



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

**Bremen Planning Board
Meeting Minutes
November 14, 2017 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; Alternate Member, Dede Heath; Selectmen Representative, Wendy Pieh; Cindi Hasty, Recording Secretary. Chairman Voskian appointed Dede Heath as a full member of the Planning Board due to the absence of member Jack Boak. When Member Boak arrived late, Alternate Member Heath stood down as a full member. (See Section VIII of the minutes.)

Absent:

Members of the Public: Town Consultant Anne Krieg; Town Attorney Jonathan Hull; Applicant Majed Awamleh; Applicant Agent, Chester Fesmire.

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 10, 2017 Regular Planning Board Minutes. The minutes were signed by the members present.

V. Applications for Review

None

VI. Comments and Questions:

None

VII. New Business:

None

VIII. Old Planning Board Business:

1. Majed Awamleh, Change of Use Application; Map 012 Lot 012-008, otherwise known as 42 Hidden Lane.

The extensive background to this application is in previous Planning Board minutes beginning with the February 2017 meeting.

Chairman Voskian observed that at the Planning Board's October meeting, the Planning Board noted that the Shoreland Zoning Ordinance-required statement prepared for the applicant by Stockwell Environmental Consulting dated 25 September 2017 stated that according to Agent Chester Fesmire the distance from the garage to the normal high-water line is approximately 75 feet. The Planning Board observed that the 75-foot measurement conflicts with the drawings previously provided by the applicant that stated that the structure is only 42 feet from the normal high-water line. The Planning Board noted that the 75-foot figure is new information and that it had never received a corrected site plan reflecting the corrected information. Mr. Fesmire asserted that the figure had been corrected in previous minutes, but the Chairman's subsequent review of previous minutes revealed no such correction.

Accordingly, the Planning Board requested an updated site plan from the applicant's surveyor to reflect the correct distance from the garage to the normal high-water line. The Planning Board determined that without a corrected site plan showing the accurate measurement from the garage to the normal high-water line signed by the applicant's surveyor the application was incomplete. Town Attorney Jonathan Hull advised the Planning Board that it should not make a determination on the application until all information, including a correct site plan, had been received. On a vote of 4-2 the Planning Board voted at its October meeting to delay consideration of the application until the November meeting by which time the Planning Board should have received a corrected site plan from the applicant's surveyor. The Planning Board received a corrected site plan on 5 November signed by surveyor Karl Olson. That site plan states that the distance from the nearest corner of the garage to the normal high-water line is 76.7 feet. That site plan is part of the record.

Chairman Voskian stated that if the Planning Board determined that the application was complete it can proceed with the decision-making process. Voskian noted that for the record, other documents submitted by

the applicant in accordance with the applicable Town ordinances and State requirements and requested by the Planning Board include an Environmental Impact Statement addressing the Shoreland Zoning Ordinance-required "no greater adverse impact issue," a Growth Cap Permit necessitated by the Board's finding that the change would result in a new dwelling unit, a State required Minimum Lot Size Waiver from the State, a warranty deed for the property, a new plan for the structure, a statement from the applicant that the flow from the existing dug well measuring 7 gallons per minute exceeds the State requirement of 2 gallons per minute per dwelling and is sufficient to cover the proposed additional usage, and the design and State approval of an alternate septic system to be installed in the event the existing system were to fail.

One Planning Board member has requested that Code Enforcement Officer Stan Waltz formalize his positive decision on plumbing and septic approval on this application by issuing a statement that his decisions are in accord with the Shoreland Zoning Ordinance. Chairman Voskian offered that in Mr. Waltz's absence a statement by Mr. Waltz accompanying Mr. Awamleh's request to the State for variance for a subsurface wastewater disposal system appears to address the issue. Mr. Waltz's statement says, among other things, that "The proposed system does not conflict with any provisions controlling subsurface wastewater disposal in the shoreland." Members agreed with the Chairman's position.

**On a motion duly made and seconded that the Awamleh change of use application be accepted by the Planning Board as complete.
Vote: 7-0**

The Chairman noted that the next matter was to determine the Planning Board's decision on the basic issue of whether the application meets the conditions of Section 12. C (4) and Section 12 D (3) of the Shoreland Zoning Ordinance. For the record, Section 12 C (4) states that: "the use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland on the subject property or adjacent properties than the existing use." Section 12 D (3) states much the same thing.

Chairman Voskian asked that the Planning Board members also consider the adequacy of the prepared environmental impact statement and its finding that the change of use from a garage to a seasonal cottage would have no greater adverse impact on the water body, tributary stream or wetlands, or on the subject or adjacent properties than the existing use. Chairman Voskian also asked the Planning Board members to remember

Section 12 C (4) "Change of Use of a Non-Conforming Structure" of the Shoreland Zoning Ordinance says that:

Written documentation should address probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetation cover, visual and actual points of public access to water, natural beauty, flood plain management, archeological and historical resources, and commercial fishing and maritime activities, and other functionally water dependent uses.

Chairman Voskian asked for clarification from Town Consultant Anne Krieg regarding the Maine Department of Environmental Protection's (DEP) position on what constitutes greater adverse impact on the environment. Mrs. Krieg said that the DEP allows considerable discretion to Planning Boards in determining what constitutes adverse impact on the environment and whether the property and adjacent properties can handle the change of use.

Attorney Hull said that an opinion regarding the determination of adverse impact on the environment is a two-step process. The first step is determining the adequacy of the information that has been provided. The Planning Board has already determined that the application is complete, and that the information provided is adequate. The second step is does the information provided convince the Planning Board members one way or the other that there is not significant adverse impact issue?

At this point Planning Board member Jack Boak joined the meeting causing Chairman Voskian to rescind the appointment of Dede Heath from alternate member to full member.

Chairman Voskian stated that as he understands the issue, a determination of greater adverse impact must be supported by data such as further encroachment into the setback from the normal high-water line. In other words, a decision to deny must have a finding that something about the new use makes it more adverse than the original use. It must be based on evidence that there would be a greater adverse impact under the new use.

Chairman Voskian asked Planning Board members to discuss possible conditions if this change of use application were to be approved. Proposed conditions included but not limited to:

1. The use of the seasonal cottage shall be limited to no more than six months during the course of a given year.
2. There shall be no commercial use of the cottage

3. No further modifications shall be made to the cottage and to the lot such as additions or enclosures, unless such modifications are submitted to the Planning Board for its review and approved by the Planning Board.
4. In the event of the failure of the existing septic system a new system shown in the application documents must be installed with 90 days, weather permitting.
5. Certification shall be provided that the well that serves the house is adequate to service the new cottage.
6. These conditions must be recorded with the deed at the Registry of Deeds and that evidence of such recordation must be presented to the Planning Board prior to issuance of a certificate of occupancy.

The Planning Board members were not in favor of placing a specific period of time for a failed septic system to be replaced but they agreed to the condition that in the event the system failed, the premises could not be occupied until a new system was installed.

Also discussed was the seasonal use limitation. Planning Board member Wallace submitted a Proposed Finding of Fact document to the Planning Board for review (see attached). Planning Board member Wallace shared concerns regarding more extensive use and possible additional expansion i.e. deck or patio in the future. Mr. Awamleh confirmed that their intended use has not changed from the original application and agreed that there will be no additional expansion and the cottage will remain seasonal. However, the cottage will have kitchen, toileting and bathing facilities as depicted on the final plan submitted by the applicant's architect as allowed under the dwelling definition.

Attorney Hull offered an opinion that since the Shoreland Zoning Ordinance does not currently provide a seasonal dwelling definition the Planning Board could impose restrictions on length of time that seasonal dwellings can be inhabited, as well as the facilities to be included with the approved dwelling.

Planning Board member Mahoney argued that Bremen has many seasonal dwellings and to place a large number of restrictions on this property might not be a favorable precedence to set. She agreed with limiting the amount of weatherization i.e. insulation that could be done to extend the season but remarked that Bremen has many homes that are rental properties as well and that the Planning Board should not restrict the option of this property being used in that manner.

Attorney Hull pointed out that the Planning Board should be very cautious about attempting to restrict the dock/pier improvements other than for maintenance or repairs as stated in member Wallace's proposed conditions in the attached Proposed Finding of Fact, since this application does not include any reference to the dock/pier located at 42 Hidden Lane. In the future any maintenance, repairs or replacement would be a separate application.

Discussion followed regarding the current cottage design and limiting the horizontal or vertical expansion as stated in member Wallace's document.

A motion duly noted and seconded that the Planning Board approve this application with the conditions included attached in the Proposed Finding of Fact document offered by Member Wallace.

Vote: in favor 2, 5 opposed; Motion fails.

In the wake of the failed motion a new motion was duly made and seconded that the Planning Board approve the application submitted by Majed Awamleh for a change of use of a structure located on Map 12, Lot 027-008 otherwise known as 42 Hidden Lane from a garage to a seasonal cottage as reflected in the architect's plan dated 31 August 2017 and based on Section 12 C (4), Section 12 D (3) and Section 16 D of the Shoreland Zoning Ordinance.

The Planning Board based its decision on its findings that the change of use would not have a greater adverse impact on the water body, tributary stream, wetland or on the subject or adjacent properties than the existing use in accordance with Sections 12 C (4) and 12 D (3) of the Shoreland Zoning Ordinance and as certified in the Environmental Impact Statement prepared for the applicant by Stockwell Environmental Consulting dated 25 September 2017. This statement should be made part of the record. Consistent with this finding, the Planning Board also makes a finding based on the Environmental Impact Statement and other information provided by the applicant that the change of use will adhere to the conditions stated in Section 16 D (1) through (9) of the Shoreland Zoning Ordinance.

The Planning Board, however, imposes the following conditions on its approval.

- 1. The use of the seasonal cottage shall be limited to no more than six months during the course of a given year.**
- 2. There shall be no commercial use of the cottage**
- 3. No further modifications shall be made to the cottage and to the lot such as additions or enclosures, unless such modifications**

are submitted to the Planning Board for its review and approval by the Planning Board.

4. In the event of the failure of the existing septic system, the premises shall not be occupied until a system is installed.
5. Certification shall be provided that the well that serves the house is adequate to service the new cottage. (This has been provided in the form of an email that is part of the record.)

These conditions must be recorded with the deed at Lincoln County Registry of Deeds and that evidence of such recordation must be presented to the Planning Board prior to issuance of a certificate of occupancy.

Vote: 6-1; Motion passes.

In other old business Chairman Voskian addressed the Planning Board members regarding the Patrick McDonnell and Deborah Carroll application for property identified as Map 006-001 otherwise known as 243 Fogler Road: Renovation to existing structure.

At the October meeting the Planning discussed whether the structure in question for which an application for the installation of dormers had been submitted may have already been expanded to or beyond the maximum 30 percent allowed for the life of the structure under the 1993 Planning Board Permit. See minutes for September and October for more details. At the October meeting, Town Assessor Jim Murphy referred to the property card that stated that in 1994 the 21 x 31 square foot structure was expanded to 31 x 41 square feet, which is a 100 percent expansion in the overall size of the original structure. Town Attorney advised the Planning Board that the question of any violation is not for the Planning Board to determine and that the issue is the responsibility of the Code Enforcement Officer.

Attorney Hull updated the Planning Board that he, Code Enforcement Officer Stanley Waltz and Town Assessor Jim Murphy met with the Board of Selectmen to determine what if any action would be taken regarding the expansion violation for this property. The Board of Selectmen have decided that given the amount of time that has passed and the number of owners of the property since the expansion they would not be taking any further action on this issue other than to note its presence.

IX. New Business:

None

X. Other Planning Board Business:

Co-Chairman Tom Kronenberger attended the 19 October meetings of the Board of Selectmen at which time the Selectmen approved the new permit fee schedule proposed by the Planning Board. Co-Chairman Kronenberger also stated that Selectman Hank Nevins gave him a copy of the Street Vendor Ordinance from Newcastle and asked the Planning Board to review the Ordinance and start the process of developing one for Bremen. After further discussion the Planning Board decided that Anne Krieg would look into that issue further and report back at the December meeting. Anne Krieg will also research an inquiry that Maine Municipal Association published that town ordinance definitions can be altered without going to Town Meeting for vote.

Chairman Voskian attended the 2 November meeting where the Selectmen were brought up to date on Planning Board deliberations and findings.

Chairman Voskian attended the October 23rd Budget Committee meeting as a member of the Budget Committee and as a member of the Planning Board. After some discussion, the Budget Committee approved the Planning Board's requested budget for the next six months.

Chairman Voskian notified the Planning Board members that there is still a vacancy for an alternate member.

Meetings/Events Calendar

December 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.*

December 10, 2017 – *Site Plan Visits (if any) 3:00 p.m.*

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

BREMEN PLANNING BOARD:



Walter Voskian, Chairman



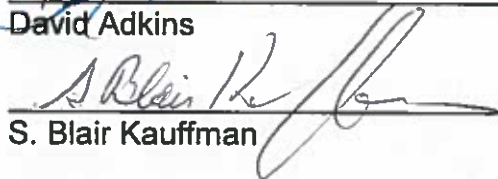
Tom Kronenberger, Co-Chairman



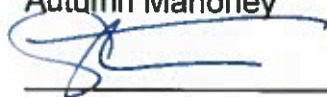
Jack Boak



David Adkins



S. Blair Kauffman

Autumn Mahoney


Steve Wallace

Dede Heath, ALT

Respectfully submitted,
Cynthia Hasty
Recording Secretary

Director

Deputy Director

Assistant Director

Assistant Director

Assistant Director

Assistant Director

Assistant Director

Assistant Director

Assistant Director