

SANFORD PLANNING BOARD MINUTES
MEETING February 16, 2011 – 7:30 P.M.
Town Hall Annex Third Floor Chambers

MEMBERS PRESENT: Kelly Tarbox, Chair
Robert Hardison, Vice Chair
Joseph Herlihy
Stephen Catalano, Jr.
David Mongeau, Secretary
Lela Harrison
Matthew Perkins

MEMBERS ABSENT: None

STAFF PRESENT: James Q. Gulnac, AICP, Planning & Development Director
Charles Andreson, P.E., AICP, Town Engineer
Michael Casserly, P.E., Assistant Engineer
Shirley Sheesley, CEO

STAFF ABSENT: Barbara Bucklin, Administrative Assistant (w/notice)

I. CALL TO ORDER

Chair Tarbox called the meeting to order at 7:30 P.M.

II. PUBLIC HEARINGS

There were no public hearing items.

III. NEW BUSINESS

There were no new business items.

IV. OLD BUSINESS

1. File #17-10-RZ: Wayne Whitten, 121 West First Street, North Berwick, Maine.

Chair Tarbox asked staff member Gulnac to summarize the process this application has been through.

Staff member Gulnac said the project got referred to the Planning Board by the Codes Enforcement Officer, who thought a shoreland permit may be needed. During the review process (meetings with the applicant, work sessions, site walk, communications with state agencies), it was learned that the term marina was defined differently by the state and town that caused some confusion to the applicant. Staff member Gulnac felt that after all the discussions and site walk, an 'as is' site plan approval would be the best way to address this application and explained why.

Staff member Gulnac said what was in front of the Board for approval tonight was not approving any business activity; it was only approving what was on the site at this time. Staff member Gulnac felt that the Whitten's did need to clarify one item that was labeled as a septic tank on the site plan, which is located outside the building and above ground. Staff member Gulnac asked if the tank was used as a septic system in any way. Wayne Whitten said the tank was above ground and not hooked up and confirmed that the tank was not functioning.

Chair Tarbox asked if the plan should be amended to state this fact. Staff member Gulnac said this would be good idea.

Chair Tarbox then recommended adding “because no changes to the site is proposed” to item #7 under the Recommended Motion in the Planning Director’s project summary report (item #7 just stated “No shoreland permit is included.”)

Chair Tarbox said that even though this was not a public hearing, she would allow public comment.

Mike Mondeau, who owns property that abuts the Whitten property on the Sanford side, appreciated being allowed to speak at tonight’s meeting. He feels that a lot has been cleared up as far as understanding what would be allowed on the Whitten property. There was one thing that he wanted clarified - the reference to the manual of operations, which was submitted with the original application, made in the Finding of Facts in the Planning Director’s project summary report. Mr. Mondeau then read a section out of the manual of operations that related to business activities.

Chair Tarbox said that the Board was not approving any activities or the manual of operations, only the site plan showing the conditions on the property as they exist.

Mr. Mondeau then talked about a letter in the file from Shirley (Sheesley, CEO) that referenced code violations on the Whitten property. He then described what he was specifically talking about (2 vehicles, docks, trucks, etc.) and felt that these items should be included on the site plan. Discussion took place.

After the discussion, it was decided that if something was not depicted on the site plan up for approval tonight, then it was not allowed and would then become an enforcement issue. Chair Tarbox also wanted to make it clear that the manual of operations would not be included in any approval.

Mr. Mondeau asked about the use of the docks that were depicted on the site plan. Staff member Gulnac said that use was not being discussed for approval tonight. The only thing that was being looked at for approval tonight was the site plan that was submitted by the applicant. If the issue of use came up at a later date, use approvals would go through the proper review process at that time.

Anne Whitten, applicant, said she was confused. She wanted to know why they had to submit an operations manual. She and Mr. Whitten were under the impression that both the operations manual and the site plan were being reviewed for approval tonight. Discussion took place.

After the discussion, it was understood that the operations manual was not needed because the applicants were not conducting a business and operations manuals are used to regulate commercial activity.

Board member Mongeau said his recollection was the Board was not sure how this application would be submitted – if this was going to be a full-service business/aviation marina or not. Board member Mongeau said that during the initial review, he thought the application was going to move forward as a business, but now it is just a property owner with land on a lake.

Chair Tarbox asked if there were any other questions or comments from Board members; there were none.

Before calling for a vote, Chair Tarbox stated that only the four Board members that were present at the site walk and/or the public hearing meeting would be voting tonight – the three new Board members would not be voting.

Chair Tarbox called for a motion.

Vice Chair Hardison asked for clarification on the additions being added to the finding of facts that were discussed tonight.

Staff member Gulnac said that item #14 in the proposed finding of facts was going to state that the septic system was nonfunctional and add item #15 – the manual of operations was not included in the approval. Mr. Gulnac stated that under the conditions of approval in the proposed motion, “because no changes to the site are proposed” was going to be added to item #7.

Board member Herlihy made a motion that the Planning Board confirm the Finding of Facts (see attached) and find File #17-10-RZ Tax Map R21, Lots 1, 1A, & 1B, Rural Residential zone to be a conditional use/‘as is’ site plan and is approved with the following conditions:

- a) The applicant will pay all outstanding application review fees.
- b) The applicant must comply with any and all building and fire code and permit requirements.
- c) No construction permits shall be issued until the conditions of this approval have been met.
- d) Any changes to the site conditions as shown on the ‘as is’ site plan will require review by the Planning Board.
- e) No commercial activity is included in the approval.
- f) The property is identified as a “Utility Sea Plane Marina” for the purpose of a State of Maine License.
- g) No shoreland permit is included because no changes to the site are proposed.

Vice Chair Hardison seconded the motion.

A vote was taken and the motion passed 4-0 (Board members Harrison, Catalano, Jr., and Perkins were not Board members during the initial review of this project.)

V. APPROVAL OF MINUTES – November 3, 2010; November 17, 2010; December 1, 2010; December 15, 2010; and January 5, 2010

Vice Chair Hardison made a recommendation to table the minutes to allow Board member Mongeau, Board secretary to review the minutes.

The minutes were tabled until the next Planning Board meeting.

VI. PLANNING DIRECTOR’S REPORT

There was no Planning Director’s report for tonight’s meeting.

VII. ADJOURN

The meeting adjourned at 7:53 PM.

***Non-agenda item: Board member Mongeau was voted in as Secretary to the Board for 2011. He will be replacing Board member McAdam, who is no longer on the Board. Board member Mongeau is also replacing former Board member McAdam as Planning Board representative on the Site Plan Review Committee. (This part of the meeting was not recorded.)

***Staff member Gulnac informed the Board that March 23, 2010 at 6:30 PM is the date of the joint Boardsmanship Meeting that was mandated by the Town Council.

Attachment to February 16, 2011 Minutes

*Finding of Facts for Old Business Item #1
File #17-10-RZ: Whitten Site Plan/Shoreland Permit*

1. Section 270-15C outlines the procedure for Planning Board review of projects in the Shoreland Zone. The Board will need to confirm that the applicant has provided information that the proposed activity complies with the nine (9) items in Section 270-15C.
2. The Planner has asked the CEO to be present to answer any questions concerning the application and the activities.
3. Since there are no site improvements proposed, the Planner did not request a review by the Town Engineer.
4. The CEO has determined that the Planning Board needs to review and approve a Shoreland Permit for this property. The site is located in both Sanford and North Berwick. North Berwick has reviewed the project. There are a number of activities being requested by the applicant.
5. The Planner has met with the applicant on more than one occasion and as a result the applicant has prepared and presented a statement/manual of operations for the site.
6. The applicant has requested that the Planning Board waive the review escrow payments.
7. The Board held a site walk on Monday November 22, 2010.
8. The applicants met with the Planning Director and Assistant Town Engineer on 12/13/10 and provided additional information including an updated plan.
9. The applicants have indicated that this should be sufficient information for the Planning Board to make a decision.
10. The applicant and the Board have agreed that the Board would approve an 'as is' site plan. There is no commercial activity on the property. The state identifies the site as a "Utility Sea Plane Marina."
11. Since there are no new docks a DEP permit is not required.
12. There is no requirement for a shoreland permit; therefore, any approval granted by the Planning Board would not include a shoreland permit.
13. The classification of the approval is a conditional use/major site plan.
14. The septic system shown on the site plan is not functional so no permit is required.
15. The manual of operations submitted with the original application is not included in the Planning Board approval.