

**Town of Rockport Planning Board
PUBLIC HEARING
Wednesday, April 6, 2011 – 6:30 p.m.
Rockport Opera House Downstairs Meeting Room
Meeting Televised on Channel 22**

Present: Kerry Leichtman, Chairman
John Alexander
Andrew Eddy
Terri Mackenzie
Thomas Murphy
Sarah Price

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

AGENDA

NEW BUSINESS

1. **John Hansen (Tenax Companile Associates I, LLC)**, 3256 Lock Lane, Houston, TX 77019

Request: Site plan review to construct a residential pier, ramp and float as required by the Coastal Waters and Harbor Ordinance – Section 602.4 and Land Use Ordinance – Section 1415.4. Represented by Gartley & Dorsky Engineering & Surveying.

Property: 19 Wildwood Lane – Tax Map 14, Lot 71
District #903 – Residential Coastal District
District #1400 – Shoreland Zoning Overlay District

OTHER BUSINESS

2. Review and Approval of Minutes

The meeting was called to order at 6:35 p.m.

Chairman Leichtman: We welcome Andrew Eddy to the Planning Board. I served with Andrew on the Zoning Board of Appeals and am pleased to have him serve on this Board. Additionally, I have a time conflict and will have to leave the meeting early. Vice Chair John Alexander will take over the Board at that time.

I. JOHN HANSEN

Representation: William B. Gartley

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

Property: 19 Wildwood Lane – Tax Map 14, Lot 71
District #903 – Residential Coastal District
District #1400 – Shoreland Zoning Overlay District

Request: Site plan review to construct a residential pier, ramp and float as required by the Coastal Waters and Harbor Ordinance – Section 602.4 and Land Use Ordinance – Section 1415.4.

PRESENTATION:

William Gartley: We went to the Harbor Committee on March 9, 2011 and received their approval of this project. We have made submissions to the Department of Environmental Protection and the Army Corps of Engineers. The DEP accepted the application as complete and should rule on it by June. The pier will be accessed by a footpath to the top of the bank leading to a set of steps that will be anchored to the ledge. The steps will go over the ledge and provide access to the pier. The only soil disturbance will be the footpath, which will be minimal, and work needs to be done on the stairs. The total length is 35 feet with steps from the top of bluff and supported by one granite pier. There is a 50-foot gangway to a float. There is an existing lookout platform with a 4-foot pathway leading to it. The water drops off deep very quickly and the location is definitely very exposed, so the Harbor Committee wanted to be sure the gangway could be removed if necessary. Prock Marine is pricing out the methods for the owner so the float can be moved onto the pier.

There were no Board questions on the presentation.

Chairman Leichtman: The Board's responsibility is outlined by Section 1415.4 - Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland, and it is a little unclear as to how much of site plan review is applicable to a typical ramp and pier application. Is site plan review limited to the one issue under Section 1415.1: "Access from shore shall be subject to approval of the Planning Board under Site Plan Review. Soils shall be deemed appropriate for such use and constructed so as to control erosion."

Planning Director Ford: I never thought of it that way and maybe the Ordinance Review Committee should eliminate that, although it is appropriate for the Board to review the application. Guidance is given in the Coastal Waters and Harbor Ordinance and the Table of Land Uses on page 14-18 of the Land Use Ordinance. Section 1415.4 addresses the State requirements. I would leave in the reference to site plan review and the table and make sure the project meets Section 1415.4.

Chairman Leichtman: We will substitute the written statement for the Section 1415.4 requirements. The site plan is mostly applicable and provides for a thorough review without redundancy. Looking at Section 1300, very little is applicable to a pier application, but Section

1415.4 does list seven requirements that are pertinent and which are equivalent to the Section 1300 written statement. The second sentence of No. 1 states: “Soils shall be deemed appropriate for such use and constructed so as to control erosion.” In this case the soil is all ledge that is not subject to erosion, so that is not a concern. If anyone disagrees with this approach at any stage, let me know.

William Gartley: We did submit a response to site plan review to the best of our ability.

Chairman Leichtman: We will cover Section 1415.4 first, and there are no issues. With regard to Section 1304.1 – Site Plan, Nos. 5, 7, 8 and 10 on the site plan are not applicable. Everything else is applicable and has been provided.

MOTION – Kerry Leichtman/SECOND – Thomas Murphy: To waive Nos. 5, 7, 8 and 10 of Section 1304.1 as not applicable to the project.

VOTE:	John Alexander	Yes
	Andrew Eddy	Yes
	Kerry Leichtman	Yes
	Terri McKenzie	Yes
	Thomas Murphy	Yes
	Sarah Price	Yes

The motion was passed 6-0-0.

Chairman Leichtman: The written statement is complete. Under Section 1305 – Performance Standards, this is private residence. No. 2 sealing with soils and erosion control is applicable, but the terrain is ledge. Yesterday I sent a memorandum to the Planning Office and the Planning Board members regarding concerns about the site plan and the littoral lines. Jim Dorsky has provided a memorandum explaining in very precise detail what a littoral line is, how it came about and how it is used here.

William Gartley: Littoral lines and property lines should not be confused, as they are two different things. Littoral lines are below low water and owned by the State and are a matter of submerged land leases. The location of a shoreland owner’s littoral zone is defined by the Submerged Lands Rule as “the area of Submerged Lands adjacent to shoreland property within which the property owner may request permission for a lease or easement, subject to review by the State and in accordance with applicable laws and rules.” The littoral lines for abutters may not meet or they may overlap. The State setback is 25 feet from the littoral sidelines. In this case both the DEP and the Army Corps want to know that the 25-foot setback is met. The littoral zone stops at low water, but the property line goes to high water. The Maine Law Court has held that the direction of the property line from high to low water should be determined by what is referred to as the Colonial Method. In this case the distance from high water to low water is very short, so it is not much of an issue.

Chairman Leichtman: Were the abutters notified about this meeting?

Planning Director Ford: Yes.

Ms. Mackenzie: This is a kind of setback to ensure that the location of the pier will not in the future limit the ability of an abutter to put in a pier?

William Gartley: Correct. In this case it is fairly straightforward. In this case the littoral line is pretty close for both properties, and the abutting landowner could put in a pier 25 feet from this side.

Chairman Leichtman: It is not possible to move the pier location 25 feet south so it doesn't cross the property line, as it appears to here?

William Gartley: This is a difficult piece of shoreline. We actually wanted to put it closer because the stone wall makes the location of the property line deceptive, as it is skewed to the shoreline. The location chosen is the shortest and closest to the house. The southern property line is directly in front of the Turner house.

Chairman Leichtman: The Harbormaster is here and can explain any reservations the Harbor Committee had about the project and how they were addressed.

Harbormaster Abbie Leonard: There needed to be a way of getting the gangway picked up and moving the float so it can be moored in place or offshore in inclement weather so it can ride freely during a storm. That was really our only concern. Otherwise, the application met all the Ordinances. We also felt comfortable because we have worked with both Prock Marine and Gartley & Dorsky in the past. The application was approved by the Harbor Committee by a vote of 4-0 as long as the gangway can be lifted.

William Gartley: Notes have been included on the plan to that effect.

Thomas R. James (470 Commercial Street): I am the abutter to the north. If they pull in and moor the gangway in a storm, how far can the float go across the littoral line and onto a neighboring property?

Harbormaster Leonard: The swing room for a float is different than for a boat, so I don't see it as a big problem.

Thomas James: The littoral line seems to come across the property line into our line of view. We did speak with Mr. Hansen and this is the first time I have seen this new plan. I would prefer it if it could be moved further south.

Chairman Leichtman: The terrain is difficult.

William Gartley: It is considerably lower than the top of the bluff and doesn't stick out very far.

Thomas James: As long as it is not visible from the house.

Chairman Leichtman: I am satisfied with the explanation of littoral lines. Are there any other comments?

Ms. Price: Can you explain how the Harbormaster's concerns were addressed?

William Gartley: We made sure the float can be moored independently of the pier and ramp so the ramp can be hauled out. We have shown a davit or a hoist so a system can be set up to lift the ramp and haul it up onto the pier.

Mr. Eddy: Who will be responsible for doing that in a storm situation? Are the owners contracting with someone to monitor it?

William Gartley: They do have a caretaker, although I don't know who it is. Their interest is in having the float and ramp in the water when they are at the property and taken out when they leave.

Ms. Price: With regard to No. 1 on the written statement, is there a copy of the deed?

Chairman Leichtman: I looked up and read the deed, so will attest that the ownership is as stated. I also request that the applicant provide a copy to the Planning Office.

MOTION – John Alexander/SECOND – Sarah Price: To approve the application of John Hansen (Tenax Companile Associates I, LLC) for site plan review to construct a residential pier, ramp and float as required by the Coastal Waters and Harbor Ordinance – Section 602.4 and Land Use Ordinance – Section 1415.4 as shown on Site Plan and Elevation Sheet C-1 prepared by Gartley & Dorsky Engineering & Surveying March 23, 2011 on property at 10 Wildwood Lane located at Tax Map 14, Lot 71 in Districts #903 and #1400.

VOTE:	John Alexander	Yes
	Andrew Eddy	Yes
	Kerry Leichtman	Yes
	Terri McKenzie	Yes
	Thomas Murphy	Yes
	Sarah Price	Yes

The motion was passed 6-0-0 and three copies of the plan were signed.

II. APPROVAL OF MINUTES AND FINDINGS OF FACT

MOTION – Kerry Leichtman/SECOND – Terri Mackenzie: To accept the Findings of Fact for The Village at Rockport and direct the Chair to sign it.

VOTE:	John Alexander	Yes
	Kerry Leichtman	Yes
	Terri McKenzie	Yes

Thomas Murphy	Yes
Sarah Price	Yes

The motion was passed 5-0-1 with Andrew Eddy abstaining because he was not yet a member of the Board.

Review of the minutes of the Planning Board meetings of January 19, 2011, February 9, 2011 and March 9, 2011 was postponed until the next meeting.

The meeting was adjourned at 7:20 p.m.

The next meeting of the Planning Board has been scheduled for Wednesday, May 11, 2011.

Nancy Ninnis
Recording Secretary