

Town of Lincolnville
Planning Board Meeting Minutes
May 29, 2019
7:00 pm

1. Call to order:

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.

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| Members Present: ◇ Michael Cummons, acting Chair | Others: Attorney, Patrick Miller |
| ◇ Sandy Delano | Erza Howell, Contractor |
| ◇ Jay Foster, alternate | CEO Frank Therio |
| ◇ Janis Kay | PB Clerk, Nancy Weser |

Absent: Dorothy Havey, Chair
 Scott Harrison
 Barb Biscone, alternate

2. Agenda item: Subdivision/ review approval of covenants, previously approved on November 13, 2002 for the Deer Meadow Subdivision. Attorney Miller will represent the group of owners from the Deer Meadow Subdivision requesting the Planning Board approve the revised covenants, for 2019.

Acting Chair, M. Cummons opened the discussion by asking, "Why does the Board need to do this?" Attorney Miller stated, "the Board gave an approval on the covenants in 2002, why can't the Board give their approval today." The group of owners of the subdivision feel, if no approval today might hinder the sale of the remaining lots. Attorney Miller gave examples: Title COs. doing research, Banks doing mortgages might hesitate doing closings. J. Foster informed Attorney Miller "when the Planning Board gave their approval for the Deer Meadow Subdivision it was a total plan of the subdivision not necessarily an individual part of the plan." J. Foster questioned Attorney Miller on the Homeowners Association, if they have one, and why not address changing the by-laws. J. Foster continued by creating a scenario, if sometime in the near future, an owner or this subdivision or the subdivision its self finds themselves in court dealing with litigation, will that mean the Board will be subpoenaed to testify? Attorney Miller insisted that out a courtesy of the Town can the Board see their way to approve the revised covenants in a limited fashion?

S. Delano made motion not to approve the revised covenants, it was not Seconded. Discussion ensued. CEO Therio brought attention to the Memorandum submitted by Sally J. Daggett, Esq. the Town Attorney. CEO Therio read from the memorandum, the section which Esq. Daggett recommends, that the Planning Board condition its approval as follows:

1. Section 1.10 (last ¶) of the amended Declaration is approved provided that it is reworded to state as follows: "No Association member shall make any application to the Planning Board to alter or **amend the preservation**

zones until November 13, 2023.

2. The Planning Board's review of the amended Declaration was limited to the **provision relating to the preservation zones**. The Planning Board has not and did not review the document as to any other issues, such as private easement or other real estate issues, use regulations and restrictions that do not relate to Planning Board or ordinance requirements or sufficiency of the association's private **governance process**.

The Board listening to this quote decided that this was a way the Board could work around the issue and satisfy the Homeowners. Acting Chair Cummons ask for a motion on the floor. J. Foster, made a motion to honor the request of the Homeowners by the review change of the word, remove variance to the farthest extent of the law, to incorporate Section 1.10 into the motion for approval. J. Kay seconded. Vote 3 for 1 against. J. Foster added record documents & minutes must accompany record and approve Section 1.10 change. This reference as a Title Search requirement.

3. Agenda item: Application for renovating existing camp on Little Island on Megunticook Lake
Location: Map 26 Lot 74
Owners: LMR Family LLP
PO Box 718
Rockport, ME 04841
Contractor: Ezra Howell
227 Duck trap Rd
Lincolnvile ME 04849

- Exhibits:
1. Land Use Application
 2. Gartley & Dorskey, map existing Conditions & Topographic survey
 3. Diagrams of exterior design
 4. Diagrams of existing floor plan and proposed design of floor plan
 5. Diagrams of elevation of proposed plan
 6. Photos of three side of existing camp

CEO Therio produced the deed to the Board.

Board will reference Shoreland Zone Section 12.c for non-conforming structures

Acting Chair M. Cummons stated the Board had the application packet in front of them would Ezra Howell want to comment on the project. E. Howell the Contractor for this project and the representative to the owners to speak on their behalf, stated this was a very old camp that has been vacant for 10 to 15 years. The family's wish is to renovate and create a Maine Camp. The proposed expansion of the camp is going on the 30% rule. The height of the proposed plan comes in at

18.6 ft. far below the limit of 20 ft. No plan for second floor. No soil will be disturbed. Camp sits on granite. No trees will removed. CEO Therio stated, the Island & camp have a documented assessment.

Section 12 C. 2018 Shoreland Zone provisions states, **Expansions:** All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 16 (b) (1). No structure which is less than required setback from normal high-water line of a water body, tributary stream or upland edge of a wetland shall be expanded toward the water body, tributary stream or wetland. A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure, subject to the limitations herein.

Contractor Howell said the 30% expansion is in the back of the existing camp. It falls in the required setback.

J. Kay made a motion that the Board approve this application on the renovation of the camp on Little Island due in part to the approval of the wording Section 12 C., seconded by J. Foster. Motion passed by vote of 4.

4. Review of Minutes for April 24, 2019

J. Kay made motion to accept the minutes of April 24, 2019, seconded by J. Foster with one correction, the addition line: put in a frost wall first approved under 12.1.C. Motion passed by a vote of 4.

5. Adjournment: J. Kay made the motion to adjourn the meeting at 8:00 pm, seconded by J. Foster. Motion passed by a vote of 4.

Respectfully submitted,

Nancy Weser, Planning Board Clerk

J. Kay made a motion to accept the minutes of May 29 as approved seconded by J. Foster at the Planning Board meeting on August 14, 2019. Motion passed by a vote of 3.