



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

*Walter Voskian, Chair
Blair Kauffman, Board Member
Autumn Mahoney, Board Member
Jack Boak, Board Member
Steven Wallace, Board Member
Vacant, Board Member
Thomas Kronenberger, Alt. Member
Vacant, Alternate Member*

**Bremen Planning Board
Meeting Minutes
November 13, 2018 at 7:00 p.m. – Bremen Town Office**

I. Attendance

Members Present: Walter Voskian, Chairman; Jack Boak (arrived late); Autumn Mahoney; Steve Wallace; and Thomas Kronenberger, Alternate. Chairman Voskian recognized Alternate Member Kronenberger as a regular voting member for this meeting.

Member Absent: Blair Kauffman.

Members of the Public: Edward and Marjorie Hurwitz; Charles Tucker, representing Peter and Heidi Robertson; Susan Metzger; Selectperson Wendy Pieh; Town Attorney Amanda Meader; Town Consultant Jamie Francomano.

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 October 8, 2018 regular Planning Board Minutes, as presented. The Minutes were signed by the members present.

V. Applications for Review

None.

VI. Public Comments and Questions

None.

VII. New Business

Chairman Voskian announced that two informal discussions of potential projects will be held tonight under Section 11.5.7 of the Land Use Ordinance. Under that Ordinance these discussions may be held at the discretion of the Planning Board. These discussions are nonbinding and shall be limited to what is being proposed, what ordinances apply, and what applicable ordinances allow. There is no vested interest that accrues from these discussions. Mr. and Mrs. Hurwitz and Mr. Tucker agreed to the above-stated conditions.

A. Edward and Marjorie Hurwitz, 94 Spirit Hill Lane, Map 006, Lot 047

Mr. Hurwitz began by stating that he wants to expand his house on McCurdy Pond. One of the documents submitted by Mr. Hurwitz puts the house at 1,700 square feet, but other submitted documents carry other square footage totals for the house. Mr. Hurwitz stated their house on McCurdy Pond is about 115 feet from the water's edge. He believes the regulations indicate that they are allowed to have a 2,000-square foot domicile. Mr. Hurwitz submitted plans of a proposed addition. Based on the premise that the present house is at 1,700 square feet, Mr. Hurwitz believes he can expand an additional 300 square feet. Mr. Hurwitz asked if his interpretation of the regulations was correct. He also asked if the drawings he submitted were more or less accurate in terms of where they can expand and what obstacles there might be.

Chairman Voskian urged Mr. Hurwitz to make note of the ordinances as they state them in discussing the proposal so that he has a chance to go back and look at them in detail. To set the stage, Chairman Voskian noted that Mr. and Mrs. Hurwitz want to expand their residential structure with the addition of a connector and a bedroom off the house. They also want to install dormers above the main living area of the house and in a loft space above the garage, possibly with external stairs and either to repair, replace, or expand a deck, or remove the deck and replace it with a patio and retaining wall.

Chairman Voskian stated that if the house is about 115 feet from the Normal High-Water Line (NH-WL) of McCurdy Pond as noted in the submitted drawing,

it does not meet the 150-foot setback requirements set out in Section 15 B of the Shoreland Zoning Ordinance, and the shed noted in the drawing does not meet the 20-foot setback requirements set out in Section 5.1 of the Land Use Ordinance. Also the house, which according to the submitted plan measures 2,032 square feet not including the deck, on its own and not including the shed appears to exceed the total 2,000-square foot limitation on all structures within 150 feet of the NH-WL set out in Section 12 C (1) (a) v of the Shoreland Zoning Ordinance. So the structures are legal non-conforming. The Planning Board noted that the exact square footage of the house will have to be determined before considering a formal application. A detailed site plan drawn to scale would be required in a formal application.

Chairman Voskian explained that what Mr. Hurwitz is proposing would appear to fall under Sections 12 C (1) and (3) of the Shoreland Zoning Ordinance that deal with expansion, replacement and reconstruction of non-conforming structures. Those provisions spell out setbacks and total square footage limitations within setbacks. The critical factor in total square footage is floor area for all structures within the setback, which would include upper floors and any outbuildings. Floor area is defined in Section 17 of the Shoreland Zoning Ordinance as the sum of horizontal areas for all floors enclosed by walls plus unenclosed areas such as decks and patios. Planning Board members urged Mr. and Mrs. Hurwitz to check definitions of other terms such a structures in Section 17 of the Shoreland Zoning Ordinance and in Section 12.2 of the Land Use Ordinance.

Mr. Hurwitz stated he has looked at those sections and is confused by the building permit application that indicates allowances for a cape. He said that the Shoreland Zoning Ordinance does not make allowance for that in terms of the calculation of the square footage. Whether he goes forward depends on resolving that issue. Member Mahoney stated that on the application where it references the cape is an example of how much we charge for square footage, and the Shoreland Zoning Ordinance, not the application, is the governing document.

Chairman Voskian stated that in these informal discussions, the Planning Board calls attention to the relevant ordinances, and the applicant is responsible to review them.

The Planning Board observed that Mr. Hurwitz should take note that setbacks and total square footage limits within setbacks in Section 12 C of the Shoreland

Zoning Ordinance apply not only to the NH-WL of the pond but also to the upland edge of non-forested wetlands. The Bremen Official Shoreland Zoning Map shows that an area of wetland appears to bisect the subject property between the portion of the property in the Residential District bordering the pond and a portion to the east in the Resource Protection District. So the prospective applicant must also take into account setback requirements from any non-forested wetland.

The Planning Board said that with regard to the deck proposals, a deck is considered a structure, even if it is not attached to the house. In one of his emails Mr. Hurwitz had raised the possibility of an unattached deck. Repairs and maintenance of a deck that do not involve expansion are allowed under Section 12 B (2) of the Shoreland Zoning Ordinance. But any expansion of the deck could be a problem. Removal of the deck with the aim of replacing it with a deck of even the same size or with a patio also could be a problem. This would amount to removing a non-conformity. Mr. and Mrs. Hurwitz were advised that under State and Town regulations, once removed a non-conformity cannot be recreated by building a new structure in its place. This principle also would apply to installing a new patio in place of the deck. See Section 2.3 of the Land Use Ordinance.

In the Board's view, window and door replacement would also fall under repairs and maintenance as long as no expansion results. In terms of earth moving, the prospective applicants were advised to see Section 15 Q of the Shoreland Zoning Ordinance and for retaining walls Section 15 B (5) of the Shoreland Zoning Ordinance and Section 5.2 of the Land Use Ordinance.

Chairman Voskian asked if Mr. Hurwitz understands what ordinances apply and what they allow. Chairman Voskian reiterated that a patio is a structure and counts toward his square footage.

Susan Metzger asked if something is permeable, does it count toward square footage. Chairman Voskian responded affirmatively.

Mrs. Hurwitz asked if they could put dormers in. Chairman Voskian responded that if they expand the square footage or volume, it is considered an expansion.

Member Wallace stated that if they are already over the 2,000 square feet for all structures, which would include any shed, then they are not allowed an

expansion. An expansion includes volume. If an expansion is allowable, you can expand volume by any amount as long as it does not exceed the height limit within the shoreland zone, which is 35 feet. Mr. and Mrs. Hurwitz were advised to review the definition of expansion of a structure.

Chairman Voskian stated that if Mr. and Mrs. Hurwitz choose to go forward, one of the critical things is to get a detailed, to-scale site plan showing such features as setbacks, structures, wetlands and other water bodies.

Mr. Hurwitz was encouraged to hire a wetland delineator to determine the wetland boundary.

Mrs. Hurwitz asked if they took away the sheds, would that give more leeway. The Planning Board said it does not; the square footage does include all buildings within the setback.

B. Charles Tucker representing Peter and Heidi Robertson, 120 Shore Road, Map 004, Lot 073

Mr. Tucker began by stating that there is one cottage on the waterfront that needs some structural work. The log siding is in tough shape. He suggested to the Robertsons to sheet over it. The Robertsons also want to replace the windows. There will no change in design of the building. The other building is at the end of the footpath. That building really needs some work. They do not intend to expand the footprint. Both buildings are on posts and may need to be shored up.

Chairman Voskian asked Mr. Tucker to take note of the referenced ordinances as we proceed through what the Robertsons are proposing. First, the proposals for the installation of a septic system and the drilling of a well fall under the reviewing and permitting authority of the Code Enforcement Officer (CEO). So the Robertsons must contact the CEO on these issues. With regard to Planning Board responsibility, the Robertsons hope to demolish an existing unsound structure and replace it with another structure and renovate a lakeside structure in need of structural work. The Board observed that the Robertsons must determine how close the cottage planned for demolition and the lakeside structure are from any water bodies or wetlands. If they choose to proceed, they need a detailed site plan drawn to scale showing such features as setbacks,

water bodies, wetlands, and structures that would be required as part of a formal application.

The Board said that the Robertsons should note that the setbacks and square footage limitations within setbacks in Section 12 C of the Shoreland Zoning Ordinance apply to the NH-WL of the pond as well as the upland edge of any non-forested wetland. In addition to showing the property's proximity to Webber Pond, the Bremen Official Shoreland Zoning Map shows an area of wetland in a large portion of the property bordering Shore Road. Like the area of the property bordering the pond, the wetland is bound and defined by the Residential District of the Shoreland Zone and may carry restrictions appropriate to that District. If either or both of the cottages do not meet the 150-foot setback requirements set out in Section 15 B of the Shoreland Zoning Ordinance for water bodies or wetlands, the cottage or cottages are legal non-conforming structures.

Chairman Voskian noted that if either cottage is found to be non-conforming, what the Robertsons are proposing would appear to fall under Section 12 B and 12 C (1) and (3) of the Shoreland Zoning Ordinance that deal with expansion, replacement and reconstruction of non-conforming structures. These provisions spell out setbacks and total square footage limitations within specific setbacks. The critical factor in total square footage is floor area for all structures within the setback, which would include any upper floors and any outbuildings beyond the three buildings noted on the property. Floor area is defined in Section 17 of the Shoreland Zoning Ordinance as the sum of horizontal areas for all floors enclosed by walls and any unenclosed areas such as decks and patios. The Robertsons were advised to check definitions of other terms such as "structure" in Section 17 of the Shoreland Zoning Ordinance and Section 12.2 of the Land Use Ordinance.

Mr. Tucker was advised that the Robertsons must determine whether the total square footage of all existing structures within the Residential District exceeds the 2,000 square foot total allowed within the 150-foot setback as set out in Section 12 C (1) (a) v of the Shoreland Zoning Ordinance.

If in the opinion of the Planning Board the renovation of the shorefront cottage does not involve any expansion and amounts to normal upkeep and maintenance, such work may be performed without a permit. This is spelled out in Section 12 B (2) of the Shoreland Zoning Ordinance.

The Board observed that the proposed demolition of one of the structures and the proposed replacement of that structure with another structure could present problems, even if the new structure would be the same size and have the same setback as the original structure. Under Section 12 C (3) of the Shoreland Zoning Ordinance, the replacement structure must still meet the setback requirements from any water body. If the structure is not completely demolished and reconstructed, the same setback requirements would apply under Section 12 C (3) to the greatest extent possible as determined by the Planning Board. Moreover, this demolition may amount to removing a non-conformity. Mr. Tucker was informed that under State and Town regulations, once removed a non-conformity cannot be recreated by building a new structure in its place. In short, the Robertsons should be cautious about demolishing a structure before determining their options. They were advised to see Section 2.3 of the Land Use Ordinance.

Mr. Tucker asked if the structure by the lake was grandfathered and if they had to move it back. Member Boak indicated it is allowed under Section 12 C (3), if using the same footprint and volume.

It was reiterated to Mr. Tucker that if you remove a non-conformity, you cannot recreate a non-conformity.

Member Kronenberger stated that you cannot change the height of the building nor any of the dimensions.

Mr. Tucker asked if the overhangs are part of the dimension. The Robertsons would like to increase the wall thickness for heating purposes. The Board advised that the surface must be added to the inside, not the outside. The existing square footage is defined as floor area as measured from the existing outside walls.

The Chairman advised Mr. Tucker that the proposed driveway to the site of the structure to be demolished and replaced with another structure would be governed by Section 15 H of the Shoreland Zoning Ordinance. That provision says in effect that driveways and roads must meet the same setback requirement from water bodies as structures, unless the Planning Board determines that no other reasonable alternative exists. If that is found to be the case, the setback requirement still can be no less than 50 feet from water bodies upon clear

showing by the applicant that appropriate sedimentation control techniques will be used.

Chairman Voskian reiterated that there are definite setbacks from the shoreland zone and also from non-forested wetlands. The demolition issue needs to be clarified as well.

Mr. Tucker was advised to review Section 2.3 (1) B of the Land Use Ordinance regarding existing nonconforming structures.

Chairman Voskian stated we need to determine what the definition of demolition is and how that applies to Section 2.3 B of the Land Use Ordinance and 12 C (3) of the Shoreland Zoning Ordinance. Attorney Meader was asked for a legal opinion on this issue.

VIII. Other Planning Board Business

Town Attorney Amanda Meader and Consultant Jamie Francomano led the discussion on the drafts of the revised Planning Board Ordinance and Bylaws. After discussion of revisions and comments submitted by Consultant Francomano and Attorney Meader, Planning Board members were satisfied with the results and agreed to give the documents a final review at the Board's December meeting. At that point, the Board will send the documents to the Selectmen for their review with the hope that the documents will go to a public hearing early in the new year.

Chairman Voskian attended the October and November Selectmen's Meetings where he brought them up to date on Planning Board deliberations and activities. At the October 18 Selectmen's Meeting, the Selectmen adopted the Planning Board's recommendations on fee adjustments and new permit fees and on limiting Bob Faunce's duties to reviewing only formal applications in an effort to control costs. Chairman Voskian informally spoke with Mr. Faunce about the change, and Administrative Assistant Kelly Clancy followed up with him formally.

Chairman Voskian raised with the Selectmen the issue of the shed that has appeared on the Jones property on Maple Lane where the Planning Board recently issued a permit for a residence. He explained that the while at 96 square feet the shed does not require a permit, it is in the shoreland zone and thus should have been considered by the Planning Board on issues of

placement, erosion, etc. Moreover, the shed does not appear on the latest site plan that the Jones submitted with the application for a residence recently approved by the Planning Board. He emphasized that the shed is an enforcement issue and not the responsibility of the Planning Board. The Selectmen said they would direct the CEO to investigate, but he is hospitalized.

Chairman Voskian attended the October meeting of the Lincoln County Planning Commission representing Bremen. The group, which made him feel very welcome, deals with a variety of issues including water quality, low income housing, etc.

There being no further business, the meeting was adjourned at 9:20 p.m.

IX. Meeting Events Calendar

November 30, 2018 - Applications for Building Permits to be considered at the next Planning Board meeting must be filed with the Town Office by 12:00 Noon.

December 9, 2018 - Site visits (if any) 3:00 p.m.

December 11, 2018 - Planning Board Meeting 7:00 p.m., Bremen Town Center.

BREMEN PLANNING BOARD:

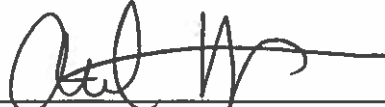


Walter Voskian, Chairman

Jack Boak



S. Blair Kauffman



Autumn Mahoney



Steven Wallace, Interim Vice Chairman

Thomas Kronenberger, Alternate

Respectfully submitted,
Kelly A. Clancy
Acting Recording Secretary