



TOWN OF BREMEN  
P.O. Box 171~ Bremen, ME 04551

*Walter Voskian, Chair  
Thomas Kronenberger, Co-chair  
Blair Kauffman, Board Member  
Autumn Mahoney, Board Member  
Jack Boak, Board Member  
Steven Wallace, Board Member  
David Adkins, Board Member  
Dede Heath, Alternate Member*

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**Bremen Planning Board  
Meeting Minutes  
August 08, 2017 at 7:00pm – Bremen Town Office**

**I. ATTENDEES:**

**Bremen Planning Board Members:** Chairman Walter Voskian, Co-Chairman Tom Kronenberger, Jack Boak, Blair Kauffman, Steve Wallace, Alternate Member Dede Heath and Cindi Hasty and Susan Anneley, Recording Secretaries.

**Absent:** David Adkins, Autumn Mahoney

**Members of the Public:** Chester Fesmire, Representative for Applicant Majed Awamleh; Applicant Majed Awamleh; Paul Garber, Representative for Ruth Ferry; David Starr, Representative for Robert Sherman; Wendy Pieh; and Nelson Webber.

**II. Meeting called to Order at 7:00 p.m.**

Before beginning the meeting, Chairman Voskian welcomed Cindi Hasty as the replacement for Susan Anneley, Recording Secretary and Town Clerk.

**III. Adjustments to Agenda**

None

**IV. Approval of Minutes**

***After determining that there were no corrections or amendments to the minutes, on a motion duly made and seconded, it was voted unanimously to approve the July 11, 2017 Regular Planning Board Minutes. The minutes were signed by the members present.***

**V. Applications for Review**

1. Ruth Ferry-Map 015, Lot 013 00A; otherwise known as 35 Pine Lane; Expansion of a seasonal cottage.

Chairman Voskian noted that this cottage is a legally non-conforming structure, and the cottage and the entire lot are in the Residential District of the Shoreland Zone. There appears to be two parts to this application: the applicant proposes to raise the roof on the cottage in two places from 18.9 feet to 25 feet, and to convert a roughly 4 ft. by 4 ft. deck/stoop into a 10 ft. by 10 ft. mudroom. The entire proposed construction site is within the 150-ft. setback, in fact is less than 100 ft. from the normal high-water line. Board members Voskian, Kronenberger, Heath, and Wallace visited the site on 6 August 2017. The site is in the minimal flood hazard area according to FEMA National Flood Hazard Map, Panel 23015C02880.

Voskian said that both proposals would appear to be expansions. Section 12 C (1) Non-Conforming Structures-Expansions states that non-conforming structures may be expanded or added to if such expansions or additions do not increase the structure's non-conformity and meet the allowed square footage limitations within the 25, 75, 100, and 150-foot setbacks from the NHWL.

Under Section 12 C (1) of the Shoreland Zoning Ordinance "Expansions" the allowable total square footage limitations for 75 feet is 1000 square feet and for 100 feet it is 1500 square feet. According to the plan, the total floor area for the structure within 75 feet is 667 square feet and within 100 feet is 900 square feet. So, the proposed 10 ft. by 10 ft. mud room intended to replace the approximately 4 ft. x 4 ft. stoop would appear to fit within the allowable square footage limitation within the 100-foot setback.

On the other hand, Chairman Voskian offered that the proposed expansion involving the raising of the roof lines in both areas appears to fall within the 75-foot setback from the normal high-water line. Accordingly, such an expansion or raising of the roof lines would appear to conflict with that portion of Section 12 C (1) (a) (iv) that states that "any portion of those structures [that are within the 150-foot setback] located less than 75 feet from horizontal distance from the normal high-water line of a water body...must meet the floor area and height limits of division (iii)." That division (iii) of 12 C (1) (a) states that "the maximum height of any portion of a structure that is within 75 feet horizontal distance of a water body...is 20 feet or the height of the existing structure, whichever is greater." So, it appears to that the proposed raising of the roof lines in both places from 18.9 feet to 25 ft. would conflict with Section 12 C (1) (a) (iii) and (iv) of the Shoreland Zoning Ordinance.

After discussion regarding various options for raising the existing roof past the 20-ft. height restriction, a motion was made.

**Motion: For the application from Ruth Ferry the Planning Board approves the addition of the 10ft. x 10ft. mud room addition under sec**

**12 C. (1) but denies the proposal to raise the roof from 18.9 to 25ft. based on Sec 12 C. (1) A. iii & iv. Motion seconded**

**At the request of the applicant the Planning Board amended this motion to include allowing the applicant to raise the roof no higher than the 20ft., the allowable height as stated in Section 12 C. (1) A iii & iv. The amendment was seconded.**

**Vote: 6-0**

**2. Robert and Sara Mullany-Map 003, Lot 042; otherwise known as 10 Ash Lane; Replacement of existing deck.**

Chairman Voskian began the discussion by noting that about half the lot, which includes the entire construction site, is within the Residential District of the Shoreland Zone. The structure is a legal non-conforming structure within the 150-foot setback from the Normal High-Water Line. The proposal is to replace the 24-ft. x 12-ft. deck at 288 square feet and a 4-ft. x 5-ft. step/stoop at 20 square feet for a total of 308 square feet. Both structures are attached to the principal structure. The site is within the minimal flood hazard area according to FEMA's National Flood Hazard Map, Panels 23013C0525D and 23015Co380D. Board members Voskian, Kronenberger, Wallace, and Heath visited the site on 6 August 2017.

Chairman Voskian observed that the application does not state this, but the proposed would appear to be a replacement in kind. In other words, the replacement deck and steps do not appear to be any larger than the original deck and steps—308 square feet. So there appears to be no enlargement. The Clerk will confirm this with the applicant. **Note: The Clerk later determined with the Agent that the proposed deck and stairs will have the same footprint as the original structure.**

If this does not involve an expansion, Section 12 B (2) Repair and Maintenance of the Shoreland Zoning Ordinance would appear to apply here, and the applicant can perform the replacement without Planning Board approval. But a permit from the Code Enforcement Officer would be required.

**Motion: The Planning Board finds that the replacement of the existing 24ft. x 12ft. deck and staircase are in the compliance with the normal repair and maintenance provision in Section 12 B. (2) of the Bremen Shoreland Zoning Ordinance; therefore no Planning Board permit is required. However, a permit from the Code Enforcement Officer is required. The replacement deck and staircase will not include any change to the existing footprint. Motion moved and seconded.**

**Vote: 6-0**

3. Robert Sherman- Map 016, Lot 003 otherwise known as 3 Fogler Road; construct a garage on the site of an existing barn.

Chairman Voskian began the discussion by stating this proposal is to remove an existing barn, which appears to have deteriorated beyond repair, and replace it with a slightly larger garage. The entire lot is in the Residential District of the Shoreland Zone, and the barn is within 122.5 feet of the normal high-water line. The existing barn is 24.1 feet by 13.1 feet by 14 ft. high or 316 sq. ft. According to the plan, the proposed garage is to be 18.25 ft. by 24 ft. by 20 to 24 ft. high or 438 square feet. The site is within the minimal food hazard area according to FEMA's National Flood Hazard Map, Panel 23015C0289D. Board members Voskian, Kronenberger, Wallace, and Heath visited the site on 6 August, accompanied by the applicant's agent.

Voskian maintained that the proposal would appear to fall under Section 12 C (3) of the Shoreland Zoning Ordinance- Reconstruction or Replacement. (This would not be a change of use as the existing barn is to be removed and replaced by a garage.) The operative section of Section 12 C (3) of the Shoreland Zoning Ordinance states that "If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure ... as determined by the non-conforming floor area and volume...." The original barn is 316 square feet, and the proposed garage structure would 438 square feet. Also, the original barn is 14 ft. high while the proposed garage is to be 20 to 24 feet high. So, the proposed new replacement structure would be in conflict with Section 12 C (3) of the Shoreland Zoning Ordinance because the new garage would be larger than the original barn by 122 square feet and by an undetermined amount of cubic feet.

After closer inspection, Chairman Voskian said that the new garage would not appear to increase non-conformity. The definition of increasing non-conformity in the Shoreland Zoning Ordinance is any change in a structure that would cause further deviation from the dimensional standards creating the non-conformity. The new garage appears to be at the same setback as the existing garage, and the setback appears to be the only factor creating the original non-conformity.

After considerable discussion, the Planning Board determined that, in fact, the operative Shoreland Zoning provisions are:

- Section 12 C (1) (a) v, and the proposed garage and the existing cottage would be less than the total square footage limitations of 2000 square feet

for structures with the 150-ft. setback as provided for the referenced provision.

- Sections 12 C (3), 12 C (1), and 12 C (2) in the proposed location for the garage would meet the setback requirements "to the greatest practical extent" as provided for in the referenced provisions of the Shoreland Zoning Ordinance, given such factors as slope of the land, potential for erosion, location of other structures and the septic system, and the amount of vegetation that would be removed. (See agent's letter of 17 August 2017).

**Motion: The Planning Board approves this application in accordance with 12 C (1) (a) v, 12 C (1) (b), and 12 C (2) of the Shoreland Zoning Ordinance in that the garage as proposed does meet the required setbacks to greatest practical extent and that all structures meet the total square footage limitations within the 150-ft. setback. Also, the proposed garage may not have any cooking, sleeping or toileting facilities and height of the structure can be no more than 24'. In addition, this approval is limited to a one-story structure. The motion was moved and seconded.**

**Vote: 6-0**

#### **VI. Comments and Questions:**

Chairman Voskian attended the 20 July and 3 August meetings of the Board of Selectmen where he brought the Selectmen up to date on the Planning Boards deliberations and findings. Chairman Voskian reported that the new land use ordinance passed unanimously at a well-attended special Town Meeting on 20 July. The Board was well represented; he thanked all who attended. He also thanked the Planning Board members, the Ordinance Review Committee, Planning Board consultant Anne Kriege, Recording Secretary Susan Anneley, and Town Attorney Jonathan Hull for all their hard work on this new ordinance. The Ordinance Review Committee will be turning to other ordinances in the months to come. As Chairman Voskian understands it, first up for review will be the Appeals Board Ordinance to be followed by the Shoreland Zoning Ordinance. He would also like to propose for consideration a review of the Planning Board Ordinance.

In the wake of the approval and adoption of the new Land Use Ordinance and abrogation of three other ordinances, one of the Planning Board members asked about the effect on pending applications. Chairman Voskian saw two answers to this question.

First, most of the activity on the only pending application falls under Ordinances, such as the Shoreland Zoning Ordinance and the Growth Cap

Ordinance, that have not been effected by the adoption of the new ordinances.

Second, Section 1.6 Abrogation of Other Ordinances in the new Land Use Ordinance says that "The repeal and replacement of these ordinances shall not prevent their enforcement with respect to the time periods in which they were in effect." The consensus of the Board was that this covers any concerns with respect to this issue.

Voskian noted that we still are in need of another alternate member. As noted last month, Dede has been doing double duty, and the Planning Board's needs for another alternate will grow as the Board moves into the fall and winter months.

On another matter, CEO Stan Waltz and Chairman Voskian determined that an application for the replacement of a deteriorated foundation on a Bremen Long Island Cottage (Map 005, Lot 011) did not need to come before the Planning Board. The very thorough application submitted well in advance by the applicants, Mr. and Mrs. Leeber, and their Agent, William Prescott, made clear through text and pictures that this was strictly repair/maintenance to a non-conforming structure involving no expansion or relocation. This was confirmed with the Agent. The applicant and the agent were notified that this application would require only a permit from Stan Waltz.

**Finding Motion: Code Enforcement Officer Stan Waltz and Chairman Voskian determined that this issue falls under Section 12 B (2) of the Shoreland Zoning Ordinance and that this finding assumes no other replacements, renovations, or conversions to year-round use of the existing structure. The motion moved and seconded.**

#### **Vote 6-0**

At the 3 August Selectmen's meeting Selectman Nevins said he wanted the Planning Board to get involved in drawing up possible ordinances regarding controlling marijuana sales and regulating the use of mobile vending vans in Bremen. Chairman Voskian stated that in his view the Planning Board needs a clearer idea of what is desired and at least some model ordinances dealing with these issues. Select Board member Pieh indicated that this responsibility may not fall under the Planning Board's jurisdiction after all.

Finally, the Appeals Board will be meeting on Thursday, August 10, 2017 to hear Mr. Carroll's appeal of the Planning Board decision on the garage and deck 1. Chairman Voskian will represent the Planning Board. Other members are welcome to attend if they wish.

#### **VI. New Business:**

No new business

**VII. Old Planning Board Business:**

Awamleh application for a change of use from a garage to a seasonal cottage. Map 012, lot 027-008, otherwise known as 42 Hidden Lane.

Chairman Voskian observed that the background to this application is given in great detail in preceding minutes including those for the July meeting. Those interested should consult those minutes.

Because Mr. Fesmire is awaiting State approval of the application for a variance to the minimum lot size requirements, he has asked for another extension to the application for the change of use. Chairman Voskian noted we are also still waiting for the requested plan for the patio and deck approved by a professional, and he offered appreciation to Mr. Fesmire for keeping the Planning Board informed as to the progress of the application.

**Motion to extend this application for a period of two (2) months. Motion moved and seconded.**

**Vote: 6-0**

Agent Chester Fesmire stated that he is having difficulty obtaining the Minimum Lot Size Waiver from the State of Maine. Upon submitting the application, Mr. Fesmire spoke with Colin Clark, a Maine State Shore Coordinator for Department of Health and Human Services, and according to Mr. Fesmire, Mr. Clark stated that this waiver in question was not necessary. Chairman Voskian referred to the State's Subsurface Wastewater Disposal System Variance Notice received by the Planning Board that states on page 5; item 9 "The applicant must apply for a Minimum Lot Size Waiver and receive approval, prior to operating the approved onsite sewage disposal system". The Planning Board determined that if such a waiver is not required by the State of Maine for this project then the Planning Board would need that statement in writing from the Department of Health and Human Services.

Mr. Fesmire said that in the event of failure of the existing system the Department of Health and Human Services will issue a permit for a replacement septic system that will include capacity for the cottage as well as the house as stated in previous meeting minutes.

At the July meeting, Mr. Fesmire submitted his response to the Planning Board's request for a statement on the impact on public health etc. of the proposed change of use. Attorney Jonathan Hull has upheld Mr. Fesmire's contention that he may provide such a statement. Attorney Hull, however, also offered the view that the Planning Board must be satisfied with Mr.



Fesmire's response and it has the right to judge the quality and sufficiency of that response. (Mr. Fesmire's statement is attached.)

Chairman Voskian noted that he does not accept Mr. Fesmire's contention in his undated statement that "the change of use [ from a garage to a seasonal cottage] would drastically decrease the potential for harm to the ecology of the area resulting in a negative impact on the environment".

Mr. Fesmire has based his contention on his statements that the "garage is designed to house a variety of mechanical equipment...using fluids associated with them" and "the structure may be legally used in warehousing and storage of building materials and hazardous materials associated with the building industry...".

Chairman Voskian stated that Mr. Fesmire appears to be describing a commercial/industrial storage facility rather than a residential garage. Moreover, the operative words are "the garage is designed to" and "may be legally used." In fact, based on the Planning Board's visit to the garage and 9 July 2017 the garage is largely in a passive state. The garage as the Planning Board saw it is not being used to house, warehouse, or store anything- or at least very little. Certainly, it had no mechanical equipment or hazardous materials in view. And so, as it is being currently used, the garage --especially given the absence of water and sewer hookups--has little or no impact on the environment.

On the other hand, Chairman Voskian went on to state that it is self-evident that a seasonal cottage with sleeping, toilet, and cooking facilities and necessary water and sewer hookups for those activities--would have a significantly greater impact on the environment than the garage as it is being used. This condition would be true even for a cottage used for "occasional seasonal residency of a guest nature "as stated by Mr. Fesmire.

Chairman Voskian observed that in a new seasonal cottage, water consumption would go from zero for the garage to potentially 80-100 gallons per day, to use commonly accepted US Department of Interior and US Geological Survey figures. A similar situation exists for solid waste; each person generates on average 4.4 pounds per day of trash and other solid waste, to use commonly accepted Environmental Protection Agency figures. Then the matter of increased water runoff from the new cottage must be considered. According to the plan, the cottage, unlike the garage, will have a patio and a deck, increasing impervious and semi-impervious surfaces and water runoff.

In short, for the reasons given above, Chairman Voskian does not accept Mr. Fesmire's position on the environmental impact of the new proposed cottage.



Mr. Awamleh stated that if the deck and patio are of major concern in approval of this application then the deck and patio can be removed from the plan. However, since the applicant was required to complete the Growth Permit then it was assumed that as a separate dwelling unit, a deck and cooking facilities would be included. Chairman Voskian clarified for Mr. Awamleh that in the event of a change of use such as this, a statement of environmental impact is required. At this time Chairman Voskian does not agree with the statement provided by Mr. Fesmire and at this point the Planning Board reserved the option to request another statement from an independent party.

Planning Board discussed the statement of environmental impact as it was submitted. Planning Board members were not in total agreement with Chairman Voskian on all aspects of his comments on the environmental statement but agreed that the statement does not reflect the situation correctly with regard to the assertion that the change of use would drastically decrease the potential for harm to the ecology of the area.

The following suggestions were made to achieve the goal of limiting impact:

- a. to research erosion control options such as gutters to minimize environmental impact.
- b. less impervious surfaces.
- c. remove kitchen facilities/appliances from the proposed cottage.

**Motion: Planning Board rejected Mr. Fesmire's original environmental impact statement that the proposed cottage would have no environmental impact beyond the impact of the existing garage. Moved and seconded.**

**Vote: 6-0**

Discussion continued on factors that might minimize environmental impact such as:

- Seasonal use
- Installation of gutters
- Rain barrels
- Removal of impervious areas
- Removal of kitchen facilities

Discussion continued on other unfulfilled requirements that the Planning Board requested from Mr. Fesmire such as the plan of the patio/deck and alternative system measurements under Section 15 K of the Shoreland Zoning Ordinance. After lengthy discussion, the Planning Board decided

that documents provided by the applicant to date have met the requirement of Section 15 K.

**Motion:** The Planning Board has determined that the documentation provided by the applicant satisfies the requirement of Section 15 K. of the Shoreland Zoning Ordinance. Moved and seconded.

**Vote:** 6-0

The applicant stated that he will be submitting an entirely new plan for the cottage in response to the discussion and the Planning Board's comments and findings.

There being no further business, the meeting was adjourned at 8:58 p.m.

**IX. Meetings/Events Calendar**

**September 01, 2017** – Applications for building permits to be considered at the next Planning Board meeting must be filed with the Town Office by 2:00 p.m.

**September 10, 2017** – Site Plan Visits (if any) 4:00 p.m.

**September 12, 2017** – Planning Board Meeting 7:00 p.m. Bremen Town Office.

**BREMEN PLANNING BOARD:**

  
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Walter Voskian, Chairman

  
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Tom Kronenberger, Co-Chairman

  
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Jack Boak

  
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David Adkins

  
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S. Blair Kauffman



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Autumn Mahoney



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Steve Wallace

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Dede Heath, ALT

Respectfully submitted,  
Cynthia Hasty  
Recording Secretary

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