit of the road association. If the road association is being revised to include other lots, those revised documents should go through Planning Board review. Similarly, if a second home owners association is being created, that should be reviewed by the Planning Board.

3. The proposal as presented does not conform to the following requirements:
 - a. If the Board determines that use of the community dock is limited to the 8 lots in the subdivision, the float haulout encroaches on the required 25 foot side setback.
 - b. The parking does not meet the requirement for 1 space per 3 lots.

Mr. Clavet asked the Board to postpone this application until the April 20, 2016 meeting.

Mr. Eyerman proposed there be a workshop on April 6, 2016 to discuss ordinance amendments. The Board agreed.

Consideration of minutes: of February 17, 2016 and February 24, 2016.

In the February 17th minutes, Ms. Levensailor noted a grammatical change of an apostrophe to read "*Committee's Recommendation*".

David Chipman moved seconded by Debora Levensailor to approve the minutes of February 17, 2016 as corrected. Motion carries 5-0.

Debora Levensailor moved seconded by David Chipman to approve the Public Hearing minutes of February 24, 2016 as presented. Motion carries 5-0.

Communication: Mr. Eyerman noted that all the Ordinance amendments passed at the Town Meeting.

Planner's Update: None

The next Planning Board meeting is April 20, 2016

Adjournment: Meeting adjourned at 8:15 PM

Respectfully submitted by:

Diane E. Plourde
Recording Secretary