



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
Vacant, Alternate Member
Vacant, Alternate Member

**Bremen Planning Board
Meeting Minutes
May 8, 2018 at 7:00pm – Bremen Town Office**

I. ATTENDEES:

Bremen Planning Board Members: Chairman Walter Voskian; Co-Chairman Tom Kronenberger; David Adkins; Jack Boak; Blair Kauffman; Autumn Mahoney; Steve Wallace; Jamir Francomano, MCRPC Consultant; Cindi Hasty, Recording Secretary.

Absent: Wendy Pieh, Selectmen Representative

Members of the Public: Chase Morrill, Agent for Christ, Andrew & Nicholas; Kerry Stailey; Bill Lane Agent for Kerry and Justin Stailey.

II. Meeting called to order at 7:00 p.m.

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 April 10, 2018 Regular Planning Board Minutes. The minutes were signed by the members present.

V. Applications for Review

**1. Christ, Andrew & Nicholas Map/Lot 016-007; 719 Biscay Road-
Renovation of existing structure.**

This application is for a renovation of a legally non-conforming structure on a legally non-conforming lot located entirely within the Residential District of the Shoreland Zone.



More specifically, the structure at its closest point to the normal high-water line (NHWL) is five feet from that line, and most of the structure is within 25 feet of the NHWL. According to a legal opinion from our attorney issued in 2014, this means that the entire structure is governed by the provisions of the 25-foot setback. This legal opinion was the basis for the Planning Board's denial of a 2014 application from the Christs to expand the structure with the addition of a bathroom on the road side of the structure. Copies of this application and legal opinion are filed in the Planning Board files.

According to FEMA National Flood Hazard Map this area is of minimal flood hazard. Planning Board member Adkins, Boak, Kauffman, Mahoney, Wallace and Voskian visited the site on 6 May. No representative of the applicant was present.

According to the application, the current proposal is to:

- Install new siding and new windows.
- Jack up and level the structure. No work will be performed on any foundation as the structure currently sits on posts.
- Move the location of the kitchen within the structure.
- Convert the current kitchen area to a bedroom with no expansion.
- Move the entry door and canopy several feet to the left keeping the same dimensions of both.
- Repair and replace decking.
- Remove dead trees.
- Remove and replace the existing fireplace and chimney.

According to the application, all of the renovations and repairs noted above are to be done without expanding the volume or square footage of the structure.

Chairman Voskian asked Mr. Morrill for comments/questions. Mr. Morrill had no questions or comments.

According to Section 12 B (2) of the Shoreland Zoning Ordinance, which is the applicable ordinance for this application, no permit would be necessary, provided the work performed on the structure does not increase the square footage and volume of the structure and that the work performed adheres to the details of the application noted above. Should the applicant exceed in any way the details and dimensions stated in the application, a new application for a permit from the Planning Board may be required. In addition, the plumbing involved in moving the kitchen and expanding the bathroom may require approve from the Code Enforcement Officer.

Section 12 B (2) of the Shoreland states that normal upkeep and maintenance of a non-conforming structure, including repairs and renovations that do not involve

expansion are allowed without a permit. As noted above, however, the plumbing associated with the moving of the kitchen and the expansion of the bathroom may require approval of the Code Enforcement Officer.

Chairman Voskian asked the Planning Board for any questions or comments. Member Mahoney pointed out a potential issue, the dimensions shown on the current application do not agree with the dimensions of the same structure in the 2014 Building Permit Application or the current assessment card. Discussion followed as to whether the Planning Board should defer its review of the current application until it is determined that there have been no expansion violations associated with this structure. After further deliberation it was determined that the drawings provided by the applicant's agent were incorrect. Chairman Voskian asked the Planning Board members if they would agree to accept the 2014 drawings as the correct drawings for this application. Member Mahoney stated that the 2014 drawings were not submitted with the application, but they were provided by the Town Office as historic data. Member Wallace felt that the onus was on the builder to provide a corrected drawing especially because the fact that the structure is located so close to the water. MCRPC consultant Jamie Francomano said that the Planning Board could accept a corrected drawing from Mr. Morrill and continue with the current application. Member Boak said that because the renovation was to be made to the inside of the current structure and no expansion of the existing structure was proposed then there would be no need for a Planning Board approval and there would be no need to postpone the application. The Planning Board accepted a corrected drawing signed and dated by Mr. Morrill. Member Wallace confirmed with Mr. Morrill that there is no plan to increase the roof height of the structure.

On a motion duly noted and seconded that the Planning issue a finding that no permit is necessary for this application under provisions of Section 12 B (2) of the Shoreland Zoning Ordinance, provided that all work adheres to the application, that work on the structure will involve no expansion in volume, square footage or footprint, and that work on the kitchen and bathroom may require approval of the Code Enforcement Officer. This finding is based on the amended drawings provided by Mr. Morrill on May 8, 2018. The finding also said that should the applicant exceed in any way the details and dimensions stated in the application, a permit may be required by the Planning Board and that the structure will remain a seasonal cottage.

Vote: 6-1 Motion passes. Member Wallace voted no because he objected to the Planning Board accepting the amended drawings from Mr. Morrill at the without the applicants submitting a new application with correct drawings.

2. Stailey, Justin and Kerry, Map/Lot 006-019-00A; 90 Copperfield Road also known as 574 Turner Road-New construction of a garage/barn.

According to the Bremen Zoning map, the proposed building site appears to be fully in the Residential District of the Shoreland Zone. According to FEMA, the area is of minimal flood hazard. Planning Board member Adkins, Boak, Kauffman, Mahoney and Voskian accompanied by Mrs. Stailey, visited the site on 6 May.

At the request of the Stailey's the Planning Board held an informal discussion of their proposal at the April 2018 Planning Board meeting under 11.5.7 of the Land Use Ordinance. This provision permits, prior to submission of formal application for a permit, a non-binding discussion between the Planning Board and a prospective applicant of what is proposed, what ordinances apply and what the applicable ordinances allow. For more detail see April 10, 2018 Planning Board meeting minutes.

Chairman Voskian confirmed with Mr. Stailey that there are no plans for living, sleeping, cooking or eating facilities for this structure.

Member Adkins was excused from the meeting to respond to an Emergency Responder call.

Chairman Voskian began the Board's discussion by stating that Section IV, paragraph 4.6.1 of the Land Use Ordinance grants the Planning Board permitting authority for new buildings over 101 square feet within the Shoreland Zone. This proposed structure falls under both categories. He then reviewed the other applicable ordinances.

1. Section 15 B (1) of the Shoreland Zoning Ordinance says that new structures must be 75 feet from tributary streams and 150 feet from the normal high-water line of other water bodies and upland edge of wetlands. According to the site plan, the proposed structure, but not the proposed parking area, appeared to meet these setbacks. Planning Board members agreed.

2. Section 15 B (2) of the Shoreland Zoning Ordinance says that new dwellings must not exceed 35 feet in height. At about 25 feet, the proposed structure appeared to meet that condition. Planning Board members agreed.

3. Section 15 B (3) of the Shoreland Zoning Ordinance says structures must be one foot above the elevation of the 100-year flood. Mr. Lane and Mrs. Stailey confirmed that then the structure will meet this condition. Planning Board members agreed.

4. Section 15 B (4) of the Shoreland Zoning Ordinance says that the total footprint of all structures and non-vegetative surfaces shall not exceed 20 percent of the lot. According to the application, the total lot area is 494,406 square feet and 20 percent of that would be 98,881 square feet. According to the

application, the area to be covered by non-vegetative surfaces including existing and proposed structures is 16,905 square feet. So, the structure would appear to meet that condition. Planning Board members agreed.

5. Section G of the Shoreland Zoning Ordinance dealing with parking areas says that parking areas must meet the setback requirements for structures in the Residential District of the Shoreland Zone. Chairman Voskian suggested that to address this provision, the parking area, shown at 110 feet from the NHWL, must be moved back 40 feet to meet the 150-foot setback requirement. This would require moving the structure back 40 feet as well, requiring a short road/driveway of 40 feet to get to the proposed parking area. Mrs. Stailey stated that they were not intending to utilize the proposed graveled area for parking.

6. Section 15 H of the Shoreland Zoning Ordinance dealing with driveways/roads says that driveways must be at least 150 feet from the NHWL unless the Planning Board determines that no reasonable alternative exists. The Chairman said that would appear to be the case in this situation. If no alternative exists, the ordinance states that driveways shall be no less than 50 feet from the NHWL. The ordinance goes on to say that if the Planning Board waives the 150-foot setback in favor of one no less than 50 feet the applicant must clearly show that appropriate techniques will be used to prevent sedimentation such as settling basins or ditch relief culverts and turnouts.

Member Mahoney offered that in her opinion there are alternative locations for the proposed garage/barn so that the driveway would be outside the 150-foot setback. Mr. Lane expressed the view that relocating the structure to an alternative location would require much more excavation than the proposed site additional expense due to the topography, wetlands and powerlines. Mrs. Stailey explained that the proposed location requires very little excavation and a minimal amount of tree removal making it the most practical location for the structure and one with the least impact. After further deliberation Planning Board members determined that a reasonable alternative would be to eliminate the existing gravel parking area and allow for a two-car width (16 feet) access driveway to the building from Copperfield Road. The applicant agreed to this alternative.

7. Section IV 5.1 of the Land Use Ordinance sets out dimensional standards and setbacks. The proposed structure appears to meet those dimensional standards, including lot size, road frontage, and setbacks. Planning Board members agreed.

8. Section XII, paragraph 12.2 of the Land Use Ordinance sets out the definitions of "garage" and "accessory structures." The structure as presented in the application appears to meet those standards. Planning Board members agreed.

9. Section XI, paragraph 11.5 of the Land Use Ordinance sets out the Planning Board permit process. The application appears to meet these conditions. Planning Board members agreed.

In addition, Member Steve Wallace had some concerns about inland fisheries and wildlife areas and the levels of wildlife habitat and how they impact setbacks. Mr. Lane addressed Member Wallace's concerns to the Member's satisfaction.

Member Mahoney said the fee amount should also reflect the square footage of the driveway. Mr. Lane amended the drawings to show the two-car width driveway.

On a motion duly noted and seconded the Planning Board issued a finding that the application met the provisions of Section 15 B (1), (2), (3), and (4) and 15 G (1) and (2) and Section 15 H (1) of the Shoreland Zoning Ordinance, that the Planning Board waives the 150 setback for the driveway, provided that the proposed parking area is eliminated and, in its place, a two car (16 feet) width driveway will be constructed and that the driveway be constructed to connect Copperfield Rd to the structure. The finding also stated that the appropriate sediment control techniques must be used in accordance with the ordinance and that the application meets Section IV paragraph 5.1, Section XII, paragraph 12.2 and Section XI, paragraph 11.5 of the Land Use Ordinance. The approval is based on the site plan approval dated April 27, 2018 as amended by Mr. Lane on May 8, 2018 eliminating the proposed parking and adding the double car width driveway. Finally, and carries the conditions that the garage/barn accessory structure will have no cooking, sleeping, bathroom or living facilities.

Vote: 5-1 Motion passes. Member Boak opposed the motion.

Member Boak based his opposition on the following: because the forest wetland drains into the marsh area that reaches to the pond it is not an isolated wetland. He has concern that because there is a lot of forested wetlands in Bremen, this sets a precedent that could end up being used to approve something that could ultimately hurt breeding grounds for various species as forested wetlands often include vernal pools. He recommended that this situation be reviewed as part of the Shoreland Zoning Ordinance review.

VI. Other Planning Board Business

Chairman Voskian updated the Planning Board members on the Board of Appeals hearing for Tracy and Diana Jones. The Board of Appeals voted to remand the application back to the Planning Board. The decision was based on the Joneses presentation of an enlarged version of a second site plan that was in their original application packet. The Planning Board did not consider the second

site plan because it was too small in scale and another site plan larger in scale was identified by the Joneses as the site plan they wanted the Planning Board to consider. The Jones have not submitted a new application as of the date of this meeting. Chairman Voskian reported that he made two conditions for a resubmission that (1) the enlarged site plan be submitted and revised to show current delineated wetlands conditions and measurements and (2) the new site plan be signed and sealed by a registered professional.

Chairman Voskian said that he attended the April and May meetings of the Board of Selectmen where he brought the Selectmen up to date on Planning Board deliberations and findings. He also represented the Planning Board at the Ordinance Review Committee as it considered the Appeals Board Ordinance. The Committee, which consists of Wendy Pieh; Harold Schramm; Jonathan Hull, Town Attorney, Walter Voskian along with Appeals Board members David West and Diantha Robinson, completed its work. The draft ordinance went to public hearing and a vote on 3 May where it was unanimously passed.

Chairman Voskian reminded the Planning Board members that they are still in need of two alternate members.

Chairman Voskian circulated to members budget projections for the Planning Board for the next fiscal year. He thanked members who responded, and he will present the proposed figures to the Budget Committee. He offered to represent the Planning Board at the 15 and 22 May meeting of the Budget Committee. Members agreed with his proposal to represent the Planning Board at the upcoming Budget proceedings.

The deadline for Planning Board applications has been changed from 2:00pm to 12:00pm on the appropriate Friday. The change was prompted by applicants' tendency to wait until the last minute to submit their application which does not allow Mr. Francomano enough time to review the application for completeness or answer questions.

Chairman Voskian noted that Bremen's Planning Board Ordinance is in need of updating. It is decades old and deficient in several ways including the absence of references to alternates, attendance requirements, dealing with vacancies and the method of selecting a secretary as well as duties, procedures, and voting.

In addition, the Selectmen have discussed reducing the number of Planning Board members from seven to five. (The number of Planning Board members was reduced from nine to seven in 1991.) The Selectmen are aware of the Planning Board's preference to keep the membership at seven. Although the Planning Board membership exceeds several other nearby jurisdictions where the membership is five, Selectmen Pieh told the Selectmen that the figure of seven is justified by the fact that Bremen's shoreland exceeds all other local jurisdictions and in many of those jurisdictions the Code Enforcement Officer,

and not the Planning Board is responsible for administering the Shoreland Zoning Ordinance.

Member Mahoney asked if it was possible to request that the Selectmen authorize extending the term of Planning Board members from July to mid-autumn because summer is the busiest time of year for Planning Board applications and the absence of a full and seasoned board could pose a hardship in making decisions. Chairman Voskian asked all members to be diligent in the search for new members.

Planning Board members reviewed the current Planning Board Ordinance, and Mr. Francomano suggested changes.

The prevailing sentiment among some planning boards is to keep the enabling ordinance as short as possible and to have much of the operating details carried by the by-laws. Currently Bremen does not have by-laws, but they appear to be good idea. The justification for this arrangement is that as conditions change, by-laws are more easily amended than ordinances.

With guidance from Mr. Francomano, the Planning Board reviewed the proposed changes to the Planning Board Ordinance using the Rockport model and thoughts from the Board members. Mr. Francomano served as the scribe to record changes. Ultimately the draft will go to Attorney Jonathan Hull for review.

The following modifications were suggested:

- **Section 1- Establishment-**Member Wallace noted that the revised version does not note that the previous ordinance will be repealed with the adoption of the revised ordinance.
- **Section 2. A Appointment-** all members should be residents of the Town of Bremen; according to the definition included in the Shellfish Conservation Ordinance, a resident is one who resides in Bremen for a minimum of 180 days per year. After further discussion regarding what is required for a person to become an elected official both on the municipal and state level it was decided that Mr. Francomano would research the state requirements and report back.
- **Section 2. C- Appointment-** Member Wallace asked whether the staggering of terms should be included? The members thought this should be included to best manage the flow of new members. It was decided unanimously to include wording that staggered.
- **Section 2. D- Appointment-** The Board suggested adding that if there's a permanent vacancy defined by the by-laws the Board of Selectmen shall appoint a person to serve for the remainder of the term.

- **Section 2. E- Appointment-** Member Mahoney asked for clarification on whether employees of the Town can be members of the Planning Board? Mr. Francomano will research that and report back.
- **Section 3. A-Organization and Rules-** Remove the wording "including the election and duties of officers".
- **Section 3. B-** Remove "or be provided".
- **Section 3. C-** Planning Board members were in favor of noting that the duties of the Planning Board's secretary shall include but not be limited to providing a record of the Planning Board's meetings.
- **Section 3. D-** Rename Vice-Chair to Co-Chair.
- **Section 3. E-** Chairman Voskian has requested clarification from Attorney Hull as to whether in the case of a seven-member board there is a state requirement that a minimum of four members is required to pass a motion? Or alternatively, assuming that a quorum is present, can a majority of the members present pass a motion? For example, would a 3-1 vote be legal? The Planning Board will revisit this subsection once there is clarification from Attorney Hull.
- **Section 3. F-** No changes proposed.
- **Section 4. Duties and Powers-** no changes proposed
- **Section 5 Severability Clause-** no changes proposed
- **Section 6. Jurisdiction-** Remove proposed A, B, C as each ordinance clearly states which board has the authority to administer the ordinance.
- **Section 6. D.** No changes proposed.
- **Section 6. E.** To read The Board shall perform such duties and exercise such other powers as may be provided for by all local Ordinances or the laws of the State of Maine.

IX. Meetings/Events Calendar

June 01, 2018 – Applications for building permits to be considered at the next Planning Board meeting must be filed with the Town Office by 12:00 p.m.

June 10, 2018 – Site Plan Visits (if any) 3:00 p.m.

June 12, 2018 – Planning Board Meeting 7:00 p.m. Bremen Town Office.


BREMEN PLANNING BOARD:



 Walter Voskian, Chairman



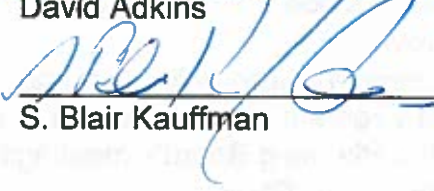
 Tom Kronenberger, Co-Chairman



Jack Boak



David Adkins



S. Blair Kauffman

Autumn Mahoney



Steve Wallace

Respectfully submitted,
Cynthia Hasty
Recording Secretary