

**LINCOLNVILLE PLANNING BOARD  
MINUTES OF MEETING**

January 27, 2016

**PRESENT:** Chair Ron Moran; Members Dorothy Havey and John Ianelli; Alternate Members Jay Foster and Mark Thurlow; and CEO Frank Therio

**ABSENT:** Members Robert Bickford and Scott Harrison

The meeting of the Planning Board convened at 7:00 pm. These minutes are a summary of the Board's discussions. A video recording of this meeting is available at the Town Office.

*DECLARATION of CONFLICT of INTEREST:*

The Chair asked if there were any Members wishing to declare a conflict of interest - there were none.

The Chair appointed Mr. Foster and Mr. Thurlow to serve as full members for the evening's business.

*SHORELAND APPLICATIONS*

**1. NONCONFORMING Structure: Relocation and Reconstruction**

Jane Monhart: Map 3 Lot 115: 64 Norton Pond Road

A Site Walk was held on January 26 at the Monhart cottage. Mr. Moran, Mr. Foster, Mr. Ianelli and Mr. Thurlow were present. Ms. Havey read the Minutes of the Site Walk and participated in the review.

**MOTION by Mr. Moran seconded by Mr. Foster** to approve the Minutes of the Monhart Sitewalk dated 1/26/2016 as presented.

**VOTE: 4-0-1 (Ms. Havey had not been present)**

Will Gartley of Gartley and Dorsky Engineering and Surveying was present along with the Applicant to present the Monhart's request to demolish the existing cottage and relocate a replacement further back from the Pond and out of the Flood Plain. The Application under review consists of the following:

- Land Use Application
- Application Packet containing:  
DEP Permit-by-Rule (PBR) dated 1/12/2016; Agent Letter dated 1/8/2016; Project Narrative; Location Map; 4 photos of site showing existing conditions dated 1/11/2016; Plan C-1, Site Plan, prepared by Gartley and Dorsky and dated 1/12/2016; Sheets 3 and 3A, Elevations of proposed new building with area and volume calculations prepared by Architect Chris Glass and dated 1/14/2016. Mr. Gartley learned today that the PBR had been accepted by the DEP.

Mr. Gartley discussed the requirement to move the building back to the maximum extent practical that comes into play when a non-conforming structure is demolished. They have settled on a proposal that moves the structure back from the water by about 10'. Any further would back would bring the new building closer than 15' from an existing shed; the well is in the area

between the road and the proposed new building site; the new structure will sit on a frost wall foundation, and due to the slope of the lot, the further back from the pond the building is sited the deeper that foundation will need to be and the more soil will be disturbed. Two large clumps of cedars will have to be removed. Next spring Mr. Therio will meet with the Applicants to discuss what kind of trees, and how many, will be needed to meet the Ordinance requirement to replace the canopy cover of trees removed in the Shoreland Zone.

Mr. Moran noted that the building will still be within the 25' setback from the pond. The CEO replied that the building has been moved out of the Flood Plain. The Applicants had the right to rebuild in place but Mr. Gartley recommended moving back instead because any new construction would have to comply with Flood Plain construction standards which is expensive. Mr. Therio also added that any contractor creating soil disturbance to the site must be DEP Erosion Control Certification. Ms. Havey asked how the area between the pond and the new foundation will be stabilized -- will it be planted to grass or to bushes. The specific answer is not known but it will probably look like the rest of the lot.

Mr. Ianelli asked if the 30% expansion allowance was a once-in-a-lifetime option. Mr. Therio replied that the expansion can be taken in increments but it cannot exceed a total of 30% of the footprint (or volume) of the building as it existed in 1987. The CEO finds nothing in the files to show there were any previous expansion of this camp; Ms. Monhart supported that finding – she knows the camp to be unchanged for many years.

## **SECTION 12 SECTION C. NONCONFORMING STRUCTURES**

### **3. Reconstruction or Replacement:**

A structure which is located less than the required setback ... which is removed by more than 50% of the market value ... may be reconstructed provided that:

1) Permission is obtained within 18 months of the date of removal; and

*Not Applicable - the structure is still in place*

2) Question: Is the reconstruction in compliance with the setback to the greatest practical extent per 12(C)(2)? In determining whether the building meets the setback to the greatest practical extent, the Planning Board shall consider:

i) *The size of the lot*

FACT: The lot is less than 100' deep.

CONCLUSION: The lot size precludes moving the structure anywhere else on the lot that would be outside the 100' setback.

ii) *The slope of the land*

FACTS: 1) The topo lines on the Site Plan show a steady 10 - 12% slope along the length of the lot; 2) There is nowhere the building could be relocated that would not involve excavating for a foundation; 3) The further back into the lot the foundation is dug the more soil disturbance will occur.

iii) *The potential for soil erosion*

FACTS: 1) The slope of the land makes the possibility of erosion high; 2) A stone retaining wall will be removed to accommodate the move. Mr. Therio has recommended that the wall be reconstructed in front of the cottage or along the slope parallel to the foundation to slow the flow of water down the hill; 3) The foundation raises the structure above the grade and create a barrier to water

coming from the road toward the pond; a change from the previous condition where the sill was on the ground; 4) New foundation drains will be installed to handle run-off from the roof;

CONCLUSION: Mr. Therio will check on the construction site once the project has been completed to make sure there is no erosion resulting from the changes made to the terrain and will require remediation if any problems that do exist.

- iv) *The location of other structures on the lot and on adjacent properties*  
FACT: The one other structure on the lot will remain in place. Relocating the new structure closer than the proposed 15' setback from this shed could create a fire hazard.
- v) *The location of the septic system and any other potential locations for septic*  
FACT: The septic system is located across the road behind the garage; the tank is near the property line. The records show the system was approved on 12/18/2008 and complies with State Subsurface Waste Water standards. The system is designed for two bedrooms – the plan for the new cottage is for two bedrooms.
- vi) *The type and amount of vegetation to be removed (If vegetation is removed the re-plantings must comply with 12 (C) a. and b.)*  
FACT: Two trees will be removed. The CEO will ensure they are replaced in accordance with 12 (C) a and b.

FINDING: The reconstruction is in compliance with the setback to the greatest possible extent per 12(C)(2):

**MOTION by Mr. Thurlow seconded by Mr. Ianelli** that based on the Facts and Finding above the Board Finds that the Applicant's request to demolish and relocate the existing building will create a more conforming structure and the Application is approved.

**VOTE: 5-0-0**

## **2. NONCONFORMING STRUCTURE: Demolition and Reconstruction**

### **Glenn MacEachern & Ashling Barr: Map 3 Lot 49: 129 Marriner Drive (Norton Pond)**

A Site Walk was held on January 27 at the Barr cottage. Mr. Moran, Mr. Foster and Mr. Thurlow were present. Ms. Havey and Mr. Ianelli read the Minutes of the Site Walk and participated in the review.

**MOTION by Mr. Foster seconded by Mr. Thurlow** to approve the Minutes of the Barr Sitewalk dated 1/27/2016 as written.

**VOTE: 3-0-2 (Ms. Havey and Mr. Ianelli had not been present)**

The Applicant was present, along with her representatives Kelly Hailey, Contractor, and Charlie Garrigan, Contractor and Design Consultant, seeking permission to demolish the existing cottage and rebuild a replacement on the existing foundation taking advantage of the 30% expansion credit to add an addition on the road-side of the building. The Application under review consists of the following:

- Land Use Application
- Agent letter dated January 15, 2016
- Site layout dated 11/14/2003

- Location Map (Tax Map)
- Deed to Barr and MacEachern dated 10/13/2015
- Plans prepared by Garrigan of Custom Carpentry and Design all dated 1/14/2016:
  - Plan A. Site: Site Plan dated 1/14/2016
  - Plan A. Ext: Existing Conditions and Volume Calculations dated 1/14/2016
  - Plan A. Per: Permit Only Plan providing elevations and expansion calculations

Mr. Garrigan summarized the proposal to demolish the existing building and replace it with a building on the existing eco-block foundation. The CEO confirmed the foundation was constructed in 2010 and met construction standards at that time. Those attending the Site Walk had not observed any indication that there were problems with the foundation. A 12' x 12' addition on the rear of the cottage will be set on techno-posts – this is where the entire allowance of expansion credits for volume and/or footprint will be applied.

Responding to questions from the Board Mr. Garrigan explained that they would install a bark mulch berm between the foundation and the pond to prevent runoff. The area to the right of the building will be re-graded - the chimney will be removed and the area where steps have been removed will all be addressed to prevent erosion.

## **SECTION 12 SECTION C. NONCONFORMING STRUCTURES**

### **1. Expansion:**

After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body ... that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure.

FACT: The Applicant stated that they understand that structure has not been expanded since 1989; the CEO confirmed that his information supports this statement.

FACT: The Applicant confirmed that a new foundation was installed in 2010; the floor to rafter height of the basement ceiling is 5' 11 ¾" - any height less than 6' does not count toward square footage used to calculate an expansion.

FACTS: The Applicant provided calculations showing the following:

- 1) The existing square footage is 1974SF; 30% expansion credit is 322SF for a total of 1396SF; and the proposed finished square footage is 1332 SF.
- 2) The existing volume is 9205CF; 30% expansion credit is 2791.5CF for a total of 11,966.5CF; and the proposed finished volume is 11935CF.

FINDING: The expansion does not exceed 30% of either square footage or volume.

### **3. Reconstruction or Replacement:**

A structure which is located less than the required setback ... which is removed by more than 50% of the market value ... may be reconstructed provided that:

- 1) Permission is obtained within 18 months of the date of removal; and  
*Not Applicable - the structure is still in place*

2) Question: Is the reconstruction in compliance with the setback to the greatest practical extent per 12(C)(2)? In determining whether the building meets the setback to the greatest practical extent, the Planning Board shall consider:

i) *The size of the lot*

FACTS: 1) The lot is 171' deep; 2) The cottage foundation is 33' from the water's edge; 3) The foundation is 30' long; the proposed addition is 12' long; and 4) The well and the septic field and tank are located between the existing cottage and the road.

CONCLUSION: The lot size precludes moving the structure anywhere else on the lot but the location selected by the Applicant.

ii) *The slope of the land*

FACT: As noted on the Sitewalk the lot slopes steadily from the road to the pond with the only level area being the place where the Applicant proposes to locate the new addition.

iii) *The potential for soil erosion*

FACTS: 1) The slope of the land makes the potential for erosion high; 2) The new foundation will be set on techno posts and there will be no soil disturbance; 3) The addition will be in line with the foundation wall with roof lines running the same as existing; no foundation drains will be installed to handle run-off from the roof; 5) Changes to the grade along the north foundation wall will be required to install two new entrance stairs; 6) The contractor will install a bark mulch berm parallel to the shoreline; and 7) None of this work requires a Permit-by-Rule from the DEP.

CONCLUSION: Mr. Therio will check on the construction site once the project has been completed to make sure there is no erosion resulting from the changes made to the terrain and will require remediation if any problems that do exist.

iv) *The location of other structures on the lot and on adjacent properties*

FACT: There are none.

v) *The location of the septic system and any other potential locations for septic*

FACTS: 1) The septic field is located along the road behind the house; the tank is near the southern property line in line with the proposed addition. 2) The records show a new 3-bedroom system was approved in 2005 that complied with State Subsurface Wastewater standards. 3) The new cottage will have three bedrooms; and 4) The tank has been pumped and the field checked by camera and found to be in good condition.

CONCLUSION: The Applicant has demonstrated that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules.

vi) *The type and amount of vegetation to be removed (If vegetation is removed the replantings must comply with 12 (C) a. and b.)*

FACT: The CEO will ensure that any tree removal and replacement is in accordance with 12 (C) a and b.

**FINDING:** The reconstruction is in compliance with the setback to the greatest possible extent per 12(C)(2):

**MOTION by MR. FOSTER seconded by MR. THURLOW** that based on the Finding of Facts above, the Application is in compliance with Section 12 C1a; C2a, b and c; and C3 of the Land Use Ordinance and should be approved.

**VOTE: 5-0-0**

**OTHER:**

1) Mr. Foster asked why the record of review for the initial request for an expansion and a new foundation was not made available to the Board. It would have saved the Applicant and the Board much time and effort if the findings from that original review could have been applied to this Application. If an earlier Board found that moving the cottage back had already been considered there was no reason to go through that exercise again.

It is not known if there are Minutes from that review (2009 or 2010 based on the date of the new foundation), but there should have been notes in the file that could have supplemented the submissions. The CEO had left for the evening and could not comment.

2) Ms. Havey addressed the notice timeframe for meetings and for Sitewalks. The last two meetings that included Sitewalks were announced with short notice; she needs time to arrange her schedule. The Chair said that he puts out a notice as soon as he hears from Melissa that Frank has set an agenda. Ms. Havey believes it would be helpful if a projection regarding future applications could be provided at the close of each meeting before the CEO leaves. The CEO had left for the evening and could not comment.

There being no further business before the Board they adjourned at 9:15pm

Respectfully submitted,

Jeanne Hollingsworth, Recording Secretary