

Approved 8/12/15
Town of Rockport Planning Board
Wednesday, July 8, 2015 – 5:30 P.M.
Rockport Opera House Downstairs Meeting Room
Meeting Televised on Channel 22

Board Present: Chair John Alexander, Howard “Tony” Bates, Terri MacKenzie, Thomas Murphy, James Ostheimer, and John Viehman

Board Absent: None

Staff Present: Planning and Development Director James Francomano, Videographer Tom Goodwin, and Recording Secretary Deborah Sealey

I. Roll Call

Chair John Alexander called the meeting to order at 5:30 P.M. and took a roll call.

II. Old Business

A. Andrea and Robert Lovell – 31 Harmony Lane – Reconsideration of the June 17, 2015 approval of an amended Plan of a Private Way – Map 9 / Lots 17-1 & 17-7 in the Section 908 Rural zoning district.

Chair Alexander said the Planning Board had made a misjudgment last month and now wanted to correct it. He read aloud the following July 2, 2015 introduction to an update from Planning and Development Director James Francomano:

Mark Coursey of Elliott & MacLean, LLP, attorney for the applicants, has requested that the Planning Board reconsider and reverse its July [sic] 17, 2015 decision approving an amendment to the Christie Subdivision, the effect of which was to merge two adjoining lots into one (Map 9 / Lots 17-1 and 17-7).

This would be IN ADDITION to the actions described below but, if acceptable to the Board, could be done more or less by repeating the same Recommended Motions as shown below but replacing the words “Plan of the Harmony Lane private way” with “Amendment to the Christie Subdivision.”

Chair Alexander invited Mr. Francomano to provide further information. The planner said he had spoken with the Town Attorney, who was willing to do more research but felt it would be simpler to reverse the decision. Mr. Francomano noted that approval of the private way occurred following the subdivision line change without the PB studying the ordinance.

Addressing only the private way plan now, Mr. Francomano said Section 805.3 of the Rockport Land Use Ordinance stated the requirements of a Private Way, showing that it was not subordinate to the previous line change vote, but was a related application that required separate review.

John Viehman asked if this were simply a procedural issue. Mr. Francomano replied that the Town Attorney was amenable to doing only administrative work at this meeting, reversing the decision and leaving review until the next meeting. Thomas Murphy asked if the board would later reconsider the lot line vote. Mr. Francomano said that would be the next step.

ACTION: Terri MacKenzie made a motion, seconded by James Ostheimer, to reconsider the vote taken at the meeting of June 17, 2015 regarding the Plan of the Harmony Lane Private Way.

Carried 6-0-0

The applicants' representative, attorney Mark Coursey, said it was his understanding the PB would only discuss the Private Way now. However, he said the applicants wanted to withdraw their application completely. Chair Alexander said he would ask for a motion to that effect if the PB members had no questions.

Mr. Francomano said the applicants could not withdraw their application because it had already been approved and recorded. Tony Bates asked if the abutters had been notified. Attorney Coursey said he has no knowledge of that, but noted that neighbor Paul Lombardo was present.

Mr. Lombardo referred to ordinance Section 805.3, which he construed as saying that construction of a Private Way shall meet minimum standards if it served 3 or more lots; however, there was now only his lot, so it shouldn't be a Private Way. If the Lovells put the line back in, their chicken barn was too close to the lot line and Mr. Lombardo asked if it would have to be moved. Chair Alexander responded that this was a Code Office decision.

ACTION: Terri MacKenzie made a motion, seconded by John Viehman, that the Planning Board reverse the decision and table the matter regarding our 6/17/15 approval of the amended plan (dated 4/27/15) of a Private Way off Harmony Lane.
Carried 6-0-0

Mr. Francomano said the board could stop here, having rescinded a flawed decision, or follow this with rescinding the lot merger.

B. Andrea and Robert Lovell – 31 Harmony Lane – Reconsideration of the June 17, 2015 approval of an amended Subdivision Plan, which merged two adjoining lots into one – Map 9 / Lots 17-1 & 17-7 in the Section 908 Rural zoning district.

ACTION: Thomas Murphy made a motion, seconded by Tony Bates, to reconsider the vote of 6/17/15 to merge two lots on Harmony Lane.
Carried 6-0-0

Paul Lombardo asked for more than a couple of days' notice if this topic came back to the PB. Chair Alexander suggested he put that request in writing to the Planning Director in order to be sure it happened.

ACTION: Thomas Murphy made a motion, seconded by Tony Bates, that we reverse the approval and table the matter of the application of Andrea and Robert Lovell for a second amendment to the final plan of the "Christie Subdivision." A minor modification was proposed to merge two lots on Harmony Lane, located off Porter Street in the Section 908 Rural zoning district.
Carried 6-0-0

ACTION: Thomas Murphy made a motion, seconded by Tony Bates, to authorize the staff to record a notation to the effect of what we have just discussed in the Knox County Registry of Deeds, as appropriate.
Carried 6-0-0

The PB took a 5-minute break at 6:00 P.M.

C. Schooner Bay Taxi – Application for Final Site Plan Review, also requesting a finding by the Planning Board with respect to the proposed Change of Use on property located at 509 Rockland Street (Map 17 / Lot 9) in the Section 904 Residential zoning district.

Owner Chris Merritt and engineer Will Gartley appeared before the PB. Chair Alexander reminded the applicant that if the PB approved their request it would still have to go before the Zoning Board of Appeals for approval in order to be legal and binding.

Mr. Gartley said the applicants planned to leave the property as is, except for the addition of landscaping in two locations he pointed out on the plan. The Merritts had decided not to wash cars on the property. They had applied to MDOT for an entrance permit and would expect any decision tonight to be contingent on receiving that permit.

Ms. MacKenzie said the PB had chosen “stormwater” as the operative word, but it would be more properly called “greywater”: should this issue arise in the future, it would be handled by the Code Office.

Chair Alexander noted that scale drawings were provided and read from Section 1304 the plan elements. He pointed out that the Map and Lot numbers for the parcel across the street were missing from the plan. Mr. Gartley said they would write them in now.

ACTION: Tony Bates made a motion, seconded by James Ostheimer, to waive the requirement that the corners of the parcel be located, marked on the ground, and referenced on the plan.

Carried 6-0-0

ACTION: Thomas Murphy made a motion, seconded by John Viehman, to waive the requirement for an actual field survey of boundary lines of the lot giving complete descriptive data by bearings and distances made and certified by a registered land surveyor.

Carried 6-0-0

ACTION: Thomas Murphy made a motion, seconded by Terri MacKenzie, to waive the requirement for existing and proposed locations and dimensions of any utility lines, sewer lines, waterlines, easements, drainage ways, and public or private rights-of-way on the Site Plan.

Carried 6-0-0

ACTION: Thomas Murphy made a motion, seconded by Terri MacKenzie, to waive the requirement for a report from a licensed site evaluator regarding the subsurface system.

Carried 6-0-0

ACTION: Terri MacKenzie made a motion, seconded by James Ostheimer, to waive the requirement for an erosion and sedimentation control plan.

Carried 6-0-0

ACTION: Terri MacKenzie made a motion, seconded by Tony Bates, to waive the requirement for a stormwater drainage control plan and soils information.

Carried 6-0-0

Chair Alexander mentioned that the PB had not requested a fence and Mr. Merritt said there would not be one since the neighbors, who were renters, didn't care. Tony Bates said he would be happier if that decision had come from the owners, not renters. Mr. Merritt said Mr. Francomano had contacted the owners, but received no response.

Chair Alexander asked if the Board should say that if car-washing ever happened, it would require drainage controls. Mr. Francomano said that would be an enforcement problem and was only a future possibility. Mr. Alexander said approval of the project should be contingent on an MDOT entrance permit.

ACTION: Tony Bates made a motion, seconded by Terri MacKenzie, that the application by Schooner Bay Taxi for Final Site Plan Review was complete.

Carried 6-0-0

The PB moved on to Section 1305 (Performance Standards). Mr. Merritt said the only outdoor lighting would be in front of the big garage: it would be a brighter LED, shielded from the abutter. He understood that the 12' sign allowed on the building could not be lighted. The applicant added that the office entryway light, currently

beaming toward the road, would be replaced by a down-shielded light. Tony Bates said that Section 1002.1 (Landscape Plan Requirements) once again raised the question of lighting, requiring details on the plan.

ACTION: Tony Bates made a motion, seconded by Terri MacKenzie, to waive Section 1002.1 requirements that the location, wattage, typical fixture design, type of bulb and quantity of proposed lighting be shown on the plan.

Carried 6-0-0

In response to Section 1004 (Parking Lot Design and Landscaping). Chair Alexander received an affirmative answer from Mr. Merritt when asked if employees would park behind the building.

Ms. MacKenzie said that in Section 803.1 (Off-Street Parking and Loading Standards) each category concerned with the number of parking spaces required the public coming to the use. In the case of Schooner Bay Taxi, the only parking would be for the staff, as cabs would be in the building. Ms. MacKenzie felt the board should waive this requirement. Chair Alexander said the PB could decrease/ increase the required parking spaces and Mr. Merritt confirmed that he was requesting they do so.

ACTION: Terri MacKenzie made a motion, seconded by Tony Bates, that we find, under Section 803.1, that there is sufficient parking for the use.

Carried 6-0-0

Tony Bates wanted to discuss Section 1101 (Signs and Advertising), but Mr. Gartley said signs were a separate permit by the Code Office.

Chair Alexander asked if there were any questions regarding Section 800 (General Standards of Performance) and none was raised.

Chair Alexander opened the floor for public comment at 6:53 P.M. and received none.

ACTION: Thomas Murphy made a motion, seconded by Tony Bates, to approve the application by Schooner Bay Taxi of Rockland to relocate their business to the existing 6,600 sq. ft. garage / storage building located at 509 Rockland Street (Map 17 / Lot 91) in the Section 904 Residential zoning district. Owners Chris and Renita Merritt will live in the house currently on the site.

Carried 6-0-0

Chair Alexander stated his concern that car-washing might occur on the site in the future and reiterated that it would require a stormwater drainage plan.

The PB took 5-minute recess at 6:56 P.M.

III. Approval of Minutes of the 6/17/15 Meeting

ACTION: Tony Bates made a motion, seconded by James Ostheimer, to approve the minutes of the 6/17/15 meeting as received in the packets.

Carried 6-0-0

IV. Election of Officers

Chair Alexander said that he and John Viehman had recently been sworn in as PB members for another three years.

ACTION: Thomas Murphy made a motion, seconded by Terri MacKenzie, to approve John Alexander as Chair of the Rockport Planning Board for a term ending June 30, 2016.

Carried 6-0-0

Mr. Murphy said he would rather not serve as Vice-Chair for the next year if someone else was interested. Ms. MacKenzie indicated that she was.

ACTION: Tony Bates made a motion, seconded by James Ostheimer, that Terri MacKenzie be nominated as Vice-Chair of the Rockport Planning Board for a term to expire June 30, 2016.
Carried 5-0-1 (Ms. MacKenzie abstained)

V. Other Business

A. Potential New PB Member

Chair Alexander said that Warren Erickson had put his name in to join the Board and would meet with the Select Board toward that end.

B. By-Laws

Chair Alexander said Tony Bates had raised an issue concerning the By-Laws and there were others. The PB had talked about having a meeting to discuss these matters. Tony Bates said the time of the meetings had changed and there was a question of what constituted a quorum. He also suggested changing the 30 days to reconsider a motion to 45 days. Mr. Murphy suggested discussing proposed amendments to the By-Laws at one meeting and voting on them at the following meeting. Tony Bates asked that a vote be taken on the 45-day reconsideration at the next meeting.

Chair Alexander suggested a series of meetings over 5 to 6 weeks to look over the ordinances to see what did not make sense.

VI. Adjournment

ACTION: Thomas Murphy made a motion, seconded by Terri MacKenzie, to adjourn at 7:15 P.M.
Carried 6-0-0

Respectfully submitted,

Deborah Sealey
Recording Secretary