

**TOWN OF SMITHFIELD
PLANNING BOARD MEETING MINUTES OF
APRIL 12TH, 2021**

MEMBERS PRESENT: Erik Rasmussen Harold Buzzell
David Kincaid Jo-Anne Bushey
Jodie Mosher Towle

MEMBERS EXCUSED: David Merry Jr.

MEMBERS ABSENT:

OTHERS PRESENT: Andy Marble Nichole Clark
See attached Attendance Sheet

7:00PM meeting was called to order and members present reviewed all documents presented to them.

One Regular Member is Absent, the alternate will be voting.

Minutes of the October 14th, 2020, Meeting:

Jodie Mosher Towle motioned to accept the October 14th, 2020, minutes as typed. Harold Buzzell seconded the motion. Motion passed.

Board Update/Info: None

Code Enforcement Update/Report: None

OLD BUSINESS:

- 1. Review Meeting Start Time for Regular Meetings**
Minor discussion, but no changes
- 2. Review Meeting Day of Week for Regular Meetings**
Minor discussion, but no changes

NEW BUSINESS:

- 1. Renewal of Permit #2020-5 For Single Family Residence and Walkway Access,
Map 4 Lot 1F**

Kenneth & Rhandi Christian, along with their engineer, Andy Dunbar were present to present and discuss the updates to the renewal of permit #2020-5 for a single-family residence with walkway access for Map 4 Lot 1F. The board referenced section 15(B) "principal and accessory structures". The board also referenced the Code Enforcement Officers comment pages as follows:

- Reviewed under Section 15(B) "principal and accessory structures"
- The applicant wants to construct a new single-family dwelling (and access path to get to the dwelling) in the shoreland zone.
- This is the third time the Board has seen this application. The first application was approved by the Board back in April of 2019.
 - o The Second application (approved by the Board in May of 2020) was very similar to the first (but moved the location of the septic outside the shoreland zone).
 - o The reason the first permit expired was that the applicant was waiting on DEP to approve its elevated driveway (which goes through a wetland of special significance).
 - o After DEP approval, the applicant found that the cost to install the approved driveway was significantly higher than expected, and decided to change the design to a more affordable option
 - o This design change then required an entirely new application (and review by DEP), which is why the Towns building permit is once again expiring without a "significant" start on the project
 - o I believe all DEP and army corps permits for the new access design have been received (and are attached to the application)
 - o Since the Ordinance lacks any language to simply "extend" a permit expiration period, the applicant needs a new permit, and is back for round three with the Town.
 - o While the dwelling is essentially the same as the one which the Board approved last year, the driveway accessing the dwelling is significantly smaller
 - Site visits: (multiple) 10/22/18, 4/1/19, 3/16/20, 4/7/21
 - o While this is not a "new" lot (it was created and approved back in the late 80s, and modified and approved in 2011), the shape of this lot is very strange
 1. While it is a relatively large lot (4.2 acres) with a large area within the shoreland zone (1.55 acres), it only has 200' of actual shore frontage.
 - o While I did not notice any obvious "tributary streams" during my site visit, this lot has a fair amount of wetland on it which the driveway/access path will need to be built across to access the building site
 - The building site itself is elevated enough to be dry
 2. The Shoreland zoning ordinance does not regulate the wetland itself, the applicants do need a permit from DEP before they can alter the wetland to access the building site.
 - Application review
 - o Page two of the application shows us that this site is located within the limited residential district of the shoreland zone
 - o Page three of the application shows us:
 1. Currently the only existing un-vegetated area within 250' of the water is a 512 ft² wooden walkway.
 2. It also shows us that the applicants are proposing to create 3,825 square feet of un-vegetated area with dwelling, the access path, and parking area
 - This is less than half of what was proposed on the last application approved in 2020
 - o The reason for the massive decrease comes from the 10' wide driveway being swapped for a 4'6" wide path

o Apparently, the applicant is proposing to put swamp mats out to access the site during construction, and then remove the swamp mats and build the path when the construction is done

• This will result in a grand total of 6.4% of the lot being covered with un-vegetated area, which is well below the 20% allowed.

o Page four of the application shows us:

1. The structure will be on frost walls and a slab.

2. It does not list a peak height. On the last permit the peak was listed as 27ft (which is less than the 35' max allowed). This should be verified.

3. It also states that the shoreland setback will be ">100 ft"

• Due to the vagueness of ">100 ft", the board made the following condition on the last permit:

"The 100' waterbody setback shall be clearly marked, and physical barriers shall be used to ensure no disturbance within 100' of the water occurs during any phase of construction

o If any disturbance occurs within the 100' setback as a direct result of construction activity, it shall be considered a willful violation of the ordinance, and shall result in immediate revocation of the building permit, stopping of all work on the site, and a monetary penalty in accordance with 30A§4452"

• Given the "tightness" of this site, combined with the obvious fact that various pieces of construction equipment will be used during construction, I think this condition still makes sense to include.

o Page five of the application is blank because there is no new construction within 100' of the water

• Additional packet items

o DEP approval for the new access path

o Army Corps approval of the access path

o The septic plan (installed last fall) is included

o The survey and erosion control plan included are very helpful

o Finally, the applicant has included a plot plan showing the original driveway (approved last year), and a plot plan showing the new proposed access path (current design)

• Overall

o As with the first two application reviewed; I believe this application can be approved as it appears to meet all the necessary requirements within the Towns Shoreland Zoning Ordinance.

1. I would suggest including the condition mentioned above regarding the 100 setback.

o My only concern regarding this application would be how do emergency services access the site if there is only a 4'6" path for the last 300' to the house? While there is nothing in the shoreland zoning ordinance that addresses this (only the Commercial ordinance worries about emergency service access), it is something for the applicants to consider.

1. It should be noted that we have numerous camps in Town which are located on islands, so obviously emergency access is not a deal breaker for insurance companies.

Harold Buzzell motioned to approve the renewal of permit #2020-5 for Map 4 Lot 1F with all restrictions and recommendations still attached from prior approval. David Kincaid seconded the motion. Motion passed.

2. Application for Demolition of Existing Seasonal Camp, Re-build a New Year-Round Residence and Relocate Septic Tank, Map 21 Lot 18, Andrew Kronenberg, Trustee.

Andrew Kronenberg was present to submit his application to demolish the existing seasonal camp and re-build a new year-round residence for Map 21 Lot 18.

- Reviewed under: Section 12(C)(1) "expansions", 12(C)(4) "reconstruction or replacement" and Section 15(B) "principal and accessory structures" in the Shoreland Zoning Ordinance

- Site visit: 11/30/2020, 4/8/2021

- This is a complicated application, where the applicant is looking to remove an existing non-conforming camp (and attached decks), rebuilding a new camp slightly larger on a permanent foundation, and move the new camp back 15+- feet.

- The existing camp is large, has a massive waterside deck, and is located only 10' from East Pond

- The lot also contains a garage which is partially within the 100' setback

1. The garage was permitted by the Town back in 2004, but after reviewing the records at the Town office, it probably should not have been...

- The garage replaced a smaller one which sat in the same location (supposedly 121' from the high-water mark based on its application). In actuality, the garage is only 87-90 from the high-water mark, meaning the old garage was a non-conforming structure to start with...

- o This means it should not have been permitted by the code officer in the first place (the planning board deals with all non-conforming structure replacements and expansions) and should have been moved outside the 100' setback when it was rebuilt.

- To add insult to injury, the garage was allowed to be expanded even though the application clearly stated that 31% of the lot was going to be covered by un-vegetated area (which is more than the 20% allowed).

- Since the new garage was wrongly permitted by the town over 16 years ago, this is one can of worms I do not want to open...

- I only mention the garage because it showed up like a sore thumb when I was looking through the file, and it is easily the biggest hindrance to moving the existing camp further back from the water.

- Application review

- Page three of the application

1. The applicant has 5,523 ft' of existing un-vegetated area.

- The applicant is proposing to remove the entire existing camp, decks, and a small portion of the existing parking area.

- o The proposed camp is 152 ft² larger than the existing, and since the lot is already way over the 20% un-vegetated area allowed, there can be no further increase.

- o This is why part of the driveway is being revegetated, and question 24 shows 3,643 ft'

2. They are then proposing to build an 1880 ft' dwelling and attached deck

- Which is the exact same amount they are removing

3. This comes to a grand total of 41% which is way over the 20% allowed. As mentioned above though, because the amount of un-vegetated area is not increasing, it would be allowed

4. This page also shows us that the existing deck is 10' setback from the water, and the proposed deck is also going to be 25' setback

- meaning the applicant is proposing to move the structure back 15'

- Page four of the application

1. The applicant states that the peak height will be 20.4'

- The ordinance requires anything within 75' of the water to have a maximum peak height of 20'

- Section 12 of the ordinance does allow non-conforming structures to be raised up to 3' if they are receiving a replacement foundation without calling the increase in peak height an "expansion."

- o Therefore, when the applicant lists a proposed peak height of 23', even though it is technically higher than the existing, the ordinance would allow it under the "replacement foundation" exemption.

2. The applicant is proposing a 3-bedroom home (the same as is existing)

- There is also a septic plan on file for the home

- The applicant will need to install a new septic tank as the current one is located where the proposed camp will be re-built
- Page five of the application
- 1. This page looks at the square footage which is located within the various setbacks to see if the camp meets the non-conforming structure expansions allowed under section 12(C)(1)
 - After looking at the tax cards and permitting record, it does not appear that the camp has been expanded since 1989
 - As mentioned earlier, the garage was expanded in 2004, but the code officer approved it...
- 2. After reviewing the existing footprints compared with the proposed footprint, we can see that the overall square footage within 100' of the water is increasing by roughly 6.7%
 - This is well under the 30% allowed
- 3. Furthermore, the amount of square footage within 25' of the water is being reduced substantially (580 ft')
- 4. As already mentioned above, the height requirement will also be met.

Jodie Mosher Towle motioned to approve the application submitted by Mr. Kronenberg with the following conditions per the Code Enforcement Officer.

1. All erosion control shall be installed prior to an earthwork and shall be maintained until all loose soil is permanently stabilized.
2. All earthwork shall be performed by a contractor certified by DEP to work within the shoreland zone
3. All proposed re-vegetation shall be pre-approved by the Smithfield Code Officer, and shall be completed prior to occupancy of the structure
4. Only native vegetation shall be used, and shall be planted at densities consistent with section 15(P) of the Shoreland Zoning Ordinance
5. Construction shall follow the Maine Uniform Building and Energy Code
6. A Certificate of Occupancy shall be issued by the Code Officer prior to any occupancy of the structure

David Kincaid seconded the motion. Motion passed.

3. Review of Changes to an Existing Commercial Campground, Map 7 Lot 11C, Virginia Anderson

- This application is for a revision to an existing campground located at 161 Lakeview Drive in Smithfield.
 - o This campground was originally approved on 2/10/2010 by the Smithfield Planning Board for a 9 site RV park
 - Based on Section 8(1) of the commercial development review ordinance, I was originally unsure if this revision required Planning Board approval
 - o After consulting the Chair of the Planning Board however, he felt that due to the addition of the barns to the campground, approval from the Planning Board was required.
 - Since the "scope" of the planning board review is somewhat limited to only those areas which are changing (since again this is a "revision to a previously approved plan"), I am not sure what the Board will require to consider this a complete application. I will review each standard within the ordinance to determine whether the item was submitted, but it is ultimately up to the Planning Board to decide whether that item is needed in the first place to review the revision.
 - o **After reviewing each submission requirement, I will state that it Meets Requirement t, Does Not Meet Requirement , or Partially Meet Requirement.**

1. Section B(4)a. States that an application fee must be paid. The applicants have paid \$125. Meets Requirement
2. Section B(4)b. requires drawings to be 24" x 36" Does not meet requirement
3. Section B(4)(c)(1) requires an approved block for signatures. Does not meet requirement
4. Section B(4)(c)(2) requires a date, scale, and arrow for North and magnetic north . Partially Meet Requirement (scale not included)
5. Section B(4)(c)(3) requires the zoning district where the premise in question is located. Does not meet requirement
6. Section B(4)(c)(4) requires a perimeter survey from a registered surveyor or engineer. This is stamped by a professional engineer. Does not meet requirement
7. Section B(4)(c)(5) requires the scaled location of existing and proposed buildings. Partially Meet Requirement (buildings shown and dimensions listed, but probably not scaled)
8. Section B(4)(c)(6) requires landscaped areas be shown. The plans show roughly where the grass and wooded areas will be. Does not meet requirement
9. Section B(4)(c)(7) requires all signs and locations to be shown. Partially Meet Requirement (Sign location is shown, Sign mockup is not)
10. Section B(4)(c)(8) requires complete elevation drawings to be shown for all proposed structures. Does not meet requirement
11. Section B(4)(c)(9) requires all existing contours and finished grade elevations, and the system of drainage proposed to be constructed. Does not meet requirement
12. Section B(4)(c)(10) requires the location, type, and size of all storm drainages, catch basins, and utilities. The plan shows storm drainages, catch basins and wooded buffers. Does not meet requirement
13. Section B(4)(c)(11) requires the location of all existing and proposed utilities to be shown. Well and septic system shown. Meets Requirement
14. Section B(4)(c)(12) requires an erosion control plan. Sheets (2 of 3) and (3 of 3) outline various erosion control methods to be used. Does not meet requirement
15. Section B(4)(c)(13) requires all streets, driveways, and parking areas to be shown. Partially Meet requirement (most roads and driveways shown, although there is question as to whether the second driveway (former Stockford property) will be used.
16. Section B(4)(c)(14) requires all existing or proposed rights of way, easements, and other encumbrances be shown. (Not sure if there are any)
17. Section B(4)(c)(15) requires plans and cross sections of any streets, driveways, or roads to be built. Does not meet requirement (I am not sure if any are being proposed)
18. Section B(4)(c)(16) requires the location, names and widths of all existing streets abutting the property, as well as abutting landowners' names and addresses. Does not meet requirement
19. Section B(4)(d) "attachments" requires the following attachments be included:
 - Smithfield site review form. Meets Requirement
 - Applicant right title or interest in the property. Does not meet requirement (I have talked to the applicant and asked for this to be submitted)
 - A written narrative of how the project will meet approval of section 3
Does not meet requirement
 - Evaluation of water supply for the proposed use and fire safety
 - Wastewater disposal plan
o on file. Meets Requirement
 - Summary of all local, state, and federal approvals needed, with proof of approval (not submitted, will likely require DEP PBR or stormwater)
o Overall
 - A cost estimate and performance guarantee of all public improvements.

N/A

- A detailed design of any roads proposed to be conveyed to the Town
None being offered. N/A
- Copy of storm water management plan. Does not meet requirement
- Evaluation of wildlife impact by professional biologist if development is in critical wildlife habitat. (Probably N/A)
- Professional evaluation of significant historical or archeological impact
(Probably N/ A}
- Traffic movement permit from DOT. Does not meet requirement

1. Based on my comments above, most requirements are not submitted with this application.
2., most of the requirements were submitted with the original application (which was approved in 2010 and on file), and therefore only those areas being effected/alterd by the proposed revisions would need to be updated/submitted.

o Final thoughts

1. I have received several emails and phone calls over the last two weeks concerning this property, and specifically the Right of Way to access North Pond across the road. Most of the concern revolves around whether the campground will be allowing campers and horses access to north pond over the right of way.

2. In its 2010 approval of the original campground, the Planning Board specifically conditioned the approval to not allow campground tenants access to the water over the RO W, and instead encouraged them to use the public boat launch or beach.

- I have spoken with Virginia Anderson regarding this condition numerous times now, and she has told me that no campers (or horses) will be using the ROW to access the water.

- Given the number of neighbors contacting me about this concern, the "No ROW use" should probably be reiterated by the Board

The board went over the CEO's check list and the following was documented.

#2 elevation is needed

#5 zoning district is needed

#7 plan needs to be to scale

#8 erosion plan will be worked on with CEO

#16 right of way/easements needed to be shown

#18 existing streets/roads abutting property needed

#19 (2) Applicants right title in property

#19 (3) written narrative of project

DEP written sign off

How will handle runoff

Verification of well and how much it pumps

4. Discussion on Solar Panel Farms/Developments-Jodie Mosher Towle

Jodie Mosher Towle asked the board if any of the town's current ordinances would govern Solar Panel Farms. The board and CEO feel that in the Shore Land Zone they would be covered under impervious structures and in the Commercial if they were over a certain size. Farmington, Pittsfield, and Saco are towns that could be looked at to see what they have for Solar Farm Ordinances.

MEETING ADJOURNED: 9:10pm

David Kincaid motioned to adjourn. Harold Buzzell seconded the motion. Motion passed.

DRAFT