



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
June 12, 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; Steve Wallace; Wendy Pieh, Chair, Board of Selectmen; Stan Waltz, Code Enforcement Officer; Cindi Hasty, Recording Secretary.

Absent: Autumn Mahoney; Jamie Francomano, Town Consultant.

Members of the Public:
Peter Millett; Justin and Kerry Stailey

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

III. Adjustments to Agenda

The agenda was amended to remove three items listed under Other Planning Board Business because of the absence of Town Consultant Jamie Francomano who is revising those items.

1. Draft Planning Board Ordinance and by-Laws
2. Building in Bremen brochure discussion
3. Planning Board application discussion

IV. Approval of Minutes

After determining that there were minor corrections to the minutes submitted by member Wallace, on a motion duly made and seconded, it was voted unanimously to make the amendments and approve the May 08, 2018 Regular Planning Board Minutes. The minutes were signed by the members present.

V. Informal Discussion

Peter Millett; Map 006, Lot, 2 and others, 213 Fogler Road, Pre-purchase expansion discussion.

This was an informal, non-binding discussion under Section XI, Paragraph 11.5.7 of the Land Use Ordinance with Mr. Peter Millett relating to possible construction/expansion activities on Lots 2, 2A, 2B, and 2C, Map 6 that are on Biscay Pond off Fogler Road. That provision of the Land Use Ordinance provides for an informal, pre-application conference with a prospective applicant to discuss what is proposed, what ordinances apply, and what the applicable ordinances allow, without specific reference to the specific project. The provision also states that no vested interest shall attach or accrue to the prospective applicant as a result of such a discussion. Mr. Millett agreed to the stated conditions.

Mr. Millett has submitted a bid to purchase the properties in question with a plan to expand a lakeside cottage on Lot 2, remove earth and construct a retaining wall behind the cottage on Lot 2, and build a driveway/road intended to link Lot 1A, currently owned by Mr. Millett, through Lots 2A and 2 to a road leading to the cottage on Lot 2.

The lots in question, including the cottage, the proposed retaining wall, and the proposed driveway/road, appear to be largely in the Residential District of the Shoreland Zone and will be subject to the Shoreland Zoning Ordinance including its provisions on setbacks. Section 2 of the Shoreland Zoning Ordinance defines the Shoreland Zone as all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond or river, and the upland edge of a freshwater wetland. In the absence of a formal application, the Planning Board did not make a site visit to the properties.

Expansion plans for the cottage are not firm at this point. First, Mr. Millett in his correspondence has made reference to the 30 percent rule of expansion. This one-time 30 percent expansion may already have already occurred with the 1991 expansion—the addition of the current screened in porch, but in the absence of a formal application and under rules of this session the Planning Board could not address this issue at this point. In any event, the 30 percent rule has been superseded by the current Shoreland Zoning ordinance that has setbacks as its governing feature. Mr. Millett asked “if the 30 percent expansion had already taken place, could there be further expansion if the setback were met?”. The Planning Board in response referred Mr. Millett to the Shoreland Zoning Ordinance to review the allowable square footage depending on how far the structure is from the normal high-water line. Member Wallace clarified that if the screens of the porch structure were to be replaced with windows that would be considered an increase in volume and that may not be allowed depending on the Shoreland Zoning Ordinance limitations. But Mr. Millett was informed that there could be no determination without a proper application to review.

With regard to the proposed expansion of the cottage, Chairman Voskian referred Mr. Millett to Section 12 C 1 (a) i of the Shoreland Zoning Ordinance. That provision sets out what is allowed in terms of expanding legal, non – conforming structures located within 25 feet of the normal high-water line of water bodies, and for structures located less than 75, 100, and 150 feet from the normal high-water line. Also, Mr. Millett was advised to pay particular attention to Shoreland Zoning Ordinance section on definitions for such relevant terms as “expansion of a structure” and “volume of a structure.” Member Wallace offered clarification that according to Town Attorney, Jonathan Hull, under the Shoreland Zoning Ordinance, if any portion of a structure is located within the 25 ft setback the structure cannot be expanded.

With regard to the proposed retaining wall behind the cottage, Mr. Millett informed Chairman Voskian that the wall will be for erosion control and will be three feet high. In this case Chairman Voskian referred Mr. Millett to Section 15 B 5 of the Shoreland Zoning Ordinance. This provision sets out such things as setback and height limitations, re-vegetation requirements, and permit requirements.

In terms of the driveway/road proposal, the Planning Board referred Mr. Millett to Section 15 H (1) of the Shoreland Zoning Ordinance. That provision sets out such things setback requirements, slope limitations, runoff prevention requirements, and exceptions. If there were to be a parking area in connection with the proposed driveway/road Chairman Voskian referred Mr. Millett to Section 15 G of the Shoreland Zoning Ordinance.

Chairman Voskian again referred Mr. Millett to the definition section of the Shoreland Zoning Ordinance, especially terms like expansion of a structure and volume, and the Land Use Ordinance, especially the Planning Board Permit Procedure.

Mr. Millett's concept plan also noted two new homes for Lots 2 and 2A and possibly on other lots, Mr. Millett noted that these are future plans and are not firm yet. Mr. Millett was advised that applicable ordinances would be the Land Use Ordinance, especially Section V Dimensional Standards, and the Shoreland Zoning Ordinance, especially Section 15 Land Use Standards. Member Wallace offered clarification that a lot line adjustment might be an option between two separate lots in order to meet the required Dimensional Standards and still maintain two separate lots in order to retain a potential buildable lot unless there were existing sub-division restrictions.

Mr. Millett also had some questions that were better addressed by the Code Enforcement Officer, Stan Waltz. These include well drilling, well sharing, underground power lines, septic system installation and the earth removal aspects of the proposed retaining wall.

According to Code Enforcement Officer Stan Waltz a well would need to be minimum of 100 ft from a septic system, this distance can be reduced to 60 ft. with a variance; The Code Enforcement Officer also said that a well can be shared between structures. But if there are more than two structures it is considered to be a public water supply. He said that underground power lines are not a problem and a septic system can be shared between two structures but if there are more than two structures it is considered to be a community septic system, which requires a legal agreement between owners and must be inspected yearly for proper functioning. The Code Enforcement Officer said that earth removal within 75 ft of the normal high-water line requires a permit by rule from the Department of Environmental Protection Agency but can be terraced in increments of 10 ft., not exceed 2 ft. in height per terrace.

Mr. Millett thanked the Board and the Code Enforcement Officer for the discussion and information.

VI. Application for Review

Justin and Kerry Stailey; Map 6, Lot 19 A, otherwise known as 90 Copperfield Road, Adjustment to approved location of structure

The next item on the agenda was a proposal from Mr. and Mrs. Stailey to adjust the location of the garage that was approved with conditions at the May 2018 Planning Board meeting. The change in location is necessary because the Stailey's have encountered additional ledge in the location the Planning Board approved for construction of the garage and because two very large oak trees would need to be removed, leaving significant holes where the root balls were, risking instability under the concrete slab.

Chairman Voskian stated that he saw a three-step process for the Planning Board.

1. The Planning Board should consider whether it can consider a change to an approved application.
2. If the Board agrees to consider a change it should then find that there are special circumstances and accordingly waive submission requirements –in this case the submission for change was made after the deadline?
3. If in agreement, then the Planning Board will consider the change. First, Bremen's Subdivision Ordinance (Sub Chapter 4, Section C 1 d) appears to recognize that the Planning Board may consider changes to an approved permit. That provision states that "... any change or modification to any aspect of the approved plan shall be considered an amendment to the plan and shall require the approval of the [Planning] Board. All Planning Board members agreed that according to the ordinance the Board may consider changes to approved applications.

Second, the Planning Board would have to vote on whether to consider this proposal for a change in a previously approved permit. Under Chapter XI, Section D 1 of the Subdivision Ordinance, Planning Board consideration of a change will require a Board finding of fact that there are special circumstances and that it is waiving submission requirement—in this case that the submission was received after the deadline—provided that the waiver does not have the effect of nullifying the Official Zoning Map, the Comprehensive Plan, or the applicable ordinances. Chairman Voskian stated that in his view the special circumstances are that the Staileys, who submitted their application in good faith and agreed to our conditions, could not have foreseen the presence of the ledge and the resulting need to change the site for the garage.

On a motion duly noted and seconded the Planning Board will consider the Stailey's proposed change of location for the garage because it finds the existence of special circumstances and accordingly waives portions of the submission requirements—in this case the requirement that information be submitted by the deadline—with the understanding that the waiver does not have the effect of nullifying the Town's Official Zoning Map, the Comprehensive plan and applicable ordinances. The Planning Board finds that the special circumstances are that the Stailey's have encountered ledge in the approved location for the garage and that the Stailey's could not have foreseen the presence of the ledge and the resulting need to change the site for the garage.

Vote 6-0 Motion passed

According to the change proposed by the Stailey's, to avoid the constraints outlined above they propose to move the garage back farther toward the property line that abuts the McDermott property. The move would have the effect of putting the garage farther away from the forested wetlands and outside the IFW Habitat Buffer Zone. According to the information provided by the Stailey's, here are the distance changes.

1. The front of the garage would start at 118 feet from the existing Copperfield Drive as opposed to the 40.9 feet approved last month. This would put the garage about 40 feet outside the 150-foot set back from the NHWL. The rear of the garage would sit 50 feet from the boundary line and 30 feet from the 20-foot required setback. The previously approved garage would have about 100 feet from the property line.
2. Instead of the previously approved 16-foot-wide 40-foot-long gravel driveway, which fell entirely inside the 150-foot setback from the NHWL, the Stailey's now propose a gravel driveway of 98 feet long by 10 feet wide. About 40 feet of this proposed gravel driveway would still be within the 150-foot setback. Under Section 15 H of the Shoreland Zoning

Ordinance, driveways must be at least 150 feet from the normal high-water line unless the Planning Board determines that no reasonable alternative exists. Chairman Voskian offered that this appeared to be case in this situation. The ordinance states that if no reasonable alternative exists, the driveway shall be no less than 50 feet from the normal high-water line. The proposed new driveway would appear to be about 110 feet from the normal high-water line, and Chairman Voskian said that requirement would appear to be met. But if the Board waives the 150 ft. setback in favor of the one no less than 50 feet, the ordinance requires that appropriate techniques be used to prevent sedimentation, such as settling basins or ditch relief culverts. Chairman Voskian said this would appear again to be a condition of any approval.

3. The Stailey's also are proposing adding a 24 foot by 20-foot gravel parking pad in front of the garage. The proposed gravel pad would appear to about 10 feet outside the 150 ft. setback from the normal high-water line

On a motion duly noted and seconded the Planning Board will approve changes offered by the Staileys to the application approved by the Planning Board at its May 2018 meeting under Sections 15 B, 15 G, and 15 H of the Shoreland Zoning Ordinance. Those changes are presented in a revised site plan to the one that was presented with the original application and that revised site plan signed and dated June 12, 2018 will be part of the official record. The changes are:

1. **The garage now will start at 118 feet from Copperfield Drive as opposed to the 40.9 feet approved in May, putting the garage about 40 feet outside the 150-foot setback from the normal high-water line.**
2. **Instead of the previously approved 16 foot by 40-foot gravel driveway, a 98 foot by 10-foot gravel driveway will be constructed. Because about 40 feet of this proposed gravel will still be within the 150 ft. setback from the normal high-water line and because the Board finds that no reasonable alternative exists, the Board under Section 15 H of the Shoreland Zoning Ordinance waives the 150 ft. foot setback, provided that the driveway is no less than 50 feet from the normal high-water line and provided that appropriate sedimentation techniques be used as outlined in Section 15 H.**
3. **A 24 foot by 30-foot gravel pad will be installed in front of the garage in accordance with the revised site plan dated June 12, 2018, at about 10 feet outside the 150-foot setback from the normal high-water line.**

- 4. All other conditions to the approval granted in May under appropriate ordinance provisions will remain in force.
Vote: 6-0 Motion passed.**

V. Public Comments and Questions

None

VI. New Business

None

VII. Other Planning Board Business

To date Tracy and Diana Jones have not submitted a new application for construction of a residence on Webber Pond in the wake of the Board of Appeals remanding the issue to the Planning Board in April.

Chairman Voskian noted that he attended the May and June meetings of the Board of Selectmen where he brought the Selectmen up to date on our deliberations and findings. He also represented the Planning Board at the 15 May meeting of the Budget Committee where the committee approved the Board recommended budget.

Chairman Voskian noted that there is still a need of two alternate Planning Board members. In fact, only two people –Member Jack Boak and himself--have declared candidacy for the four regular openings on the Board to be elected on 21 July. His concern is that because the Planning Board will have only five members in the wake of the election, this situation will fuel sentiment on the Board of Selectmen to cut the Planning Board membership from seven to five. He has responded by making clear as recently as the 7 June Selectmen's meeting that the Planning Board strongly prefers to keep its membership at seven regulars and two alternates. Members of the Planning Board have justified this position by pointing out that although the current membership exceeds that of several other local jurisdictions, Bremen has more shorefront than all other local jurisdictions, and unlike other local jurisdictions Bremen's Planning Board—not the Code Enforcement Ordinance—has jurisdiction in the Shoreland Zone.

V. Old Planning Board Business:

None

VI. Meetings/Events Calendar

June 29, 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.

July 08, 2018 – Site Plan Visits (if any) 4:00 p.m.

July 10, 2018 – Planning Board Meeting 7:00 p.m. Bremen Town Office.

Adjournment 8:00 pm

BREMEN PLANNING BOARD:



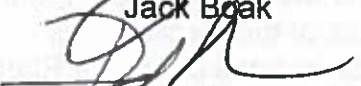
Walter Voskian, Chairman




Tom Kronenberger, Co-Chairman



Jack Boak



David Adkins



S. Blair Kauffman



Autumn Mahoney

Steve Wallace

Respectfully submitted,
Cynthia Hasty
Recording Secretary