

**SANFORD PLANNING BOARD MINUTES**  
**MEETING January 15, 2014 – 7:00 P.M.**  
**City Hall Annex Third Floor Chambers**

**MEMBERS PRESENT:** Robert Hardison, Chair  
John McAdam, Vice Chair  
Lela Harrison  
Joshua Howe  
Richard Bergeron  
Kelly Tarbox, Secretary

**MEMBERS ABSENT:** Matthew Treadwell (w/notice)

**STAFF PRESENT:** James Q. Gulnac, AICP, Planning & Development Director  
Michael Casserly, P.E., Assistant Engineer

**STAFF ABSENT:** None

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**I. CALL TO ORDER**

Chair Hardison called the meeting to order at 7:00 P.M.

**II. PUBLIC HEARINGS**

There were no public hearing items.

**III. NEW BUSINESS**

**1. File #08-13-Z: Neil Casa, c/o Steve Zuk, Zuk Construction, 71 Javica Lane, Sanford, Maine.**

Chair Hardison briefly overviewed the application. He then asked if anyone had any questions on the resubmittal, and explained the project is back before the Board because the applicant did not have approval to put a foundation under the three-season room.

Vice Chair McAdam stated he would like to know what happened.

Chair Hardison asked staff member Gulnac, Planning Director to explain his research on this property to the Board.

Staff member Gulnac time lined the application:

- it was discovered that, prior to the shoreland ordinance being implemented, the Zoning Board of Appeals (ZBA) had granted approval on the setbacks of the relocation of the building which included the deck/three-season room as part of the structure
- information that was submitted in the 2013 application was not accurate; the footprint drawing did not show the deck foundation area
- during the November meeting, the applicant handed out a survey drawing that did include the deck area
- the applicant thought the approval granted was for the drawing handed out at the meeting
- during the foundation inspection, the code enforcement officer noticed a different footprint other than what was approved and placed a stop work order on the project
- Mr. Zuk came in to discuss the issue with Mr. Gulnac

- in reviewing the history, it was discovered that the survey-presented footprint, which included the footprint of the foundation under the deck, was in fact the same one the ZBA granted on this property
- the shoreland setback intrusion is reduced with this footprint

Staff member Gulnac said Mr. Zuk is requesting the Board amend their approval to:

- a) recognize the footprint as that shown on the survey plan
- b) allow a full foundation under the deck area (Mr. Gulnac stated why this request was being asked: Maine Department of Environmental Protection (DEP) does not define sono tubes as a foundation and he further explained)

Board member Tarbox confirmed with Mr. Gulnac what the ZBA had approved as a footprint.

Chair Hardison verified with Mr. Gulnac that the structure was less non-conforming, the sono tubes supporting the 3-season room has been replaced with a full foundation, and the ZBA declared this section was part of the footprint; discussion followed.

Vice Chair McAdam wanted more clarification on where the deck was on the footprint. There was discussion on where exactly the change was being made. Chair Hardison informed the applicant that this could have been avoided if he had presented the correct information at the first meeting. Discussion took place among Board members, Mr. Zuk, and staff member Gulnac on the shape of the footprint before and after the 3-season room, type of foundation to be used, and the footprint the ZBA allowed on the property.

Chair Hardison informed the applicant that, had the ZBA ruling not been found the Board would not be inclined to approve the revision request.

Board member Tarbox asked if the Board had a copy of the ZBA approval to attach to their approval tonight; Mr. Gulnac replied they did not.

Board member Howe asked Mr. Zuk if what was going to be built onto the new foundation area going to be significantly different than what was there before in terms of dimension; Mr. Zuk replied that it was going to be smaller.

Board member Harrison asked if the room was still going to be a 3-season room; Mr. Zuk replied it was.

Vice Chair McAdam's concern was the Planning Board setting a precedent on allowing this. Staff member Gulnac said by finding the ZBA information recognizing the structure shape be consistent with the survey would prevent an approval by the Board as setting a precedent.

Mr. Gulnac continued to say that Shirley Sheesley, Codes Enforcement Officer and DEP would be comfortable if the Planning Board recognized the fact the sono tube style of support for this structure was replaced with a style they recognize as a foundation; discussion followed.

Chair Hardison stated the new question is whether or not the structure on top of the new foundation would be a deck or a 3-season room. Mr. Zuk replied the structure would be a 3-season room. Chair Hardison then asked if it was going to become a bedroom. Mr. Zuk responded that it would not become a bedroom. Discussion took place on what the new room would become, as well as the space below it. The main concern the Planning Board had was the new room along with the space below it becoming living space, which would be considered an expansion towards the water. Other discussion took place on whether or not the Planning Board could put restrictions on the use of the new space being created, which has

authority in the shoreland zone, and the responsibility the Planning Board has on all the ordinances in the city.

Chair Hardison called for a motion.

Board member Tarbox made a motion that the Planning Board confirm the finding of facts (see attached), specifically adding that because of the ZBA ruling that determined that this footprint that was in the application was part of the original approved footprint; based on that finding of fact that we can move ahead with this problem right here. So, including that in the finding of facts, I would move that we approve the request to revise a shoreland zone permit, application File #01-14-Z: Neil Casa, c/o Steve Zuk, Zuk Construction, 71 Javica Lane and recommend the issuance of a building permit subject to the following conditions:

1. That any and all outstanding review fees for this file and for File #08-13-Z are paid;
2. That the applicant complies with any and all local and state building and fire safety codes; and
3. Specifically, the basement may not be used as living space but for storage only.

Vice Chair McAdam seconded the motion.

Chair Hardison asked if there was any further discussion.

Board member Harrison asked if the motion should include a statement about the replanting of the vegetation. It was determined that all conditions placed on the previous approval carried over to this approval as well.

Staff member Casserly asked if the restriction on the basement being used for storage only was for the entire basement or only the new section of basement. Chair Hardison replied the condition extended to the entire basement as the original basement was previously used for storage.

A vote was taken, and the motion passed 6-0.

#### **IV. OLD BUSINESS**

There were no old business items.

#### **V. APPROVAL OF MINUTES – December 18, 2014**

Chair Hardison asked Board member Tarbox if the minutes were ready for approval. She said the minutes looked ok.

Board member Tarbox made a motion to accept the minutes as written.

Vice Chair McAdam seconded the motion.

A vote was taken, and the motion passed 6-0.

#### **VI. PLANNING DIRECTOR'S REPORT**

There was no Planning Director's report; however staff member Gulnac informed the Board that the city engineer, Charles Andreson was retiring – effective in February. Mr. Gulnac asked the Board to do a formal resolution of thanks from the Planning Board. Chair Hardison said that Charlie brought a positive element to the Board during the review process.

## VII. ADJOURN

The meeting adjourned at 8:13 PM to go into work session.

\*Non-agenda item:

Chair Hardison informed the Board that staff member Gulnac, Police Chief Connolly, CEO Sheesley and he had a discussion regarding tow lots. Chair Hardison said the issue of tow lots falls under the authority of land use, which is Planning Board authority; discussion followed on how the Board would address the tow lot issue in the future.

### Attachment to January 15, 2014 Minutes

*Finding of Facts for New Business Item #1*

*File #01-14-Z: Neil Casa Foundation Replacement Shoreland Permit Revision*

- The applicant has provided a statement from the property owner granting permission to submit the application.
- The subject property is within the shoreland zone and the existing structure is within the 75' setback from the shoreland.
- The request is to amend a shoreland permit granted by the Planning Board at their November 20, 2013 meeting.
- During a field inspection by the code officer, it was discovered that the footprint (outline) of the foundation was greater than that of the foundation approved and therefore not in compliance with the approval.
- In prolong discussions with Mr. Zuk it was determined and agreed to that Mr. Zuk had presented a layout/footprint of the existing structure which was in fact incorrect as it did not include the 3-season room.
- He (Steve Zuk) subsequently added the surveyor's layout which did include the addition space.
- Mr. Zuk was under the impression that the Planning Board was aware of this change and therefore felt that the approval was for the subsequent layout whereas in fact the approval was for the smaller rectangular footprint.
- Per 270-11C.(3)(a) reconstruction or replacement is permitted subject to the review by the Planning Board who must confirm that the location meets the setback requirements *to the greatest extent possible*.
- In their review the Planning Board needs to confirm that the existing structure did in fact include, within its footprint, the porch/3-season room even though the structure had been previously removed.
- The Board should then confirm that the existing method of support (sono tubes) was in fact inadequate and could/should be replaced with a concrete wall-type structure consistent with the definition of foundation used by the DEP and building codes.
- If the Board does reach this conclusion it needs to reconfirm that the approval can be granted such that the location and set backs are in conformance to the greatest extent possible.
- The applicant also needs to provide information so that the Planning Board can reconfirm that the new location meets the following:
  - (a) maintains a safe and healthy condition;
  - (b) will not result in water pollution, erosion or sedimentation;
  - (c) provides for disposal of all wastewater;
  - (d) will not affect wildlife habitat;
  - (e) will conserve shore cover;
  - (f) will protect archaeological and historic resource;
  - (g) will not adversely affect commercial fishing activities;
  - (h) will avoid problems with floodplain;
  - (i) and is in conformance with Section 270-13 Land Use Standards.