

Town of Islesboro  
**Planning Board**  
Regular Meeting  
June 11, 2012  
6:15 PM  
Town Office Meeting Room

**MINUTES**

Members Present: Chair Alice Faye, Peter Coombs, Mark Small, Gil Rivera, Janice Harmen and alternates Katharine Schwarzenbach and Jennifer Whyte

Others Present: Peg Beach, Andy Staples, Bill Boardman/CEO, Ace Rolerson, Diane Rolerson, David Weaver, Andrew Anderson, Leonard Bates, Judy Gardner, Fred Gardner, Teresa Moorhead, Paul Hatch Jr., Nancy Hoffman, Andy Hamilton, Chris Thornton, Paul Nichter, Priscilla Fort, Albert Rolerson, Pam Grindle, Megan Murphy.

The Chair called the meeting to order at 6:15 PM and a quorum was established.

MOTION by J. Harmen to approve the minutes of May 21, 2012 as written. K. Schwarzenbach seconded the motion and it passed 5-0. After the vote, the Chair reminded K. Schwarzenbach that she was not a voting member.

MOTION BY J. Harmen to approve the minutes of May 30, 2012 as written. P. Coombs seconded the motion and it passed 5-0.

**DAVID PAUL, MD 4-12, Map 19, Lot 2**

This application was tabled at the last meeting for Findings of Fact. The Findings of Fact were reviewed by the Planning Board, after which the following motion was made:

MOTION BY J. Harmen to approve the Findings of Fact as written, dated June 11, 2012 for David Paul, MD 4-12, Map 19, Lot 2. M. Small seconded the motion and it passed 5-0.

MOTION BY J. Harmen to approve Application MD #4-12 of David Paul, Map 19, Lot 2 to construct a 36' x 45' steel building to be used for both storage and an automobile repair shop. P. Coombs seconded the motion and it passed 5-0.

**MEGAN MURPHY, MD 5-12, MAP 38, LOT 17**

This application was tabled at the last meeting for Findings of Fact. The Findings of Fact were reviewed by the Planning Board, after which the following motion was made:

MOTION BY J. Harmen to approve the Findings of Fact as written, dated June 11, 2012 for Megan Murphy, MD 5-12, Map 38, Lot 17. M. Small seconded the motion and it passed 5-0.

MOTION BY J. Harmen to approve Application MD #5-12 of Megan Murphy, Map 38, Lot 17, to establish a bakery. G. Rivera seconded the motion and it passed 5-0.

**ANDY STAPLES, MD 3-12, MAP 39, LOT 36**

This application was tabled at the last meeting for a Public Hearing which took place on May 30, and for consultation with the town attorney regarding conflict of interest on the part of Mark Small, and whether the Planning Board is required to write Findings of Fact on a minor motion. The town attorney told Alice that there is a three part process in determining conflict of interest: 1) The member shall reveal that he has a potential conflict, 2) The member shall state whether he feels that he can be an impartial voting member, 3) the Planning Board shall vote on whether they feel the member can continue on as a voting member. As far as the Findings for a minor motion, the town attorney said that the Planning Board does not do that.

Mark Small stated that he felt he can continue on as an impartial voting member for this application, and that he has kept up to date and informed on the Public Hearing although he was excused part way through the hearing.

Jennifer Whyte was asked by the Chair whether she had reviewed all the information regarding this application and whether she felt she could act as a voting member on this application if need be and she said she felt she could.

The Chairman asked the Board members to make a brief statement on why they voted this application as either a minor or a major development. The answers are as follows:

Gil Rivera: He stated that as a lot of the groundwork had already been completed, that the Planning Board would only be looking at the construction aspect and therefore he felt it to be a minor development.

Alice Faye: She felt that the area of activity exceeded 3000 square feet and that it would have a significant impact on the neighborhood, therefore she voted that it be a major development application.

Janice Harmen: She felt that the area of activity included the fenced area and that the area of activity exceeded the 3000 square feet, therefore she voted major development.

P. Coombs: He felt that the major issue here is the fill and wants to learn more about whether grass can thrive and grow here, but will stick with his decision for now that it is a minor development.

M. Small: Mark says that according to 12,1,3, #2, the area of activity can be more than 3000 square feet and still be a minor development as long as it creates no appreciable impact, and therefore he ruled that it be considered a minor development.

Paul Nichter submitted a revised site plan, showing the elimination of the rear shed roof, for a total now under roof of 2,076 sq. feet. The plan also shows that the applicant has moved the west gate behind the 50' setback and has moved the wheel back from the road.

A. Faye said that the ordinance requires that there be off street parking and says the applicant has not shown the parking area. P. Nichter explained that he felt the parking area to be grandfathered and parking can happen in the front of the building, or, per Andy Staples, parking can happen in the "jog" area on the plan.

P. Nichter said that if, this being a change of use application, calls for off street parking in accordance with 15.2.2, then any change of use application from here forward would need to meet this standard. There again was great discussion on whether an area that will be driven upon or parked on can retain grass. The question of whether the parking is grandfathered will be asked of the Town Attorney.

MOTION BY J. Harmen to table the application of Andy Staples, MD 3-12, for consult with the town attorney to find out if the parking is grandfathered. M. Small seconded the motion and it passed 5-0.

As the review process was not complete and feeling that there may be other issues that the applicant or the Board needs to resolve, it was decided to continue on with the review process. Therefore, the following motion was made:

MOTION BY J. Harmen to rescind her prior motion. M. Small seconded the motion and it passed 5-0.

P. Nichter addressed the concern that this is a residential area. He stated that the ordinance does not designate any area as residential, there is no zoning, and that they are putting into place measures to control noise, safety, and appearance. Further, history shows that there have been numerous businesses in this area throughout the years.

A. Faye said that the Board needs to consider 2.1.4 of the DRO, to try to balance out the rights of the property owners.

Andy Hamilton made a point of order that if the applicant is going to make factual statements, and enter new evidence, then he should be able to do the same or have a "redo".

The Board continued their review of Chapter 13 noting that there are issues of concern with:

13.3.1

13.3.2

13.7.1: P. Nichter said that topsoil was not removed, fill was brought in over the topsoil,

13.7.2 A. Staples reported that dead poplar trees were removed as well as some live trees, and that he removed these trees with the approval of the CEO, which the CEO confirms as well

13.8 : P. Nichter doesn't see a need for an erosion control plan.

Interim Discussion: A. Staples said that if it pleased the Planning Board, or to meet the requirements of the ordinance, he could remove the fence altogether and make the entire back area all lawn. Paul Hatch said there is a honey comb product that can be used to assure grass growth for this type of situation. The Planning Board would like to be provided with information on this product. Mr. Boardman said that this type of grassed over parking area was approved for parking at Northeast Point. Mr. Boardman also said that he drives to his garden every day over a grassed area and it is fine, the grass is still growing.

13.11.1: A. Hamilton feels that fill should meet the setback requirements of a building, structure or facility.

Interim Discussion: Ace Rolerson asked why Andy Hamilton can continue to interrupt the review process. He is concerned as well and would like to speak but doesn't feel he is allowed the same opportunity. He expressed his concern that dirt has to meet a setback.

13.17: A. Staples will have a dust collection system. There will be no flammable liquids, he may have a fuel tank.

13.19: A. Staples said that he hauls his trash to the transfer station weekly.

The Chair said that Chapter 16 will be looked at during another meeting. There was general discussion and concern prior to the conclusion of this review regarding the reason why applications may be reviewed differently, and the Chair explained that some applications may require a public hearing which can happen for several reasons according to the ordinance, and that some times abutters come forward with issues and concerns which has happened with this application.

MOTION by J. Harmen to table the application of Andy Staples pending discussion with the Town Attorney. M. Small seconded the motion and it passed 5-0.

**MARK UMBACH, MD#6-12, MAP 38, LOT 19**

This application is for a change of use of the former book store to a shop that offers design items for the home. The applicant has an established parking area, and parking can meet the 50' setback from the center of the road.

Ace Rolerson, abutter, expressed several concerns stating that he wasn't sure about what type of lighting they might have, will they have adequate parking, is their parking greater than 15' from his lot line, etc. In summary, he just wants to be sure that the same standards are applied to everyone.

MOTION by J. Harmen to approve the application for Mark Umbach, Map 38, Lot 19, MD#6-12. M. Small seconded the motion and it passed 5-0.

**PEG BEACH, MD 7-12, MAP 40, LOT 21**

This application is a change of use of a residential house to a bed & breakfast, without the breakfast. Mrs. Beach is intending to rent out two rooms in her home in July & August, for a maximum of 3 people. There is no construction involved, abutters were notified. It was felt that she has adequate parking, and is asked that she encourage her renters to back their cars in if there is no room to turn around. J. Whyte, who has resided there in the past, says there is room to turn around.

MOTION by J. Harmen to approve application MD #7-12, of Peg Beach, Map 40, Lot 21 to establish two rooms for rent in the existing house. G. Rivera seconded the motion and it passed 5-0.

OTHER BUSINESS

Ordinance Review of notification to abutters will be discussed at the next meeting.

MOTION by Gil Rivera, seconded by J. Harmen to adjourn the meeting. The meeting adjourned at 7:50 PM.

Respectfully submitted,

Peggy Pike  
Secretary to the Islesboro Planning Board