

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

Walter Voskian, Chair
Blair Kauffman, Board Member
Jack Boak, Board Member
Steven Wallace, Vice Chair
Steve Page, Board Member
Floyd Gent, Board Member
Thomas Kronenberger, Alt. Member
Autumn Mahoney, Alt. Member

**Bremen Planning Board
Meeting Minutes
Tuesday, July 9, 2019 at 7:00 p.m. – Bremen Town Office**

I. Attendance

Members Present: Walter Voskian, Chairman; Jack Boak; Floyd Gent; Blair Kauffman; Steve Wallace, Vice Chairman; Thomas Kronenberger, Alternate

Members Absent: Steve Page; Autumn Mahoney, Alternate

Members of the Public: Harry and Rita Harden; David Starr, representing the Hardens; John Couch, representing Keith Higgins; Doug and Gina Jones, representing Diane and Gary Checchio; Tracy Jones; Sigbert Seifert; Kathy Gent; and Board of Selectmen Chair Wendy Pieh

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

Board Chairman Voskian read the traditional opening statement on Planning Board meeting policies. He also informed those present that the agenda was lengthy. He asked Board members and the public to keep comments brief, to the point, and nonrepetitive.

Chairman Voskian appointed alternate member Thomas Kronenberger as a regular board member for this meeting.

Chairman Voskian announced a new policy on guests at site visits. Members of the public will continue to be welcome at site visits, as they are public meetings. Because of insurance and liability considerations, any non-board member who wishes to attend a site visit will be required to provide his or her own transportation, including land-based sites and those that require water transportation. Also, the activities of guests will be limited to observation only.

III. Approval of Minutes

A motion duly noted and seconded, approved the May 14, 2019 minutes. The motion passed unanimously.

A motion duly noted and seconded, approved the June 11, 2019 minutes. The motion passed unanimously.

The minutes were signed by Board Members present.

IV. Applications for Review

A. **Walter and Mary Voskian, Change in Permit for a Replacement Dock, Map 003, Lot 031, 1132 Waldoboro Road**

Chairman Voskian recused himself from any vote, took a seat in the audience, and then temporarily turned the meeting over to Vice Chairman Steve Wallace to act as Chair. Mr. Wallace outlined the permit changes.

The Voskians propose changes to a permit for a replacement dock issued by the Planning Board in May 2019. According to the narrative provided by the Voskians, these changes are necessitated by the Voskians' decision to select a more easily installed and removed modular, aluminum-framed "Shoremaster" dock system, instead of the scratch-built, all-wooden dock. The new dock will be largely the same as the "T" shaped wooden configuration approved by the Planning Board in May.

The changes proposed are:

- The new dock system will be aluminum frame with 2'x4' cedar decking inserts, instead of the all-wooden, pipe-supported system approved by the Planning Board in May.
- The new aluminum-framed system will be supported by aluminum legs with square aluminum pads that sit on the pond bottom instead of the round metal pipes driven into the bottom approved by the Board.
- The new dock section that is perpendicular to the land will be 4'x12' instead of the 4'x14' approved by the Planning Board. This 8-square-foot difference will be taken up by a triangular piece to fit on the lake side of the junction of the two dock pieces where they form a "T."

Everything else in the application approved by the Board in May will remain as presented in that application. The dock section parallel to the land will remain at

4'x12' as approved. The Voskians will retain the existing wooden stairs, instead of installing newly constructed stairs as approved. They may replace the existing stairs at a later date, at which point they will pin them to the rock surface as requested in May.

The Board asked for confirmation that the legs of the dock would be set on pads or driven into the bottom. It was determined that the legs would sit on square or rectangular pads.

A motion duly noted and seconded, approved the changes to the Voskian dock. The motion passed unanimously.

B. Tracy and Diana Jones - Change in Permit for House Dimensions, Map 004, Lot 033-004, Maple Lane

Tracy and Diana Jones propose changes to a permit approved by the Planning Board in September 2018 for construction of a residence on Map 004, Lot 033-004 on Maple Lane and in the Lynway Subdivision. The building site is presented in the site plan that is part of the original permit issued in September 2018. The Joneses were given permission in September 2018 to build a two-story residence measuring 18'x64' on the first floor and 18'x43' on the second floor. The Joneses now propose reducing the size of the first floor to 18'x55' with the second floor remaining the same.

Board members unanimously approved the motion in September 2018 that noted the application meets the conditions of Section V of the Land Use Ordinance, Land Use Standards, and Sections 15 and 16 of the Shoreland Zoning Ordinance, Land Use Standards and Administration respectively, and was conditioned on the applicants retaining a contractor with State-approved erosion control certification.

Tracy Jones confirmed that their only change to the September 18 Building Permit would be making the first floor smaller.

On a motion duly noted and seconded, the Board approved the change provided the same conditions as the original permit were met. The motion passed unanimously.

C. Gary and Diane Checchio, Installation of a Dock, Map 004, Lot 092-001, 23 Sunrise Drive

The Checchios are applying for the installation of a temporary replacement seasonal dock on Map 004, Lot 092-001. The property is otherwise known as 23

Sunrise Drive and is located on Webber Pond. According to the Checchio's application, they are proposing construction of a 4'x8' ramp beginning on the land and connected to a 12'x10' dock that consists of three 4'x10' sections set side by side. The site of the dock is in the Residential District of the Shoreland Zone.

Planning Board Members Boak, Kauffman, Kronenberger, Wallace, Gent, and Voskian visited the site on 7 July accompanied by Doug and Gina Jones whom the Checchios have authorized to act as their agents.

Chairman Voskian noted that the major applicable ordinance sections would appear to be Section 15 B (1) (a) and 15 C of the Shoreland Zoning Ordinance. The former section says that normal setback requirements do not apply to structures that require direct access to water bodies such as docks and other functionally water-dependent uses. Section 15 C deals directly with docks and similar structures. The applicants must assure the Board that Section 15 C paragraphs 1 through 4 are met.

Paragraph 1 states that access from the shore must be developed on soils appropriate for such use and constructed so as to control erosion.

Paragraph 2 states that the location shall not interfere with existing developed or natural beach areas.

Paragraph 3 states that the facility shall be located so as to minimize adverse effects on fisheries.

Paragraph 4 states that the facility shall be no larger than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. Paragraph 4 also states that a temporary dock in non-tidal waters shall not be wider than six feet for non-commercial uses.

The applicants must also adhere to Section 11.5.2 (Submission Requirements) of the Land Use Ordinance or request waivers of submission requirements under Section 11.5.3 of the Land Use Ordinance.

Doug Jones confirmed the new dock is a replacement dock for one that had been out of the water for at least 18 months. The new dock is smaller than the old one. The original dock has rotted.

The Joneses provided additional information not included in the original permit submission. This material included a request for waivers and photo of the original

dock, which based on the picture, appeared to be similar in configuration to the proposed dock. The Joneses stated that the old dock at 176 square feet was larger than the proposed dock at 152 square feet. Based on this information, the

Board determined that the proposed dock was a replacement and that the width limitation of 6 feet in Paragraph 4 of Section 15 C of the Shoreland Zoning Ordinance would not apply. Also, the Board determined that the provisions of Section 12 C (3) of the Shoreland Zoning Ordinance stating that a removed non-conforming structure must be replaced within 18 months does not apply because the dock, which does not carry setback requirements, was not a non-conforming structure.

On a motion duly noted and seconded, the Board determined the application was complete and accepted the applicants' waivers for Land Use Ordinance requirements of Sections 11.5.2b v. and vii. The motion passed unanimously.

Doug Jones was asked to write on the site plan the dimensions from the Checchio's cottage. He also confirmed that the feet of the dock would be pads sitting on the bottom and retractable with nothing left in the water during the off-season.

On a motion duly noted and seconded, the Board approved the dock and site plan as revised subject to Shoreland Zoning Ordinance Sections 15 B (1) (a) and 15 C paragraphs 1 through 4, except that because the dock is replacement dock the 6-foot width limitations found in paragraph 4 do not apply. The motion passed unanimously.

D. Harry and Rita Harden – Construction of Garage and Change of Use for Existing Deck, Map 006, Lot 005-002-006, 50 Porcupine Ridge Road

Harry and Rita Harden are proposing renovations to an existing legal non-conforming structure and the construction of a garage on Map 006, Lot 005-002-006, otherwise known as 50 Porcupine Ridge Road located on Pemaquid Pond. The site of the proposed project is in the Residential District of the Shoreland Zone. Planning Board members Boak, Kauffman, Kronenberger, Wallace, Gent, and Voskian visited the site on July 7, accompanied by the Hardens and David Starr of Gartley and Dorsky. The Hardens will be represented by David Starr of Gartley and Dorsky.

Chairman Voskian proposed that the application be consider in two parts: first, the garage and second, the renovations to the existing cottage. The Board agreed.

The Hardens are proposing the construction of a 26'x24' garage with a 19'x26' loft to be used for storage and to contain a workshop and a half

bathroom. The garage will have no sleeping or kitchen facilities. The height of the proposed garage was not stated. The proposed garage will be beyond the 150-foot setback but is still within the Residential District of the Shoreland Zone.

Chairman Voskian offered that the principal applicable ordinances appear to be Section 15 B of the Shoreland Zoning Ordinance (SZO) having to do with setbacks from the normal high-water line; Section 15 J having to do with stormwater runoff; 15 P having to do with removal of vegetation; 15 Q having to do with erosion and sedimentation control; Section 16 having to do with the procedure for administering permits; Section 5.1 of the Land Use Ordinance (LUO) having to do with dimensional standards; Section 5.2 having to do with performance standards; and Section 11.5 of the LUO having to do with submission requirements.

David Starr told the Board the height of the garage would be no more than 24 feet. Board member Jack Boak asked that a contractor with an erosion control certificate be on site when the work was being done.

The Board agreed the application met the provisions of:

- The Shoreland Zoning Ordinance (SZO) Section 15 B. It is behind the 150-foot setback.
- The SZO Section 15 J stormwater runoff. The site plan says that 4 inches of loam, as well as seed and mulch will be spread over disturbed areas. The applicant also will retain a contractor with a certificate in erosion control.
- The SZO Section 15 P. Provided drawing shows that removal of trees greater than 4 inches in diameter will be kept to that which is necessary to accommodate the proposed structure.
- The SZO Section 16, administering permits. The application will maintain, provide for, and conform to conditions set out in Section 16.
- The Land Use Ordinance (LUO) Section 5.1. The proposed garage meets the dimensional standard requirements with the Board determining the height could be no greater than 30 feet.
- The LUO Section 5.2 was fully addressed in the "additional information" sheet in the application.

- The LUO Section 11.5.2 is fully addressed in the “additional information” sheet in the application package. Note that the applicant has requested waivers for requirements 11.5.2 b v. and vii.

On a motion duly noted and seconded, the Board approved construction of the garage provided that the height be no higher than 30 feet, that an erosion control certified contractor be on site, and that the garage contain no sleeping or cooking facilities. The motion passed unanimously.

The application also proposes the conversion of a portion of the existing deck situated on the southerly and easterly sides of a legal, non-conforming structure into walled-in and roofed-over living space. The additional proposed living space, at 433 square feet, will have the same footprint as the affected section of the existing deck. The remaining portion of the existing deck, at 235.8 square feet and situated on the easterly side of the cottage, will remain as deck space. The portion of the proposed converted living space within the 100-foot setback from the normal high-water line is 530 square feet while the portion within the 150-foot setback is 666.8 square feet, according to the site plan provided with the application.

Steps on the southeasterly corner of the deck will have to be removed in order to construct the foundation, but they will be replaced in the same size and location as the existing steps.

Chairman Voskian noted that the major applicable ordinances appear to be Section 12 C (1) (a) (iii) and (iv) having to do with expansion or alterations of non-conforming structures, Section 12 A that grandfathers this structure as a legal non-conforming structure, and Section 12 C (1) (b) having to do with new foundations. Other applicable ordinances are LUO 5.1, 5.2 and 11.5.2.

Petitioner Harry Harden explained that he viewed the property as a year-round home, stating the heat was never turned off in the winter. He and his wife live in Southern New Hampshire and hope to retire to the Porcupine Ridge home. When the couple purchased the home, shoreland setbacks were set at 75 feet. Since then, the Town has increased shoreland setbacks to 150 feet, making this a non-conforming structure.

In order for the couple to live in the home during the winter, they will need to build a heated mudroom. Mr. Harden stated this was the reason for the application. He also said he was in agreement with the Town's ordinances to maintain safe and healthy water conditions.

The Board discussed how volume would come into play with the petition. Board Member Steve Wallace said that the propose increase in volume would make the change an expansion and that the existing portions of the house within the 100- and 150-foot setbacks already exceeded the square footage limitations under the Shoreland Zoning Ordinance.

The Petitioners' representative did not concur with Board member Wallace's assessment and stated that the construction was not an expansion. Board

Member Jack Boak said he agreed that volume was not increasing the overall non-conformity of the structure.

Board Member Thomas Kronenberger likened the result to enclosing a deck, a situation the Board has determined in the past represented an expansion of the structure volume, subject to the limitations of Section 12 C.

Board Member Floyd Gent said, in his view the changes did not increase non-conformity and therefore was not an expansion.

Chairman Voskian offered his view that the proposed change to the structure, according to ordinance definition, is an expansion because it would result in an increase in volume as the portion of the deck is being enclosed by a roof and fixed exterior walls. He further offered, however, that the proposed change would not result in an increase in square footage of the structure and would not increase its non-conformity according to the definition of "Increase in non-conformity of a structure" found in Section 17 of the Shoreland Zoning Ordinance. Chairman Voskian also observed that he saw a critical difference between this situation and the deck enclosure to which Member Kronenberger referred, as the latter involved a significant square footage expansion of the deck and a resulting increase in that structure's non-conformity.

On a motion duly noted and seconded, the Board approved the conversion of a portion of the existing deck to proposed living space as presented, subject to Shoreland Zoning Ordinance Sections 12 A, 12 C (1) (a) (iii) and (iv), 12 C (1) (b), and Land Use Ordinance Sections 5.1, 5.2 and 11.5.2. The motion passed on a vote of 4 to 2. Those members voting to approve were Boak, Kauffman, Gent, and Voskian. Those members voting to deny were Wallace and Kronenberger.

E. Keith Higgins – Replacement of a Seasonal Dock, Map 006, Lot 002, 213 Fogler Road

Chairman Voskian noted that Mr. Keith Higgins has applied for the installation of a temporary seasonal dock on Map 002, Lot 006. The property is otherwise known as 213 Fogler Road and is located on Biscay Pond. According to the application, Mr. Higgins is proposing construction of a 4'x12' foot dock and a 4'x8' ramp that presumably would be anchored to existing wooden steps. The site of the proposed dock is in the Residential District of the Shoreland Zone. Planning Board Members Boak, Kauffman, Wallace, Kronenberger, Gent, and Voskian visited the site on July 7 accompanied by Mr. John Couch, representing the applicant.

Chairman Voskian offered that the major applicable ordinance sections would appear to be Section 15 B (1) (a) and 15 C of the Shoreland Zoning Ordinance. The former Section says that normal setback requirements do not apply to structures that require direct access to water bodies such as docks and other functionally water-dependent uses. Section 15 C deals directly with docks and similar structures. The applicant must assure the Board that Section 15 C, paragraphs 1 through 4, are met.

Paragraph 1 states that access from the shore must be developed on soils appropriate for such use and constructed so as to control erosion.

Paragraph 2 states that the location shall not interfere with existing developed or natural beach areas.

Paragraph 3 states that the facility shall be located so as to minimize adverse effects on fisheries.

Paragraph 4 states that the facility shall be no larger than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. Paragraph 4 also states that a temporary dock in non-tidal waters shall not be wider than six feet for non-commercial uses.

The applicant must also adhere to Section 11.5.2 (Submission Requirements) of the Land Use Ordinance or request waivers of submission requirements under Section 11.5.3 of the Land Use Ordinance.

The applicant has requested waivers for copy of the deed and financial capabilities. The dock will be built of cedar panels on aluminum framing and will stand on poles with pads on the bottom. It will be removed in the off-season and is replacing an old wooden dock with identical dimensions. Mr. John Couch, representing the applicant, provided additional information not in the original submission, including a new site plan, narrative, and a completed check list.

On a motion duly noted and seconded, the Board determined the application was complete and accepted the applicant's waivers. The motion passed unanimously.

Mr. Couch said the dock will be in two sections leading from existing steps down to a new ramp and dock sections. Repairs will be done to the existing steps but their size will not change.

On a motion duly noted and seconded, the Board approved installation of a temporary seasonal dock, subject to Sections 15 B (1) (a) and 15 C paragraphs 1 through 4 and Section 11.5.2 of the Land Use Ordinance. The motion passed unanimously.

F. Floyd Gent – Addition of a Screened-in Porch on an Existing Deck, Map 008, Lot 008-00A, 384 Heath Road

Chairman Voskian noted that Floyd and Kathy Gent have submitted an application for the addition of a screened-in porch on an existing deck on a structure located at Map 008, Lot 008-00A, otherwise known as 384 Heath Road on Muscongus Bay.

Board Member Gent recused himself from any votes, and then, took a seat in the audience.

The site is in the Residential District of the Shoreland Zone. The Gents are proposing to screen in a 10'x24' foot portion of an existing upper-level deck attached to the residence. The residence is a legal non-conforming structure, all of which according to the site plan accompanying the application, is within the 150-foot setback from the normal high-water line. Planning Board Members Boak, Wallace, Kronenberger, Kauffman, and Voskian visited the site on July 7 accompanied by the Gents, who are representing themselves.

The proposed roof height of the screened-in area will be +/- 25 feet, which is less than the current roof height of the residence at 29 feet. The roof will be supported by structural framing, with removable screen panels between the framing. The porch will have no fixed walls and will serve as a three-season porch. No expansion of the 10'x24' deck is proposed. According to the site plan, the closest edge of the deck is 56 feet from the normal high-water line. The Gents discussed this plan at an informal discussion with the Planning Board in April.

The Chairman noted that the major applicable Ordinance Section would appear to be Shoreland Zoning Ordinance Section 12 A which says that non-conforming

conditions that existed before the effective date of this ordinance shall be allowed to continue and non-conforming conditions shall not be allowed to become more non-conforming. Shoreland Zoning Ordinance Section 12 C, Non-Conforming Structures, states that a non-conforming structure may be altered provided that such alteration does not increase non-conformity.

Land Use Ordinance Section 5.1 having to do with dimensional standards.

Land Use Ordinance Section 11.5.2 having to do with submission requirements.

Mr. Gent submitted a completed check list.

On a motion duly noted and seconded, the Board determined the application was complete. The motion passed unanimously.

Mr. Gent thanked the Board for the site visit and the advice he was given during the informal discussion in April.

Chairman Voskian went on to say that the application appears to meet the conditions of Shoreland Zoning Ordinance Sections 12 A and 12 C. The non-conforming conditions existed before the effective date of the ordinance so they can continue. Regarding Section 12 C, the square footage totals for the 75-, 100-, and 150-foot setbacks exceed the limits prescribed in the ordinance, but as noted above, the situation is grandfathered as it existed before the effective date of this ordinance.

No increase in non-conformity is being proposed as no change is being proposed in the dimensional standards that created the non-conformity, i.e., setbacks from the normal high-water line and square footage totals. Also, if no fixed walls are being proposed, the addition of just screens and a roof would not cause an increase in volume according to MMA and decisions of Maine courts.

The conditions of Land Use Ordinance Sections 5.1 and 11.5.2 would appear to be met by the details in the site plan or other documentation in the application package or they are not applicable.

The Board discussed the roof's length and supporting structure underneath the deck. Neither resulted in an increase in non-conformity. Mr. Gent said there would be no excavation under the deck.

On a motion duly noted and seconded, the Board approved the addition of a screened-in porch on an existing deck, subject to Shoreland Zoning Ordinance Sections 12 A, 12 C, and Land Use Ordinance Sections 5.1, and 11.5.2 with the stipulation that the screened-in porch may not be converted to a weather-tight space. The motion passed unanimously.

V. Public Comments and Questions

Resident Sigbert Seifert asked the Board to look at a site map of his property on Spruce Point Road. He had planned to build on the property in 2005 and in 2007

decided to put in a driveway. He secured a permit for building but did not choose to build at the time. When looking into building now, his surveyor said he could not build on the property due to the presence of a wetland covered by the Shoreland Zoning Ordinances. Mr. Seifert described the property as wet because the driveway is not allowing water to drain.

The Board suggested Mr. Seifert look into installing a culvert under the driveway for drainage. Under the Shoreland Zoning Ordinance as long as no more than 10 cubic yards of dirt is moved, he will not need a permit. If the amount is greater than 10 cubic yards, Mr. Seifert will need to obtain a permit. The Board suggested he first determine the amount of earth to move and whether the area is designated as a wetland. Alteration of wetland may require a permit from the Maine Department of Environmental Protection.

Selectmen Chairwoman Wendy Pieh reviewed the next steps for the Ordinance Review Committee in reviewing the Shoreland Zoning Ordinance. The Committee will meet at 1 p.m. on Wednesday, July 10 for a discussion that is open to the public and public participation is welcome. Any proposed changes resulting from the public sessions will have to be approved by a Town Meeting and the Commissioner of the Department of Environmental Protection.

VI. Other Planning Board Business

The Board elected new officers: Walter Voskian, Chairman; Steve Wallace, Vice-Chairman; and Cheryl Ferrara, Recording Secretary.

Chairman Voskian attended the June 20 and July 2 meetings of the Board of Selectmen, bringing them up to date on the Planning Board's deliberations and findings. He also represented Bremen at the bimonthly meeting of the Lincoln County Planning Commission, where he reported on the Board's progress over

the last several months in revising and creating basic Planning Board documents.

Chairman Voskian provided results of the Town Meeting. Hank Nevins was reelected as Selectman, Blair Kauffman and Steve Wallace were reelected as Planning Board Members, and Autumn Mahoney has agreed to serve as one of the Board's two alternates. Select Board Chair Pieh reported that the person who received the next largest number of voters for the remaining open Planning Boards position has declined to serve.

Chairman Voskian also reported that at the Town Meeting, the only comment concerning the Planning Board's budget came from former Planning Board Chairman Steve Barnes, who questioned the budget increase in light of what he characterized as "no change in the level of Planning Board activity over the last several years." Chairman Voskian responded by noting the increasing complexity of applications coming before the Planning Board, its heavy non-application load in which the Board is updating – and in some cases – creating basic documents, the need to consult with the Town's Attorney, and the fact that the Board is now absorbing the cost of attorney consultation. Chairman Voskian invited all present to attend Planning Board meetings. No other questions arose and the budget passed with no opposition.

The Board discussed revisions to the Permit Application Checklist. Board Member Floyd Gent asked for an additional column to be included after "Request Waiver" to read "Not Applicable" or "N/A." Chairman Voskian asked the Recording Secretary to make the change and proposed that the checklist be become part of the application process. The Board agreed.

Chairman Voskian relayed a suggestion by Alternate Board Member Autumn Mahoney to consider a fee for changes that come back to the Planning Board after a permit has been approved.

Board Member Jack Boak asked if the Board of Selectmen could look into reports that new construction and vegetation removal appears to be going on at 333 Fogler Road. He also asked if a permit existed for the work.

Board members also talked about work being done on Porcupine Ridge as viewed from Turner Road.

The Board discussed clarifying the impact of volume when considering application for expansion under the Shoreland Zoning Ordinance.

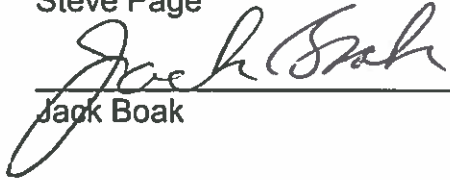
There being no further business, the meeting was adjourned at 9:03 p.m.

BREMEN PLANNING BOARD:




Walter Voskian, Chairman


Steven Wallace, Vice Chairman

Steve Page


Jack Boak

Thomas Kronenberger


Floyd Gent



Blair Kauffman



Autumn Mahoney

Respectfully submitted,
Cheryl Ferrara, Recording Secretary