



## MINUTES

### Town of Southwest Harbor Planning Board

November 19, 2009

6:00 P.M.

Southwest Harbor Town Office

- I. Roll Call/Call to Order: The meeting was called to order at 6:02 p.m.  
Present: Lee Worcester, Gordon Wissinger, Bob Bosserman, Chris Rawls, Michael Magnani, (absent) Ryan Donahue
- II. Visitors to be heard not on the agenda: none
- III. Approval of Minutes, October 29, 2009 and Summary notes of November 5, 2009 It was Moved Bosserman, Seconded Rawls to accept the Minutes of October 29, as presented. 5 – 0 – 1 (abstain Wissinger). Nov 5<sup>th</sup> Summary of Workshop: It was Moved Bosserman and Seconded Rawls, to accept the summary notes of November 5, 2009. Vvote in favor 6 – 0.
- IV. Applicant(s): McEnroe Builders, Agents for Putnam & Myers, 465 Main Street, Map 002, Lot 046, Zone: Harbor; Purpose: Add gable dormer to easterly side of top floor with  $\frac{3}{4}$  bath; rebuild existing deck.

Dave Cwik represented McEnroe Builders. Wissinger asked if there was any expansion since 1989. The Builder told the Board that there were no previous permits in the file. Wissinger said the set back is 50' to the deck and 60' to the house, and asked the builder to confirm that the overall footprint is no larger, which he did. It was Moved Wissinger and Seconded Bosserman that the application of McEnroe Builders to add a gable dormer to the easterly side of the top floor of 465 Main Street, and add a  $\frac{3}{4}$  bath, and rebuild the existing deck, is complete. Vote in favor: 6 – 0

Worcester addressed compliance by reading the memo from the Code Enforcement Officer who recommended the Board find the application in compliance. The CEO also recommended that items A - U performance standards, with the exception of B and E, be found not applicable to the request. It was Moved Bosserman and Seconded Wissinger that the application of McEnroe Builders for 475 Main Street, is in compliance subject to clearing of vegetation, (Item B) to be approved by the CEO according to standards set forth in the Land Use Ordinance, and, further that all exterior lighting (Item E) be shielded, and that all representations and plans are conditions to the approval. Vote: 6 - 0

Applicant(s): Acadia Design Studios, Agents for Jeff Dutra, 341 Seawall Road, Map 018, Lot 083, Zone C; Purpose: Reconfigure parking and retail area.

The Planning Board Chairman read portions of a letter from Jennifer Richardson, abutter to the Dutra property expressing some concerns of the use of Meadow Lane as commercial. Dutra will eliminate parking along the side of his residence. Worcester read an e-mail from Foresman/Williamson who only expressed concern that the 6' fence on the south of Dutra property extend the length of lot. Mr. George Swanson was asked to discuss the side line property owned by Foresman as a foot path. He felt that the buffering currently is inadequate and both he and Anne Welles spoke to the fact that they preferred the 6' fence the length of the property line. Mike Gillis presented for the applicant, explaining the dangers of the current parking situation which requires customers to back out onto Route 102A. Additionally, the lot coverage would be 720 s.f. less than is currently used. Agent Gillis told the Board that he and Tom Benson, surveyor, examined the deed for Meadow Way and it's legal use is stated 'for all purposes', so there is no issue for commercial use. Dutra would widen the portion of the road at his property, for a length of 50' from the road and bring up the travel way all the way along his property line. This would result in a 20' wide travel way, rather than the existing 12' today. Worcester read the memo from the Code Enforcement Officer which proposed that the new use has less impact than the current use. The recommendation from the CEO by memo was that the application be deemed to be complete. It was Moved

Davis and Seconded Wissinger, that the application of Islandscaoping be deemed to be complete. Discussion: Bosserman asked if the Fire Chief will review the change of use – Worcester said that could be a condition of compliance. Rawls asked if the degree of buffering should be addressed. Worcester said that determination by the Board would be part of compliance. Vote in favor: 6 – 0

Compliance: Worcester read the Compliance portion of the memo from the CEO, who recommended the application be in compliance, with standards B, D, F, G, H, J, K, M, N, O, P, R, S, T, U not applicable to the compliance of this application.

Performance Standards: The CEO memorandum recommended that performance standards A, C, E, L and Q should all be part of the conditions for approval. Memo included with these minutes.

Recommendation from the CEO by memorandum: Move the above performance standards A, C, E, L, and Q as stated above, satisfy the requirements of the LUO and all conditions of approval. Also, a condition that all traffic including staff, deliveries and customers enter only from the ingress entrance off Seawall Road and egress to Meadow Lane with the exception of two non-commercial vehicles for occupants of the residence. Egress/entrance to be kept free from visual obstructions as defined by ordinance section VI (L) (4) (j). The green house area re-configuration as proposed is a reduction in lot coverage and meets the requirements of Section III (3) (a) of the land use ordinance. Recommendations: this application be approved as submitted with the above conditions, due to the fact that it is less non-conforming in lot coverage and less dangerous to existing traffic patterns on Seawall Road. Also, state a condition that this approval should include no further increase in structure area beyond the scope of the proposed site plan.

Discussion: Wissinger asked if other alternatives were explored. Gillis responded that this was the only remedy that could be achieved based on the configuration of the lot, location of the leech field, and while options to the front of the property were explored first, there was not enough dimension to do that. He explained that providing ingress and egress from the same spot off Seawall Road would require moving a permanent structure that houses the office and the well. Granholm, not an abutter, spoke saying that Meadow Lane is owned

in partnership, and asked if a change could be made to a road that is in common partnership. Buffering is also a concern and she believes the increased traffic will have a major impact. Worcester said in the language that is in Dutra's deed, he has a right to all uses of the Road. After discussion it was agreed that all residents on the road have the right to all uses of Meadow Way, but there is no association connected to the use or maintenance of the road. Gillis asked if there was a homeowner's association – Granholm said there is not. Wissinger said that the road is adequate for the traffic. Davis asked why the buffering fence needs to be out to the road. He felt that would be more dangerous and Swanson said a solid fence, even 8' high does not have to come to the very edge of the road, but 4 – 5' to the edge of the road would be adequate. Bosserman and Magnani both said there is two lane traffic now on Meadow Way, and that isn't a change. Worcester said the Board will look at this application in terms of a lesser non-conformancy than the current non-conformancy. It will be Dutra's responsibility to direct the traffic appropriately. Bosserman said the travel way legally allows commercial traffic now. Magnani said the Board should keep in mind that the Landscaping business is at the beginning of the road and the impact is less than a business further down on the road. Worcester asked the Board if eliminating parking at Landscaping that backs out onto Route 102A, is less impact than exiting from parking out onto Meadow Lane. Bosserman said the greater good of the community is served by lessening the danger from the front parking lot. Worcester polled the Board asking if the elimination of backing out onto 102A is better. Most Board members agreed. The Board agreed that the following performance standards were not applicable: B, D, F, G, H, J, K, M, N,O,P,R,S,T,U.

Applicable Performance Standards: A. Landscaping/Buffering  
Conformance: The majority of the Board agreed it is sufficient. Granholm said Dutra should provide buffering across the road on the Davis and Richardson property. The majority of the Board questioned that, and agreed that buffering could only be achieved on Dutra's property, and he had no right to "cross the road" and plant buffer. Gillis explained the buffering shown on the site plan, and the four of the five Board members agreed it was adequate. The height and length of the 6' buffering stockade that will run the length of the property on the south side was discussed. Abutters Wells and

Swanson would like to see an even higher stockade. After discussion, it was agreed that Dutra will set the fence to be a foot off the ground, thus giving a 7' buffer on the south side. Concern was expressed about running a high fence directly to the property line on Route 102A, and the Board suggested setting the 7' buffer back from Route 102A by about 10' and having Dutra provide lower buffering (either bushes or a 3' stockade) from that point to the intersection with Route 102AA.

Driveway and Driveway Opening – sufficient

Erosion & Sedimentation Control – no impact

Exterior Lighting: no impact

Parking & Loading Standards: meets standards

Storm Water Runoff Standards: applicant represents to insure no excess water run off to abutting properties.

Planning Board asked that the culvert under Meadow Lane be designated on the drawing.

It was Moved Davis and Seconded Bosserman, that the application of Acadia Design Studio agent for Landscaping, 341 Seawall Road, is in compliance with the standards outlined – with the exception of changing the 6' fence buffering on the South property line to within 10 feet of the intersection with Route 102A subject to the approval of the Maine-DOT, that all traffic including staff deliveries and customers enter only from the ingress entrance off Seawall Road and egress from the Landscaping parking lot onto Meadow Lane with the exception of two non-commercial vehicles; that the applicant cause to be shown the culvert under Meadow Lane, and the applicant will cause no further increase in structure area beyond the scope of this proposed plan. Vote: 5 – 1 (Wissinger).

- V. Continuation from November 5, 2009: Workshop – Land Use and Sub-Division Ordinance Definitions: Because of the lateness of the hour, the Board will continue the Land Use and Sub-Division Ordinance Definitions to the next meeting.

VI. Other Business: Set next meeting date: The Planning Board will meet December 3, 2009 at the Southwest Harbor Town Offices.

VII. Adjournment: The Board adjourned the meeting at 9:35 p.m. 6 – 0 in favor.