

**Town of Rockport Planning Board  
PUBLIC HEARING  
Wednesday, August 10, 2011 – 7:00 p.m.  
Rockport Opera House Downstairs Meeting Room  
Meeting Televised on Channel 22**

**Present:** Kerry Leichtman, Chairman  
John Alexander  
Andrew Eddy  
Thomas Murphy

**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 final plan review to add ten additional residential units to Village at Rockport Phase II (continued from July 13, 2011 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. **Artisan Boatworks, LLC**, 416 Main Street, Rockport, ME 04856  
**Request:** Site plan review for a minor revision to a previously approved site plan to construct a 6,720 sq. ft. boat storage building. Represented by Alec E. Brainerd.  
**Property:** 416 Main Street – Tax Map 35, Lot 37  
District #902 – Rockport Village District

**OTHER BUSINESS**

3. Review and Approval of Minutes

**SITE WALKS**

6:00 P.M. Village at Rockport – Hilltop Drive off Route 1  
6:30 P.M. Artisan Boatworks – 410 Main Street

The meeting was called to order at 7:00 p.m.

**I. VILLAGE AT ROCKPORT, LLC**

**Representation: Andrew D. Hedrich**

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

**Anthony Casella**, Village at Rockport, LLC  
689 Commercial Street, Rockport, ME 04856

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

**Request:** Subdivision final plan review to add ten additional residential units to Village at Rockport Phase II (continued from July 13, 2011 meeting).

**Chairman Leichtman:** We took a site walk earlier today. At our meeting on July 13, 2011, we waived the preapplication meeting requirement and completed preliminary plan review and approval. Tonight we will hear the applicant's presentation, take Board questions on the application, determine whether the application is complete, discuss the application, take public comment and vote on the final plan.

**Andrew Hedrich:** We are requesting final plan approval to add ten residential units. At its meeting on March 9, 2011 the Board approved nine units for Phase I, but we have constructed only six to date. Because one-bedroom units became two-bedroom units, we did not construct the additional units and Phase I is complete. Phase II will have 13 units and we have revised the subdivision plan.

We have submitted an email from David Allen at the Department of Transportation regarding the exit. We are not widening the exit per our discussions with DOT because we are not exceeding the existing grandfathered trips for the previous motel. Accordingly, the DOT views this as an existing road and prefers that the exit not be widened. However, we will widen the entrance to accommodate two-way traffic. If we do go to Phase III and exceed the grandfathered trip count, DOT may advise us to abandon the exit and use only one curb cut. David Allen visited the property and spent some time at the entrance and observed that a vehicle can enter at 90 degrees and that there are adequate sight distances.

At our preliminary plan meeting we had requested a waiver for fewer parking spaces than required, but we have revised the plan to provide two parking spaces per unit for a total of 38.

With regard to the wells, a new well has been constructed adjacent to Building 1 to serve all of Phase II and the existing well near Building 3 will serve Phase I.

There are three existing septic systems: a system for Buildings 5 and 7 to serve four units, a new system for Building 3 to serve three units and a new system for Building 1 to serve six units. A fourth system will serve Building 2 and the cabana house. The old system will be completely abandoned. The C-2 Site Details sheet shows grading and contours, which will be left alone except for some fill to even it out. The units are a custom-built scenario that changes as we go along with the general architecture and siding the same as shown in the pictures presented and what has already been constructed in the field.

#### **BOARD QUESTIONS:**

**Chairman Leichtman:** If there are more trips than anticipated, DOT will force you to close the southern exit?

**Andrew Hedrich:** They would base their decision on the Manual, but if the number of trips increases they would be concerned.

**Chairman Leichtman:** I am trying to understand the logic that if traffic increases access would be reduced.

**Andrew Hedrich:** Under the rules there can be only one entrance and one exit or a combination. Once we go beyond what is already approved, they can force us to comply with the rules.

**Chairman Leichtman:** I found no deficiencies in the application.

**MOTION – John Alexander/SECOND – Thomas Murphy:** To accept as complete the final plan for Phase II of The Village at Rockport for the creation of ten additional residential units as shown on Final Phase II Subdivision Plan Sheet C-1.1 and Sheet C-2 Site Details prepared by Gartley & Dorsky Engineering & Surveying dated July 27, 2011 on property at Hilltop Drive (formerly 689 Commercial Street) located at Tax Map 10, Lot 55 in Districts #907.

**VOTE:** John Alexander Yes

Kerry Leichtman	Yes
Andrew Eddy	Yes
Thomas Murphy	Yes

The motion was passed 4-0-0.

**BOARD DISCUSSION:**

**Chairman Leichtman:** I want to discuss the driveways. You will widen the north entrance driveway, come to the south with the widening and the go up and left to the Phase I area and forward to Phase II, and in the future continue forward to Phase III.

**Andrew Hedrich:** That is the plan.

**Chairman Leichtman:** If the southern exit is closed, there will be only one road. The spur road could be considered a driveway. If you call the road Hilltop Drive and provide directional signs, that might make it less complex further down the road.

**Anthony Casella:** Right now everything has been addressed as Hilltop Drive.

**Chairman Leichtman:** If that change happens, I suggest this further change.

**Mr. Murphy:** I have no issues.

**Mr. Alexander:** There will be very little fill?

**Andrew Hedrich:** Yes, we will grade out to 3:1 and 5:1.

**Mr. Alexander:** Are there any plans to use any surface seasonal water supply with Aqua Maine?

**Andrew Hedrich:** No.

**Mr. Alexander:** I just want to confirm that since this is not District #907 Modified there are no concerns about sidewalks.

**Planning Director Ford:** That is correct.

**Mr. Eddy:** I have no issues.

**PUBLIC COMMENT:** There was no public comment.

**Chairman Leichtman:** I will now review the criteria listed under the Subdivision Ordinance Article 11 Performance Standards concurrently with the State standards under the subdivision statute of Title 30-A M.R.S.A. Section 4404, taking any comment from Board members as I go through the list: “The performance standards in this article are intended to clarify and expand upon the criteria for approval found within the subdivision statute – 30-A M.R.S.A., §4404. In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance standards and make findings that each has been met prior to the approval of a final plan. Compliance with the design guidelines of Article 12 shall be considered to be evidence of meeting the appropriate performance standards. Proposed subdivisions not in compliance with the design guidelines of Article 12 may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.” Per Article 8.1.H – Major Subdivision/Procedure, “If the Board finds that all the criteria of the statute and the standards of this ordinance have been met, it shall approve the final plan. If the Board finds that any of the criteria of the statute or the standards of this ordinance has not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons

for any conditions shall be stated in the records of the Board.” Any Board member who votes against the application must disagree with the Findings of Fact and state why. How the applicant has responded to the performance standards will dictate how we vote.

“If the Board finds that all the criteria of the statute and the standards of this ordinance have been met, it shall approve the final plan. If the Board finds that any of the criteria of the statute or the standards of this ordinance has not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.”

**Mr. Alexander:** Are we no longer concerned about financial capacity?

**Chairman Leichtman:** That is more of a site plan review issue, but the applicant has provided information under Item R responding to Article 8.2 – Submissions: “A list of construction items, with cost estimates, that will be completed by the applicant prior to the sale of lots, and evidence that the applicant has financial commitments or resources to cover these costs.” Additionally, we have reviewed the evidence provided over the course of the application. With regard to the Findings of Fact, in the past I have drafted responses, but for this application I suggest that we accept the summary provided by the applicant as our Findings of Fact.

**MOTION – Thomas Murphy/SECOND – Andrew Eddy:** To accept as the Board’s Findings of Fact the summary provided by the applicant in response to the Article 11 Performance Standards

<b>VOTE:</b>	John Alexander	Yes
	Kerry Leichtman	Yes
	Andrew Eddy	Yes
	Thomas Murphy	Yes

The motion was passed 4-0-0.

**11.1 The proposed subdivision will not result in undue air or water pollution.**

**A. The proposed subdivision shall not discharge wastewater to a water body without a license from the Maine Department of Environmental Protection.** Wastewater will be handled with subsurface wastewater systems.

**B. Discharges of storm water shall be treated to remove oil, grease, and sediment prior to discharge into surface waterbodies. When the subdivision is within the watershed of a great pond, the storm water shall be treated in order to remove excess nutrients.** The proposed improvements will minimally alter the stormwater runoff. See Detail Sheet C-2 for stormwater runoff control measures.

**C. Applicable State and local health and water resource rules and regulations shall be adhered to.** All state and local health and water resource rules and regulations will be adhered to.

**11.2 The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision.** The proposed 13 additional residential units will be served by a new well located adjacent to Building 1. The new well will serve Phase II and Phase I will continue to be served by the existing well located to the east of Building 3. Well data has been provided demonstrating more than adequate water availability for the 13 units associated with Phase II.

**11.3 The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used.** The proposed units are residential and will not place an unreasonable burden on water supply. As previously stated, a new well has been constructed to provide water to Phase II.

**11.4 The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land’s capacity to hold water so that a dangerous or unhealthy condition results.** Soil disturbance and areas susceptible to erosion will be controlled in accordance with the Maine erosion and Sediment Control Handbook for

Construction: Best Management Practices. Specific erosion control measures have been depicted on the Detail Sheet C-2. In addition, a plan note on the Subdivision Plan C-1.1 indicates that a sediment barrier will be placed down gradient prior to soil disturbance and that the project will comply with the current Best Management Practices.

**11.5 The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.** The proposed use will reduce the overall trips generated when compared to the previous use associated with the motel. See the attached ITE Trip Generation Summary.

**11.6 The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are to be used.**

**A. Public System:** Not applicable.

**B. Private System:** Sewage disposal will be by private subsurface wastewater disposal systems. See the attached letter from David Marceau, L.S.E. #246. Copies of the soil classification and description sheets for each test pit were included in the preliminary application.

**11.7 The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be used.** The residents of this subdivision will utilize the Midcoast Solid Waste Corporation to dispose of solid waste. The proposed 13 additional residential units will not place an unreasonable burden on the MSWC facility.

**11.8 The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.**

**A. Preservation of natural beauty and aesthetics.** The project will not negatively affect the natural beauty or aesthetics. The proposed construction will be similar to Phase I and will be very difficult to see from Route 1.

**B. Retention of open spaces and natural or historic features.** The proposed subdivision is not located in an area designated by the comprehensive plan as open space or greenbelt. The proposed subdivision is not located within an area designated as a unique natural area by the Comprehensive Plan or the Maine Natural Areas Program. The proposed subdivision is not located within an area designated as a site of historic or prehistoric importance by the Comprehensive Plan or the Maine Historic Preservation Commission. There is no land designated as public open space. However, the majority of the 36-acre parcel remains undeveloped (approximately 29 acres), which accounts for 80% of the parcel. There is no land area proposed to be dedicated to the municipality.

**C. Protection of significant wildlife habitats.** The subdivision is not in an area identified and mapped by the Department of Inland Fisheries and Wildlife or the Comprehensive Plan as significant wildlife habitat.

**D. Existing public rights of way to the shoreline of a water body.** There are no existing public rights of access to shoreline on this subdivision. Therefore, this standard does not apply.

**11.9 The proposed subdivision conforms with the duly adopted Subdivision Ordinance, Comprehensive Plan and Land Use Ordinance of the Town of Rockport.** It is the intent of this application to provide a subdivision design that is consistent with the Subdivision Ordinance, Comprehensive Plan and Land Use Ordinance of the Town of Rockport.

**11.10 The subdivider has adequate financial and technical capacity to meet the standards. A.**

**Financial Ability:** The applicant proposes to make all improvements as shown on the plans. A condominium unit will not be sold until it is completed.

**B. Technical Ability.** The applicant will retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision. There are no known existing violations of previous approvals granted to this applicant.

**11.11 Whenever situated entirely or partially within the watershed of any pond or lake or within 250 of any wetland, great pond or river, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.** The proposed site is located within the watershed of Penobscot Bay and will not adversely affect the water quality.

**11.12 The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.**

**A. Ground Water Quality.** This is a residential development. The implementation of subsurface wastewater treatment systems will prevent any adverse effect on the ground water quality.

**B. Ground Water Quantity.** The proposed 13 units will utilize a new well and will not adversely affect the ground water elevation beyond the property boundaries.

**11.13 If the subdivision, or any part of it, is in a flood prone area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.** The property is not within a flood prone area.

**11.14 All freshwater wetlands in the proposed subdivision shall be identified on any maps submitted as part of the application, regardless of the size of these wetlands.** The wetland locations are shown on the Final Subdivision Plan Sheet C-1.1 as located by David L. Marceau, Certified Soil Scientist and Licensed Site Evaluator.

**11.15 Any river, stream or brook within or abutting the proposed subdivision shall be identified on any maps submitted as part of the application.** There is one stream as shown on Sheet C-1.1 crossing the property.

**11.16 The proposed subdivision will provide for adequate stormwater management.** This project will comply with the Rockport Land Use Ordinance. The minimal increase in impervious area does not require that the project obtain a Stormwater Management Permit from the Department of Environmental Protection. See Detail Sheet C-2 for stormwater management and erosion control measures.

**11.17 If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland, none of the lots created within the subdivision shall have a lot depth to shore frontage ratio greater than 4:1.** There are no shore frontage lots within this subdivision.

**11.18 The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.** This project is not located within a watershed susceptible to increased concentrations of phosphorus.

**11.19 For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.** The proposed subdivision lies wholly within the Town of Rockport.

**MOTION – John Alexander/SECOND – Thomas Murphy:** To approve the final plan for Phase II of The Village at Rockport for the creation of ten additional residential units as shown on Final Phase II Subdivision Plan Sheet C-1.1 and Sheet C-2 Site Details prepared by Gartley & Dorsky Engineering & Surveying dated July 27, 2011 on property at Hilltop Drive (formerly 689 Commercial Street) located at Tax Map 10, Lot 55 in Districts #907.

<b>VOTE:</b>	John Alexander	Yes
	Kerry Leichtman	Yes
	Andrew Eddy	Yes
	Thomas Murphy	Yes

The motion was passed 4-0-0 and the Mylar and two copies of the plan were signed.

**II. ARTISANS BOATWORKS, LLC**

**Representation:** Alec E. Brainerd, Artisans Boatworks

416 Main Street, Rockport, ME 04856

Tel: 207-236-4231; Fax: 207-236-4231

**Thomas A. Fowler**

Landmark Corporation Surveyors & Engineers

219 Meadow Street, Rockport, ME 04856

Tel: 207-236-6757; Fax: 207-470-7020

**Property:** 416 Main Street – Tax Map 35, Lot 37  
District #902 – Rockport Village District

**Request:** Site plan review for a minor revision to a previously approved site plan to construct a 6,720 sq. ft. boat storage building.

**Chairman Leichtman:** Because this is an addition to a site plan that has already received Planning Board approval, I have made a change to the agenda indicating that it is a minor revision to a previously approved site plan. Otherwise, the applicant would have needed a preapplication meeting.

**PRESENTATION:**

**Alec Brainerd:** Our current building constructed in 2009 has reached its capacity and we want to add a second identical but larger building for storage of larger boats. We chose a location as efficient as possible with the existing gravel driveway and river setbacks.

There were no Board questions on the presentation.

**Chairman Leichtman:** I found no deficiencies in the Site Plan or Written Statement.

**MOTION – John Alexander/SECOND – Andrew Eddy:** To accept as complete the application of Alec Brainerd for Artisan Boatworks, LLC for site plan review for a minor revision to a previously approved site plan to construct a 6,720 sq. ft. boat storage building as shown on the Site Plan prepared by Landmark Corporation Surveyors & Engineers dated July 26, 2011 on property at 416 Main Street located at Tax Map 35, Lot 37-1 in District #902.

<b>VOTE:</b>	John Alexander	Yes
	Kerry Leichtman	Yes
	Andrew Eddy	Yes
	Thomas Murphy	Yes

The motion was passed 4-0-0.

**Chairman Leichtman:** We will continue with review under Land Use Ordinance Sections 1305, 1000 and 800. Your business is in a predominantly residential area, so you need to take special care about noise and visual appearance. I was concerned about this building and the people across the river, but found on the site walk that there is really no relation between them.

**Alec Brainerd:** I think the house we can see through the trees is on another property other than Charles Fisher's. The new building will be the same color as our existing building and the end wall will be cedar. The road side will be shingled. The roof will be dark green on one side and white on the other.

**Planning Director Ford:** That is correct. Charles Fisher bought his property in 1992 and has not yet built on it.

**Chairman Leichtman:** With regard to parking and circulation, Land Use Ordinance Section 803.3 addresses off-street parking and suggests one parking space per employee. You said you anticipate having six to eight employees and have shown eight spaces, which seems to be in compliance.

**Alec Brainerd:** Essentially the whole yard is a parking area.

**Mr. Murphy:** I am concerned about your clients parking along the street.

**Alec Brainerd:** I think there is sufficient room for trucks to do what they need to do in the yard.

**Mr. Murphy:** But boat owners sometimes park on the road.

**Alec Brainerd:** We ask them to park in the yard. We can't take personal responsibility for everyone, but we do what we can.

**Mr. Murphy:** There have been a number of problems there and we don't want enforcement to fall to the police.

**Alec Brainerd:** I can put a sign on the tree or telephone pole requesting customers to please park in the yard.

**Mr. Murphy:** That would work.

**Chairman Leichtman:** With regard to Section 902.4 – Standards, you are right up against your maximum lot coverage at 32.78%, which is 0.22% shy of the maximum allowed. I caution you to work with your contractor, but assume that your metal building is already dimensioned.

**Alec Brainerd:** Yes, and the ground work is done using very sophisticated instruments to make sure of the placement.

**Chairman Leichtman:** Is the area in earth tone shown on your plan what you are referring to as the yard and are you using that for your calculation?

**Thomas Fowler:** Yes, it is compacted surface gravel and beyond that is seeded meadow. The slopes are all loaned and when seeded will look like the existing.

**Mr. Alexander:** A special exception was approved in 2009 for a boat storage facility. Is there any reason to have to go back to that now?

**Planning Director Ford:** That was my recommendation based on a conversation with Alec Brainerd and with the Town Attorney. The intensity of use will not change appreciably from 2009, but we are looking at a building of fairly substantial size. This started out as a home occupation, but as the business has grown, it has had a relationship with the Town government through the review process.

**Chairman Leichtman:** Alec's business received Special Exception No. 5, which should cover what is going on now because this is an already approved site plan, but we are asking the applicant to doubly cover the bases. It is not really necessary, but prudently necessary. I would say that the Special Exception granted by the Zoning Board of Approval covers the property, not just the one building.

**Planning Director Ford:** We are taking the conservative approach to interpreting the Land Use Ordinance.

**Alec Brainerd:** My initial reaction was that it was already approved, but I am happy to take the conservative approach.

**Chairman Leichtman:** It is the applicant's choice.

**Alec Brainerd:** Is it my choice?

**Planning Director Ford:** Land Use Ordinance Section 703.3.6 reads: “That the proposed use will not have an adverse effect on surrounding property in consideration of the expanse of pavement, intensify of use and the building's(s) bulk and material.” I don’t think the intensity will change, but he will be adding buildings, bulk and material. Alec could be leaving both himself and the possibly the Town open to possible adverse action.

**Mr. Alexander:** What is your reaction? Are there any time concerns?

**Alec Brainerd:** I am happy to take that approach.

**Chairman Leichtman:** If going before the Zoning Board of Appeals is a necessary step for the application, we would make our approval contingent on ZBA approval.

**Mr. Alexander:** If we really think approval has already been given and our asking the applicant to go to the ZBA creates delivery problems, we could approve it and he could go ahead, but if he decides to go to the ZBA, we would applaud that.

**Chairman Leichtman:** We don’t have to make it a requirement.

**Planning Director Ford:** No. 6 under Special Exceptions refers to a “proposed use” and everything after that deals with use. Alec Brainerd has received a Special Exception from the ZBA for this proposed use and he is not changing the proposed use, and I think the ZBA addressed the building’s bulk.

**Mr. Murphy:** I suggest we not make our approval contingent on ZBA approval, and that the applicant seek the advice of counsel on whether he should subject himself to the ZBA.

**Alec Brainerd:** I would take the Town Attorney’s advice and go to the ZBA.

**Chairman Leichtman:** I agree that we not make that a contingency and how you proceed is totally up to you. With regard to Section 800, have there been any complaints about noise or lighting? I assume all abutters were notified.

**Planning Director Ford:** No, there have been no complaints and the abutters were notified.

**Chairman Leichtman:** Then there is no reason to think noise and lighting will be a problem now.

**PUBLIC COMMENT:** There was no public comment.

**MOTION – Andrew Eddy/SECOND – Thomas Murphy:** To approve the application of Alec Brainerd for Artisan Boatworks, LLC for site plan review for a minor revision to a previously approved site plan to construct a 6,720 sq. ft. boat storage building as shown on the Site Plan prepared by Landmark Corporation Surveyors & Engineers dated July 26, 2011 on property at 416 Main Street located at Tax Map 35, Lot 37-1 in District #902.

<b>VOTE:</b>	John Alexander	Yes
	Kerry Leichtman	Yes
	Andrew Eddy	Yes
	Thomas Murphy	Yes

The motion was passed 4-0-0 and two copies of the plan were signed.

### **III. APPROVAL OF MINUTES AND FINDINGS OF FACT**

**MOTION – Kerry Leichtman/SECOND – Andrew Eddy:** To approve the minutes of the regular Planning Board meeting of July 13, 2011 as presented.

<b>VOTE:</b>	John Alexander	Yes
	Andrew Eddy	Abstain (not present at the meeting)

Kerry Leichtman  
Thomas Murphy

Yes  
Yes

The motion was passed 3-0-1.

The meeting was adjourned at 8:03 p.m.

The next meeting of the Planning Board has been scheduled for Wednesday, September 14, 2011.

Nancy Ninnis  
Recording Secretary