

Town of Islesboro
PLANNING BOARD
Regular Meeting
September 23, 2019 @ 6:15 PM
Town Office Meeting Room

MINUTES

Members Present: Chair Bill Schoppe, Isabel Jackson, Gilbert Rivera, and alternate Jennifer West
Excused: Jan Harmen and Jennifer Whyte.

Others Present: Janet Anderson - Town Manager, Terry Cowan, Gabe Pendleton

Chair Bill Schoppe called the meeting to order at 6:15 PM. Jennifer West was appointed a voting member and a quorum was established.

MOTION BY I. Jackson, seconded by G. Rivera, to approve the minutes of September 9, 2019 as corrected. Motion passed 4-0.

Corrections: *Delete one Andrew Anderson and correct the motion results for tabling Application MD3-19 for PYY for a site review and road frontage distance.*

OLD BUSINESS

LAND USE ORDINANCE

John Bowlin, Map 6, Lot 6 D, Application #18-19, Application to build a 28' x 36' garage with a one bedroom apartment above.

This application was tabled at the last meeting for a letter of standing for Michael Clayton, a complete site plan and a site review which was performed by Bill Boardman, CEO and Isabel Jackson.

The Planning Board is in receipt of the letter of standing and the complete site plan. The site review was performed. Isabel Jackson submitted the Site Review report and told the Board that everything was staked out and all setbacks were met,

Motion by Isabel Jackson, seconded by Jennifer West, that Application #18-19 for John Bowlin, Map 6, Lot 6D is complete. Motion passed 4-0.

Motion by Jennifer West, seconded by Isabel Jackson, to approve Application #18-19, Map 6, Lot 6D for John Bowlin to construct a 28' x 36' garage with a one bedroom apartment above the garage, as well as a new septic system to be used for this structure. Motion passed 4-0.

DEVELOPMENT REVIEW ORDINANCE

Pendleton Yacht Yard, Map 38, Lot 10, Application #MD3-19, Application to construct a 25' extension to an existing building for boat storage.

William Boardman, CEO, stepped down as CEO for this application as he is an employee of Pendleton Yacht Yard, and Janet Anderson is the acting CEO.

This application was tabled at the last meeting for a site review to be performed by Isabel Jackson and CEO Janet Anderson, as well as road frontage distance on Derby Road.

The Planning Board is now in receipt of a second Notification to Abutters which included a letter telling the abutters that a revised application will be heard at this meeting. The mailing included a 2NC form as it was discovered after the last meeting that per the Table of Land Uses, 125 Attachment 1:1 of the Land Use Ordinance that boatyards, boat storage and boat building activities for commercial purposes are NOT ALLOWED in the Town Centers District. Janet Anderson said she found out from Sally Daggett, Town Attorney, **after** this mailing went out that it was unnecessary to fill out a 2NC form and that the boat storage is a lawfully existing non-conforming use, but that it still needs to meet setbacks.

Isabel Jackson began to report on the site visit and without completing the report, the floor was given to Gabe Pendleton. Peggy Pike Board Secretary, asked Mr. Pendleton if he had standing to speak to this application and he said he had Power of Attorney and assured the Planning Board that he would e-mail it to Peggy Pike tomorrow. The Planning Board was satisfied with this and allowed Mr. Pendleton to speak on behalf of Pendleton Yacht Yard.

Mr. Pendleton gave a history of the property and the ROW that exists across land owned by Stanley Pendleton. He told the Board that the Berg's own the ROW but that Stanley Pendleton owns the land on which it sits. He offered to leave a file of surveys and deeds reflecting the history and current status of this property. He said that they will not block the ROW in any way and will keep the road passable.

The Planning Board is also in receipt of E-Mails between Mark G. Shub, Esq., who is representing the abutting property owners Eli and Ben Berg. *NOTE: The Planning Board was given these documents at this meeting.* In these E-Mails Attorney Shub is asking for a number of issues to be addressed by the Town's Attorney. Janet Anderson told the Planning Board that there had not been time for Sally Daggett to respond to his questions/concerns. In conclusion, Mr. Shub indicates that he is "submitting this notice of objection on behalf of the abutters" and that his understanding is that Janet Anderson will present his objections to the Board at this meeting. Please refer to E-Mails between Janet Anderson and Mark Shub dated 9/23/19, 9/20/19, 9/19/19, and 9/18/19.

Attached to these e-mail is a survey done for the abutters, Eli and Ben Berg. The survey dated September 23, 2019, was done by Gartley and Dorsky.

The Planning Board, as well as the acting CEO, discussed at length the setback point from the ROW from which the building should be measured. Janet Anderson and Isabel Jackson indicated that the vegetation in the area of the building site was somewhat of a hindrance in their ability to measure from the building to the edge of the ROW (at that time there was no survey showing the ROW and property line). Janet Anderson said they measured from the proposed building stake to the closest or easterly edge of the existing gravel road within the ROW and according to the Site Review that measurement was 15'. After the initial site review that Janet Anderson performed with Isabel Jackson, she asked Gil Rivera and Bill Schoppe to go back to the site and look at the measurements. Gil Rivera indicated that it would be helpful if the applicant would place a line of ribbons to aid the site reviewers in their ability to run a line as measuring this setback was difficult. The Planning Board leaned towards redoing the site review with the applicant making it easier for them to determine the location of the building, ROW, etc, with the placement of flags or clearing some of the shrubs.

Gabe Pendleton told the Planning Board that he would like to speed up the process and asked them to hold a special meeting next week. Based on 26 years of direct experience, the secretary advised the Planning Board that permitting a special meeting would set a precedent, that the next applicant who felt they needed to speed up the process would have to be granted the same favor.

The discussion then returned to the point from which the setback should be measured.

Bill Schoppe and Gil Rivera stated they both believe that the setback point is from the Westerly side of the ROW as Gabe had told the Board that Stanley Pendleton owns the property which the ROW crosses and that the property line is the westerly side of the ROW.. The Planning Board cited DRO Section 45-70 (C) and LUO Section 125-32 (C) 1, both indicating that the setback for a building shall be 15 feet from a lot line.

The secretary advised the Planning Board to clarify in a motion that if a ROW ran parallel to a property line that the property owner could not build/obstruct within the ROW even if the 15 foot setback was within the ROW.

The Planning Board reviewed the definitions of lot and private right-of-way within the DRO as well as the survey provided by Mr. Shub. The survey shows the “limits of excavation” which Gabe indicated is the limit of the proposed addition. The survey shows that the building would not enter the ROW.

MOTION BY BILL SCHOPPE, seconded by Isabel Jackson, that the Planning Board has determined that the Westerly Side of the ROW is the applicant’s property line and per the DRO and LUO Sections noted above, the structure has to be 15' back from the property line, which they have determined that the structure is 15 + feet back from the property line, and that the application, if approved, would be with the condition that nothing could be built in the ROW. Motion passed 4-0.

The Planning Board then reviewed the Criteria of Approval and they found no issues with any of the items, except (E) “Will not cause unreasonable public or private road congestion or unsafe conditions with respect to use of the public or private roads, existing or proposed, including parking at Grindle Point”. The finding is that the building or structure will NOT encumber the right of way per the evidence submitted.

MOTION by Bill Schoppe, seconded by G. Rivera, that Application MD3-19 for PYY, Map 38, Lot 10 is complete. Motion passed 4-0.

MOTION by I. Jackson, seconded by G. Rivera, to table Application MD3-19 for PYY, Map 38, Lot 10 for Findings of Fact. Motion passed 4-0.

The Planning Board asked Janet Anderson if she would reply to Mr. Shub’s e-mail answering his questions based on the discussion of this meeting.

OTHER BUSINESS

CEO Report for August was submitted.

Committee Reports:

Gil Rivera, Harbor Committee Member, said that MDOT came out to look at the Pripet Wharf site and that the Harbor Committee would be meeting with the Select Board on 9/25/19 to discuss the project.

Jennifer West said that the ordinance is ready for review by the town attorney for Medical Marijuana.

Correspondence:

E-Mail from Jan Harmen, dated 9-21-19 in which she is requesting a Leave of Absence from the Planning Board. No action was taken by the Planning Board on this issue.

ADJOURNMENT OF MEETING

MOTION BY I. Jackson, seconded by B. Schoppe, to adjourn the meeting. Motion passed 4-0. The Meeting adjourned at 7:50 PM.

Respectfully submitted,

Peggy Pike
Secretary to the Islesboro Planning Board