

**Town of Rockport Planning Board
PUBLIC HEARING
Wednesday, February 9, 2011 – 5:30 p.m.
Rockport Opera House Downstairs Meeting Room
Meeting Televised on Channel 22**

Present: Kerry Leichtman, Chairman
Terry Mackenzie
Thomas Murphy
Sarah Price

Also Present: Thomas M. Ford, Planning Director
Nancy Ninnis, Recording Secretary

AGENDA

OLD BUSINESS

1. **Village at Rockport, LLC**, 689 Commercial Street, Rockport, ME 04856
Request: Subdivision preliminary plan review to create 9 housing units through the reconfiguration of existing units and the development of additional units at the former Spruce Ridge Inn (continued from the 1/19/11 meeting). Represented by Gartley & Dorsky Engineering & Surveying.
Property: 689 Commercial Street – Tax Map 10, Lot 55
District #907 – Mixed Business/Residential District

NEW BUSINESS

2. **John M. Bryant**, 305 Washington Street, Camden, ME 04843
Request: Site plan preapplication meeting to construct a 3,120 sq. ft. tradesman's shop. Represented by Landmark Corporation Surveyors & Engineers.
Property: 423 West Street – Tax Map 26, Lot 221-001
District #907 – Mixed Business/Residential District

OTHER BUSINESS

3. Review and Approval of Minutes

SITE WALK

5:00 P.M. Village of Rockport Subdivision – 689 Commercial Street

The meeting was called to order at 5:37 p.m.

Chairman Leichtman: Because of the relative complexity of the discussions involved, we will reverse the order of the two agenda items and hear the preapplication request first.

I. JOHN M. BRYANT

Representation: **Thomas A. Fowler**
Landmark Corporation Surveyors & Engineers
219 Meadow Street, Rockport, ME 04856
Tel: 207-236-6757; Fax: 207-470-7020
Property: 423 West Street – Tax Map 26, Lot 221-001
District #907 – Mixed Business/Residential District

Request: Site plan preapplication meeting to construct a 3,120 sq. ft. tradesman’s shop.

PRESENTATION: I am here with Adam Bryant. The applicant proposes to develop this property as part of his business, Frost & Bryant, a local contracting company. Site plan review was triggered because it involves a commercial building of more than 1,000 sq. ft. The property includes a 1,480 sq. ft. residential structure and a yard full of refuse, traps and an old boat. The yard is being cleaned up and we plan to continue in that direction. We will retain the residential structure and outfit it with the necessary plumbing, add a septic system and construct a new 52’ x 60’ tradesman’s shop for equipment and material storage for the contracting business. The two buildings will be well below the 10,000 sq. ft. maximum footprint for this part of District 907 and are permitted uses in the district. We estimate that lot coverage will be 25%, well below the 50% maximum. Final development will involve some wetland fill in the rear of the lot that requires National Resource Protection Act permitting through the Department of Environmental Protection and the Army Corps of Engineers. We anticipate submitting those applications at the same time as site plan review. We would like to come back to the Board at its next meeting with a landscaping plan prepared by Michael Farmer. You can see most of the property from the existing driveway, but will need a little notice for a site walk to be sure the driveway area is plowed out.

Chairman Leichtman: One of the Board’s responsibilities is to troubleshoot applications during the preapplication process, so if our questions seem negative, they are really not.

Mr. Murphy: What are you planning for the grass and landscaping?

Thomas Fowler: Some plantings, although I don’t know yet what the specifics are from Michael Farmer. They will include canopy trees and understory shrubs to meet the 75-foot front yard setback requirements. There will also be a planting bed around the sign. Michael Farmer is very familiar with the Ordinance.

Ms. Price: Do you have a Plan B if you don’t get the DEP permit?

Thomas Fowler: We have applied for Tier 1 review, and freshwater wetland fill involves four possible tiers of permitting depending on how much fill is used as long as it not a special case

involving vernal pools. No permitting is required for up to 4,300 sq. ft of fill. From 4,300 sq. ft. to 15,000 sq. ft., or 1/3 acre qualifies for low intensity Tier 1 review. Tier 2 review is from 15,000 sq. ft. to one acre and is a little more intensive. Tier 3 review is for fill of over one acre and involves a very onerous NPRA review. We are at the lowest level of permitting and this is a pretty standard project in terms of that kind of permitting.

Chairman Leichtman: It is not a rubber stamp review, but it is not problematic.

Thomas Fowler: If we demonstrate that we are meeting the statute on wetlands protection, it shouldn't be a problem.

Ms. Price: Is there a septic plan for a system that was never installed?

Thomas Fowler: Yes, but its shelf life has expired and have a new one for a different location on the property.

Chairman Leichtman: There is no running water or septic system on the property?

Thomas Fowler: Apparently not.

Ms. Mackenzie: What is the character of the wetlands, its source of water? Is there a stream?

Thomas Fowler: It is a forested freshwater wetland, one of several types differentiated by the DEP with a lot of fir, maple, pine and hemlock. It is mostly from runoff. The area is flat all the way to Park Street and it is the frontage of quite a large wetland. A stream does originate in the larger wetland, but there are no streams on the property itself. There is definitely some shallow ledge in some places that keeps the water up high.

Chairman Leichtman: How much parking will you need?

Thomas Fowler: Two for the existing building, which will continue to be used as a residence. The shop will be used for indoor storage and equipment and for gearing up to head out to job sites. It won't really be used for fabrication. We will show the parking places on the plan, but they probably won't be formalized on site. The business has five employees with limited parking needs, but they will need a big enough envelope to turn around a truck and trailer.

Chairman Leichtman: A tradesman's shop is permitted use No. 26 in District #907 and I don't see setbacks as a problem.

II. VILLAGE AT ROCKPORT, LLC

Representation: **Andrew Heddericg**
Gartley & Dorsky Surveying & Engineering
59B Union Street, P.O. Box 1031, Camden, ME 04843
Tel: 207-236-4365; Fax: 207-236-3055

Property: 689 Commercial Street – Tax Map 10, Lot 55
District #907 – Mixed Business/Residential District

Request: Subdivision preapplication meeting to create 9 housing units through the reconfiguration of existing units and the development of additional units at the former Spruce Ridge Inn (continued from the 1/19/11 meeting).

Chairman Leichtman: We held the preapplication meeting on January 19, 2011 and took a site walk earlier today. Per Subdivision Ordinance Article 7.1.H, “Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval by the Board upon fulfillment of the requirements of this Ordinance and the conditions of preliminary approval, if any. Prior to the approval of the final plan, the Board may require that additional information be submitted and changes in the plan be made as a result of further study of the proposed subdivision or as a result of new information received.” It is the Board’s job to help the applicant create a final plan for approval.

Andrew Hedderic: I am here with owner Tony Casella and we are here for preliminary approval for nine residential units. We did present a master plan just to make the Board aware of the ultimate direction of the project on this total 36-acre property. Development in this zone allows one unit per 20,000 sq. ft., so there is plenty of density for more units. However, at this point, we are only requesting approval for nine units. There will be a private septic system and well for each building. The existing septic system is shown in pink on the plan and will be used for Building 3 and we will construct two new septic systems for the other two buildings. The draft condominium documents have already been revised for grammatical changes. We will provide a trip generation summary that breaks down what existed on the property before and what we plan. We will be cutting the trips in half. We have added the dumpster location on the plan, which will be located on a concrete pad with white privacy fencing that will be easily accessible to trucks off the driveway. Residents will have to walk there.

Chairman Leichtman: Won’t that be a problem for elderly residents?

Tony Casella: We will have a staff maintenance man on site who can handle that for them. We will also have a couple of golf carts on the premises for their use.

Andrew Hedderic: We are asking for a waiver for one less parking space than required. We need two spaces per unit for a total of eighteen, but we have seventeen laid out. No permits are required. We will coordinate with the Department of Transportation, but there is no need for a change in the existing permit. With regard to subsurface waste disposal, the soils scientist has tested a number of sites and located test pits to make sure there are adequate soils. We did an examination of the soils in the excavation near Building 5 and they are adequate.

BOARD QUESTIONS ON PRESENTATION:

Ms. Mackenzie: With regard to the access road, I noticed that it is natural to go the wrong way down the road. Do you have any plans to make it wider or provide a turnout area in case two cars need to pass?

Tony Casella: We plan to install exit and entrance signs and one-way, do not enter, exit only and entrance only signs. When we add more units, we know we may have to widen the road in the future.

Ms. Mackenzie: Particularly for guests who are unfamiliar with the property and at night.

Chairman Leichtman: Because we have not had time to review the covenants, we will have to waive them for now, but you should be aware that they could be an issue for the final plan.

MOTION – Kerry Leichtman/SECOND – Thomas Murphy: To waive Article 7.2.D.5 (A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision) for the preliminary aspect of the application.

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| VOTE: | Kerry Leichtman | Yes |
| | Terri McKenzie | Yes |
| | Thomas Murphy | Yes |
| | Sarah Price | Yes |

The motion was passed 4-0-0.

MOTION – Kerry Leichtman/SECOND – Thomas Murphy: To waive the parking requirement for 18 parking spaces to allow 17 parking spaces for the 9 units that are the subject of the current application with the understanding that as the property is fully developed the parking requirement will be met.

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| VOTE: | Kerry Leichtman | Yes |
| | Terri McKenzie | Yes |
| | Thomas Murphy | Yes |
| | Sarah Price | Yes |

The motion was passed 4-0-0.

MOTION – Kerry Leichtman/SECOND – Thomas Murphy: To accept as complete the application of The Village at Rockport for the creation of 9 housing units through the reconfiguration of existing motel units at the former Spruce Ridge Inn as shown on Preliminary Subdivision Plan Sheet C-1 prepared by Landmark Corporation Surveyors & Engineers dated January 26, 2011 on property at 689 Commercial Street located at Tax Map 10, Lot 55 in Districts #907.

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| VOTE: | Kerry Leichtman | Yes |
| | Terri McKenzie | Yes |
| | Thomas Murphy | Yes |

Sarah Price

Yes

The motion was passed 4-0-0.

BOARD DISCUSSION:

Ms. Mackenzie: I have no issues.

Mr. Murphy: What are you doing with the septic between now and the next stage of development?

Andrew Hedderic: The records on the existing septic system for the existing six units are very sparse. We are using the existing permitted system for six units that has a capacity of 600 gallons per day, and then worked backwards to Building 3 to use a system that generates 540 gallons per day for that building only, and we will provide new systems as we go forward.

Tony Casella: The Code Enforcement Officer issued four building permits based on the existing system, but that's the limit. So we have building permits for the first four, but can't build the other five in Building 5 until we have added another new septic system.

Chairman Leichtman: Is the existing situation grandfathered?

Andrew Hedderic: There will be two new systems installed for the proposed units.

Chairman Leichtman: You obviously won't get an occupancy permit until the Code Enforcement Officer is satisfied. Accordingly, is it accurate that the Board does not deal with this issue during final plan review because it will be handled administratively by the Planning Office?

Planning Director Ford: It will be handled administratively by the Planning Office, but it is appropriate for the Board to determine that the subsurface wastewater systems are adequate. I think David Marceau is also capable of determining the size and scope of the existing system to determine if it is adequate.

Tony Casella: We did have an evaluation of the existing system and can make it a part of the submission.

Ms. Price: You have one occupancy permit?

Andrew Hedderic: No, only a building permit.

Chairman Leichtman: No occupancy permits will be granted until the application receives Board approval.

Ms. Price: What permitting is required for the pool? Are there any special concerns?

Andrew Hedderic: I assume one of the wells will feed the pool and will be controlled by the owners association.

Ms. Price: What are the 100-foot setback areas shown on the plan?

Andrew Hedderic: It was part of the master planning process to be sure we kept the septic systems far enough apart.

Ms. Price: One overlaps onto the abutting property.

Andrew Hedderic: So we can know that we are not overlapping that area if an abutter has a well. It is really a design tool so we can know where we can put wells.

Ms. Price: So an abutter may not be able to put a well in that area?

Andrew Hedderic: Since they would be going in second, that setback can be reduced to 60 feet, but it is first come, first served, so to speak.

Ms. Price: The test pits were successful?

Andrew Hedderic: Yes, all we dug were successful per the test pit logs provided. We were looking for suitable soils and found no significant limiting factors. Most are 48 to 60 inches deep.

Chairman Leichtman: Per No. 23, the Board may require a hydrogeologic survey. According to your test pit results, bedrock was found in five of fourteen, but it is pretty far down, so I feel comfortable that it is not an issue. My only additional comment is that it looks like a pretty good situation for elderly people except that we need to have codified in the final plan that they won't have to walk to the dumpster. What kind of exterior lighting will be provided?

Tony Casella: There will be lighting on both driveways and lighting on the outside of all buildings. They will be the new drop lights that can be controlled individually.

PUBLIC COMMENT: There was no public comment.

Ms. Price: Can you elaborate on the information on the new building code?

Planning Director Ford: I asked the Code Enforcement Officer to prepare that information. Rockport did not formally participate because of the town's size and we won't have a building code until July 2012, but the Board should certainly be aware that for the existing structure the contractors should do the best they can with what is there to meet energy and building code standards.

Tony Casella: The country has the HUD building code, which Maine is trying to adopt with raised standards. We use specific material for all insulation and use high density to attain R19.

On a new structure or add-on they have to meet code. On existing buildings we have to do the best we can.

Ms. Price: Is this project subject to state inspection?

Planning Director Ford: There is none right now. There is a bill in front of the State Legislature to repeal the building code. Rockport did have BOCA for one year and repealed it after one year and has had no code since. The State has adopted the international building code, which is an extensive 1,000-page document. Rehabs require the best available techniques working with what you have. Rockport should be aware of it and able to explain it, but cannot enforce it until July 2012 because of our population size, and we don't have a building code.

MOTION – Sarah Price/SECOND – Terri Mackenzie: To approve the preliminary plan for the application of The Village at Rockport for the creation of 9 housing units through the reconfiguration of existing motel units at the former Spruce Ridge Inn as shown on Preliminary Subdivision Plan Sheet C-1 prepared by Landmark Corporation Surveyors & Engineers dated January 26, 2011 on property at 689 Commercial Street located at Tax Map 10, Lot 55 in Districts #907.

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| VOTE: | Kerry Leichtman | Yes |
| | Terri McKenzie | Yes |
| | Thomas Murphy | Yes |
| | Sarah Price | Yes |

The motion was passed 4-0-0.

Planning Director Ford: The first access point to the property off Route 1 comes up very quickly. The applicant should carefully read Article 12 and the entrance standards for the access way, as there may be a safety factor getting in and out of the property. The minimum traveled way is 18 feet. This could also be a marketing issue.

III. APPROVAL OF MINUTES

The minutes of the Planning Board meeting of January 19, 2011 were not available for review.

The meeting was adjourned at 6:40 p.m.

The next meeting of the Planning Board has been scheduled for Wednesday, March 9, 2011.

Nancy Ninnis
Recording Secretary