

ISLESBORO PLANNING BOARD  
REGULAR MEETING  
MONDAY, JUNE 17, 2024  
In- Person and Zoom Meeting at 5:00 PM, Town Office

APPROVED  
7/15/24

**MINUTES**

1. Call the meeting to order and Establishment of a Quorum

Chair Bill Schoppe called the meeting to order and a quorum was established at 5:00 PM.

Members Present: Chair Bill Schoppe, Jennifer West, and Anne Bertulli as a voting member.

Members Absent: Vice-Chair Isabel Jackson, Gil Rivera, and Wendy Huntington Evans.

Others Present: CEO Dave Dyer, Kara Masters-Siekman, David & Joan Losee, Tom & Glenda Dexter, Todd Congdon, Terry Cowan, Trevor Blackford

Others Present via Zoom: None

2. Approval of Minutes of April 22, 2024, Public Hearing & Regular Meeting.

Discussion: Page 3, under Article 4, third bullet, add the word "filling" to sentence about how swimming pools are filled.

**Motion: To approve Minutes of April 22, 2024, as amended, B. Schoppe, seconded by J. West. No further discussion. Motion passed, 3 yes, 0 no, Unanimous.**

4. OLD BUSINESS

A. Land Use Ordinance

1. None

B. Development Review Ordinance

1. None

5. NEW BUSINESS

A. Land Use Ordinance

1. None

B. Development Review Ordinance

1. David & Joan Losee, Map 31, Lot 5E, Application MD 01-24, to subdivide the lot into three parcels.

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- David Losee stated that this is one lot. They purchased original subdivision lots 5 and 6. That is most of Lot 1 currently. Subsequently, they purchased next to the Dexter house, and former Shea property. It was originally three lots, and the David Losee combined them into one lot several years ago. Now they would like to divide again, only with larger, comparable lots.
- The purpose is to sell the lots. They do not intend to build. They got feedback from real estate agents that smaller lots are more marketable.
- David provided this concept, the original Sunset Acres subdivision map, and Islesboro Ordinances to the surveyor.
- B. Schoppe asked about the deed that was submitted with the application, and what it covers. J. West stated it's from 1985. David said it's for the original lots 5 and 6.
- Todd Congdon stated it doesn't correspond with the current tax map lot 5.
- B. Schoppe asked if the map for lots 5 and 6 encompasses the whole area. David stated it does not, but he can provide it. Lots 5 and 6 are most of the area. 2 and 3 came from Mrs. Shea to Dexter, and then, in part, from Dexter to Losee.
- The Board consulted the current tax map. B. Schoppe asked if shows that 5E is all one property. The tax map shows they're connected.
- J. West asked if the parcel he's keeping was part of lot 3. David answered that 3 was part of 2.
- There should be multiple deeds, because they were acquired at different times. David stated he could provide documentation of the change of title.
- Todd Congdon stated his basic concern is maintenance of roads. He and Tom Dexter own part of it, from the Blackfords' to the corner, about 200,' that leads to the proposed subdivision. He's the only one who lives on Trim Lane year-round, and ends up doing most of the maintenance. He puts material on the road and makes sure it drains.
- David Losee stated he has contracted with Babe Hatch to care for Trim Lane. Todd is asking about his responsibility going forward. As people build in there, will they expect the road to be at a certain standard? He doesn't want it to be paved. It's a private road from Meadow Pond Rd all the way in. Josh Conover owns the road to the bottom of the hill. Josh would also like to know what he will be responsible for once the subdivision goes in. David Losee explained the history. Earl MacKenzie owned the boatyard at the time David purchased this property. He had asked about an agreement for maintenance of the road, or some right of sharing. Earl said he was advised by his lawyer not to do that. He felt that the road would give him control of what was built in that area. David Losee prepared a road agreement where all residents would contribute annually. Earl declined. When George Evans owned the boatyard, David contributed to road maintenance every year. He has been willing to enter into an association to resolve this issue.
- Tom Dexter stated that he had been reading some of the requirements of a subdivision. Trim Lane may not meet standards of subdivision regarding width, subsurface, etc. This may create a problem for emergency vehicles. There are also no turnouts. David stated that this road was approved as part of the Sunset Acres subdivision.

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- Kara Masters Siekman stated that she is an abutter and owns what was originally Lot 7, now called 5M and 5G on the tax map. Camp Road is now called Marshall Cove Road, which was let go by the Town. There are rights-of-way instead of proper roads. She has a deed. In a letter that was written to David Losee in October 2005, his lawyer stated that Islesboro Marine did not own that portion of the road, so they could not possibly convey it. She has not seen a deed for any of the roads. The surveyors have determined that the road that is on David Losee's land is his. The Town tax map keeps the question of the original Trim Lane on the 1960s Sunset Acres layout. This version of Trim Lane was never built. According to the Maine statutes, a road like this should go 50% to each of the abutters. The only objection she has to the Losee's proposal is that it denies the fact that she owns half of the road. Her deed states her lot has frontage on Trim Lane, and she doesn't want to lose that. The road was actually built differently than the proposed road plan. Her two concerns are: 1. the deed for the road, backed up by this legal letter, based on land that was not owned by the boatyard, but was sold without having a deed for that road. 2. A request for the Town's help to resolve the Trim Lane that was never built. When there are two abutters, each owns to the center line.
- David Losee explained the original survey, and the way the road was built. He owns Lots 5 and 6. He may be open to giving her an easement. He will ask his surveyor to look at the original map and deeds, and see where these lots came on the original survey map.
- D. Dyer suggested that the Board needs to see more surveys. This seems to be a boundary dispute, and the Town doesn't resolve boundary disputes. It's a civil matter.
- D. Dyer asked the abutters if Mr. Losee sold one big piece of property without dividing it, how would that affect them all? He wouldn't have had to come to the Planning Board; it would just be between him, his lawyers, and the buyer.
- Todd Congdon explained that his concern he had has been settled. The Losees are not selling the part of their land that doesn't have access via Trim Lane or Marshall Cove Rd.
- Tom Dexter stated that the problem with the other lot is some of it in the new drawing compared to the old drawing comes onto Sunset Acres land. The line used to go straight up and now it has a jog in it, and that land does have access, and that could be problematic. Last July 17<sup>th</sup>, he and Todd turned over the contested part of Trim Lane between them and Losee. This was the boatyard piece. Tom explained the maps to Chair Schoppe.
- J. West stated it would be helpful to see the old Sunset Acres map. The pins are showing on the Surveyor's map, so they are still there.
- B. Schoppe stated that the Planning Board needs to see something showing the deeds, when the properties were acquired, and when it was incorporated into one lot (how it came to be all inclusive). Deeds show different rights-of way.
- J. West noted that the "IPF" markings on the Survey Map mean "Iron Pin Found." Those are probably from the original subdivision, so they show the original lots.
- Marshall Cove Road is a right-of-way, because it's a private road. Kara stated there should be a Road Association, according to the tax assessors, but there's no deed. George Evans set up a Road Association, but there was no contract, it was just verbal.

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- Terry Cowan stated there is confusion about where the road is and where the rights-of-way are. When the lots were surveyed, the surveyor put in pins and cement bounds. However, the roads do not follow where the roads were staked out. The lots don't match up with the road. There is no clear title. The roads don't match up with what shows on the plan.
- J. West stated it's not appropriate for the Town to provide legal advice. We're here to look at Mr. Losee's proposed plan and to make a decision on his application.
- David Losee stated he's willing to provide that Kara owns to the center line of what was proposed as a road.
- Todd asked if this should be called a four-lot subdivision, not three, since he will be selling three lots and keeping one.
- Terry Cowan asked about the difference between major and minor development. J. West explained the difference according to the Ordinance. Minor: the proposed activity occupies an area of less than 3,000 square feet in total, or the activity occupies an area greater than 3,000 square feet, but creates little appreciable impact on traffic, air quality, noise, drainage, and natural views outside its location.
- D. Dyer stated that Mr. Losee is not building anything, just dividing the property, so that qualifies it as minor.
- J. West added that in the future, if and when those lots are sold, the new owners will have to get building permits, and to confirm that the lots meet all requirements, including setbacks and septic. For access, the Planning Board has no control of private roads.
- Trevor Blackford stated that when he bought the property, their lender required some type of acknowledgment of who is responsible for road maintenance. If there is an association, they want to know if there are costs associated with that, so they can factor that in for income qualification.
- Kara stated that she is paying taxes on frontage of Trim Lane. She believes it's a Town issue. Former Planning Boards have signed off on previous subdivisions.
- Kara asked for a facilitator to help the neighborhood resolve the "title unclear" portion of the roads that aren't deeded. She would like the Planning Board to help. She stated the Planning Board signed off on plans in the past. B. Schoppe stated she would have to ask the Town Manager if this is Town's responsibility.

**Motion: Application MD 01-24 meets the criteria of Minor Development, based on the fact that no impacts will occur at this time, but in the future when individual lots are sold and go before the Planning Board, J. West, seconded by B. Schoppe. Discussion about future division. Motion passed, 3 yes, 0 no, Unanimous.**

**Motion: Site review is not required for Application MD 01-24, J. West, seconded by B. Schoppe. No discussion. Motion passed, 3 yes, 0 no, Unanimous.**

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**Motion: Public Hearing is not necessary or requested for Application MD 01-24, J. West, seconded by B. Schoppe. Discussion: Kara feels she and her neighborhood need advocacy, and requests a Public Hearing.**

**J. West withdrew her motion.**

**Motion: Public Hearing is required based on request, to be held July 1st, J. West, seconded by B. Schoppe. Discussion: D. Losee will be happy to bring his surveyor to address some of these issues. Motion passed, 3 yes, 0 no, Unanimous.**

**Motion: Table Application MD 01-24 for Public Hearing, receipt of deeds to show acquisition of the entire property, and add to Lot 1 the location of original Trim Lane right-of-way B. Schoppe, seconded by A. Bertulli. Discussion: T. Blackford asked for clarification of the Planning Board role being the approval or disapproval of the subdividing of an existing lot, and asked if anyone has an objection to the subdivision of the existing lot. There's objection to what the boundaries are. J. West asked D. Losee to have his surveyor confirm that right-of-way be marked. Motion passed, 3 yes, 0 no, Unanimous.**

**Public Hearing to be Held from 5:00 to 6:00, followed by the regular Planning Board meeting, at the next regularly scheduled meeting.**

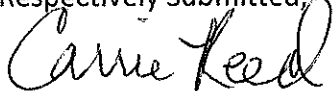
**6. OTHER BUSINESS**

- CEO Report: April & May.
- People Wishing to Address the Planning Board: None.
- Correspondence: None.
- Committee Reports: J. West stated the subcommittee needs to address the article on Water Quality, and edit "off-island" and define the size of pools. To be discussed at a later meeting. The definitions article was passed, so we can't change that.
- Chair- Additional Business: Discussion of correspondence between D. Dyer and Natalie Burns, Esq., regarding the application for subdivision. We should not postpone the application to require the parties to litigate their private claims.

**7. Adjournment of Meeting**

**Motion: To adjourn meeting at 6:48 PM by B. Schoppe, seconded by A. Bertulli. No Discussion. Motion passed, 3 yes, 0 no, Unanimous.**

Respectively Submitted,



Carrie Reed



From: Natalie L. Burns [nburns@jensenbaird.com](mailto:nburns@jensenbaird.com)  
Subject: Subdivision Issues  
Date: Jun 17, 2024 at 12:23:29 PM  
To: [CEO@townofislesboro.com](mailto:CEO@townofislesboro.com)

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David,

This will confirm our telephone conversation concerning a pending subdivision application. Several neighboring property owners have contacted you concerning claims that the property boundaries are not correct and include land not owned by the applicant; others have stated that the applicant does not have the right to use the road proposed as access to the property proposed to be divided.

As I understand it, the applicant has submitted a survey of the subject property, as well as a deed. These things generally are considered to be sufficient to allow an application to proceed forward for review on the merits. If neighbors submit conflicting deeds or surveys, then the Planning Board should ask the applicant to review those and to provide a legal opinion since the applicant has the burden of proof on all issues. However, if there is no conflicting evidence beyond statements, then the applicant has demonstrated sufficient right, title or interest in the property to proceed. In that case, the Board should not postpone the application and require the parties to litigate their private claims.

If documentation is submitted by the neighbors, please let me know if you would like us to review anything.

Thanks,

Natalie

**Natalie L. Burns, Esq.**  
Attorney



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