

ISLESBORO PLANNING BOARD
REGULAR MEETING
MONDAY, AUGUST 26, 2024
In- Person and Zoom Meeting at 5:00 PM, Town Office

APPROVED

9/9/24

additional letters
attached

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, Vice-Chair Isabel Jackson, Jennifer West, Gil Rivera, Wendy Huntington Evans, Anne Bertulli as an alternate, and Trevor Blackford as an alternate.

Others Present: CEO Dave Dyer, David & Joan Losee, Terry Cowan, Todd Congdon, Kara Masters-Siekman.

Others Present via Zoom: Steve Anderson, Pinckney Steiner, Robyn Congdon, Tracy Lindelof

2. Approval of Minutes of August 12, 2024, Regular Meeting.

Motion: To approve Minutes of August 12, 2024, as written, I. Jackson, seconded by W. Huntington Evans. No discussion. Motion passed, 5 yes, 0 no, Unanimous.

3. OLD 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 four parcels.

- David Losee presented an updated survey map with additional information requested by the Planning Board. He has also been going through the requirements of the Ordinance.
- They haven't done a soil evaluation on Lot 3 yet.
- §45-48 was the main thing that was asked to be considered.
 - The Board evaluated the map and application based on this Ordinance.
 - Copy of the deed on which the survey was based: part of the original application.
- I. Jackson asked if Mr. Dexter has an easement where the driveway goes across the corner Lot 2. David Losee believes it's in the deed. This needs to be clarified.
- The cemetery is marked in Lot 1.
- W. Huntington Evans asked if Lot 2 was part of the second acquisition. Mr. Losee stated it was Shea to Dexter, Dexter to Losee, Losee back to Joan. Losee created the easement

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but doesn't remember which deed. We can make it a condition that any conveyance of Lot 2 would be sold with the notation of an easement in the favor of Dexter's driveway.

- J. West asked if Shea's property also include portions of Lot 3. Mr. Losee stated that it did. Lot 3, Lot 2, Dexter, and Other Land was all part of the Shea property.
- I. Jackson asked about Lot 3. What is the 50' reservation for potential restoration of Trim Farm Rd? David Losee replied that this was a road to the old Trim Farm. It used to be kept clear for cross-country skiing. This can possibly provide access to inner lots. He just wants to note that it's there.
- Todd Congdon stated that some of those ruts go near his property. He heard that it was for a bulldozer that built Trim Road.
- Kara stated that Marshall Cove Road was originally Camp Road. We have not been able to find any discussion in Town records that show why the Town let go of the real Marshall Cove Road, which was Merritt's driveway, now Eric Tierney's driveway. That was what came in from the main road, partway to the shore, then people walked down a path. Camp Road was a smaller road until IME came in. There was no Planning Board then. The Select Board allowed for Marshall Cove to be bumped to its current location that used to be Camp Rd. EMS has been sent down Merritt's drive (now Tierney's). We can't get proper satellite emergency service. We've never clarified or corrected road ownership. Kara has not found deeds to roads. The survey is not based on deeds. The Select Board allowed Camp to change to Marshall Cove, but we can't find any record of discussion.
- B. Schoppe stated that as far as he understands, it's never been a Town road. It's always been a private road.
- T. Blackford asked Kara if the ownership of Marshall Cove Road is germane to this discussion. Kara answered that she has no interest in the access road to the old Trim Farm, but she is interested for the Town to look at what happened to Marshall Cove Road. The Board responded that this is a separate order of business. This subdivision does not involve Marshall Cove Road. Kara replied that it does, because this is the access to Trim Lane.
- G. Rivera that everyone in EMS knows about Marshall Cove Road. They are not going to go down a driveway.
- B. Schoppe replied that the Planning Board has deeds for properties in question.
- B. Schoppe would like to ask the lawyer if Sunset Acres is still valid. When Mr. Losee bought all the properties in there, a portion of that subdivision disappeared, because the lots were all merged. Another question is about paper roads. How long do they stay? Do they expire, or is there a procedure to make them gone?
- T. Blackford stated that there was a recent Supreme Court decision involving paper roads. If they were not established, the rights returned to the original deeded owner, and they were found to have ownership of the entirety of the paper road, rather than at the midpoint. This was in the last week. He can send article.
- B. Schoppe stated maybe another question for the lawyer is, who owns the roads?

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- David Losee stated that the boatyard owned to the shore, and southerly to the end of what is now the Blackford (formerly Crabtree) lot. Losee's land goes over the existing Trim Lane to the Siekman boundary. He has responsibility for maintaining that road from the Crabtree lot to Siekman's property on the south end. We each own a portion of Trim Lane. The boatyard owns Marshall Cove Road.
- Dexter and Jones lots not part of Sunset Acres. Camp Conundrum and the Congdon lots were part of Sunset Acres.
- Terry Cowan stated that Mr. Losee is preparing a subdivision of an existing subdivision. He is re-subdividing Sunset Acres.
- W. Huntington Evans asked if there's anything in the covenants of Sunset Acres that says a lot can't be subdivided. Terry replied that there probably is not. Terry talked about the Ordinance regulations for subdividing.
- Terry added that Losee's Survey map does not indicate that it's a Subdivision Plan.
- Jesse Rolerson drew a plan in 1985 approved by three members of the Select Board. The Losee plan is based on Jesse Rolerson's map. It's not the subdivision plan. This is a re-subdivision. All the abutters need to know their subdivision is being changed. There's no record of a Select Board meeting where changes were discussed in 1985. Terry provided Sunset Acres map from 1977.
- J. West stated the Planning Board has received the deeds from Mr. Losee regarding his properties and the Town map shows that they have all become one lot.
- Terry stated the boundaries of that one large lot are the same. The rights of way were owned by Sunset Acres. They might have been conveyed to IME.
- I. Jackson stated this sounds like a boundary dispute between the Losees and Kara.
- Terry Cowan stated that if the Board approves this plan, it will be changing a subdivision, and deeds that are supposed to be unchanged.
- B. Schoppe stated we should table this to ask questions of the lawyer, set up a site review to look at roads and rights of way, and their conditions.

Motion: To hold a Site Review to evaluate roads and rights of way, B. Schoppe, seconded by W. Huntington Evans. No further discussion. Motion passed, 5 yes, 0 no, Unanimous.

B. Schoppe and I. Jackson will go on Site Review, Tuesday, Sept. 3 at 10:00.

Mr. Losee agreed to provide 150' road frontage in the deed for Lot 4 if approved.

Todd Congdon clarified that there were some corrective deeds that show that he owns about 165' of the right of way between Trevor and Kara. Dexter also owns a portion of Trim Lane. Trim Lane does not provide a right of way to the Corby lot, which wasn't part of Sunset Acres.

David Losee added that at one point, Islesboro Marine (IME), Earl MacKenzie, sold Trim Lane to Congdon and Dexter, but IME didn't own this portion of it. Their lawyer executed a deed of reconveyance back to us. It has been restored to our ownership.

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Motion: To Table Application MD 01-24 for Site Review and response from Town Attorney, I. Jackson, seconded by G. Rivera. No further discussion. Motion passed, 5 yes, 0 no, Unanimous.

4. NEW BUSINESS

A. Land Use Ordinance

1. Steve Anderson, Map 29, Lot 12B, Application LU 39-24, to build a 336-sf addition with one additional bathroom, using existing infrastructure.
 - Steve Anderson and Holly Willis were present via Zoom.
 - This is a house that the applicants built about 25 years ago from a kit from Shelter Kit in NH. It's a structure of about 24' x 32' with a loft.
 - They are hoping to build a small addition adjoining the house and sharing the deck, with another kit from Shelter Kit, so they will be doing most of the work themselves. 336 sf, deck on the front, and small loft inside. Will provide more living space and office space.
 - In the geometric center of the lot. All setbacks listed on the drawings.
 - No tree cutting required, just a little grading.
 - No new bedrooms.
 - D. Dyer stated that the septic is adequate.

Motion: Site Review is not required for Application LU 39-24, I. Jackson, seconded by W. Huntington Evans. No discussion. Motion passed, 5 yes, 0 no, Unanimous.

Motion: Application LU 39-24 is complete, I. Jackson, seconded by W. Huntington Evans. No discussion. Motion passed, 5 yes, 0 no, Unanimous.

Motion: To Approve Application LU 39-24, I. Jackson, seconded by W. Huntington Evans. No discussion. Motion passed, 5 yes, 0 no, Unanimous.

B. Development Review Ordinance

1. None.

5. OTHER BUSINESS

- CEO Report: Dave Dyer presented his report for July.
- People Wishing to Address the Planning Board:
 - Pinckney Steiner stated he is currently purchasing Lots 8 & 9 on Map 36. Looking to build a house, guest house, and greenhouse on Lot 8. Looking to build a house and four small residential structures for short-term rentals on Lot 9. Part of this is in Resource

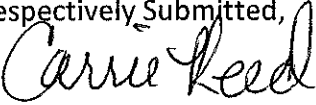
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Protection and Limited Development. We want to make sure we meet the requirements in our plan to match what the Town expects in those areas. Moving back to Islesboro in two years. He's been in communication with Dave Dyer. Dave added that this is a 47-acre lot. Without seeing a plot plan, it's hard to determine where everything is going to fall. Resource Protection states no commercial development. Houses and structures need to be within a certain size. Limited Development is less restrictive. We would need a site plan. W. Huntington Evans believes the plan is within the rural area for the primary house and greenhouse. Discussion about whether rental dwelling units would be considered commercial activity. Town attorney could look into it. Will Aldrich did soil testing. Bill Schoppe stated that with the limited information we have, he can probably develop this project.

- Terry suggested looking at the Table of Land Uses. He believes short-term rentals are not an allowable use. W. Huntington Evans stated that anyone can have additional dwelling units if they have the acreage.
- Correspondence:
 - Mandatory Planning Board MMA training. Trevor and Anne need to take this, and other Planning Board members can take the training as a refresher. Interested members should let Carrie or Janet know.
 - Letters from Tom Dexter and Earl MacKenzie regarding the Losee application.
- Committee Reports: None.
- Chair- Additional Business:
 - Kara Masters-Siekman submitted a map that shows boundary markers on Trim Lane.

6. Adjournment of Meeting

Motion: To adjourn meeting at 6:45 PM by I. Jackson, seconded by G. Rivera. No Discussion. Motion passed, 5 yes, 0 no, Unanimous.

Respectively Submitted,

Carrie Reed

Thomas H. Dexter
1307 Trim Lane
Islesboro, Maine 04848
860 460-0949
tjwlr@sbcglobal.net
August 8, 2024

Islesboro Planning Board
Islesboro, ME 04848

Re. Application MD01-24 Map 31, Lot 5E

Dear Islesboro Planning Board,

After consulting with my attorney, I need to make additions and clarifications to my letter of July 15, 2024. My letter was attached to the minutes from that meeting.

This is a NEW subdivision. There is no transfer or guarantee of any rights about Trim Lane from when it was included in the Sunset Acres subdivision. In other words, just because Trim Lane was an acceptable subdivision road when Sunset Acres was drawn up, doesn't mean its construction makes it acceptable for a new subdivision.

The changing of the southerly property lines on Lot 3 which allows Lot 4 to encroach into a Sunset Acres lot and changes the lot lines for a non-Sunset Acres property into a Sunset Acre Property, plus adding a right of way, is surcharging Trim Lane.

If this subdivision application is approved as presented, I will be compelled to appeal.

Thanks again for your attention to this complicated matter.

Sincerely yours,



Thomas H. Dexter

Thomas H. Dexter
1307 Trim Lane
Islesboro, Maine 04848
860 460-0949
tjwlr@sbcglobal.net
August 22, 2024

Islesboro Planning Board
Islesboro, ME 04848

Re. Application MD01-24 Map 31, Lot 5E

Dear Islesboro Planning Board,

Unfortunately, the above application review was postponed from the last Planning Board Meeting until the August 26 meeting. I most likely will not be able to attend the August 26 meeting, including by Zoom.

There were errors stated to the Board, recorded in the minutes of the July 15, 2024 Planning Board:

At the July 15, 2024 meeting, D. Losee made references to 50' rights of way. The deeds from the original division of the Shay's property, Book 1189 page 279, Dexter to Losee, and Book 1207 page 337, Dexter to Jones, (now southerly part of Lot 2), each state a 25 foot right of way, not 50 foot. This includes the driveway to which he refers, never a 50' right of way. Lot 3 has direct access from Trim Lane, but Lot 2 does not.

D. Losee, in December 1986, had a private road agreement and a "Restrictions - Chases Lot" agreement drafted. There is a reference to a right of way, again less than 50'.

As J. West stated about Town attorney clarification for Lot 4, if the lot is changed from the deeded description (Joan Corby lot) by the encroachment into Lot 3 (Sunset Acres property), this would be creating a new lot. Also, the boundary monuments with the Jones lot are not existing in the Lot 4 deed.

Thank you for your continued attention.

Sincerely yours,



Thomas H. Dexter

From: Earl MacKenzie earlmackenzie4@gmail.com
Subject: Marshall Cove Road
Date: Aug 22, 2024 at 8:35:23 PM
To: CEO ceo@townofislesboro.com

To whom it may concern, I was an owner of Marshall Cove Road from 1977 to 1998. I purchased the property formerly known as Sunset Acres from the A B C Company that had as its principals Ray Ellis, Doug Grinnell, and Yeaton Randlett. Chris Day became a partner with me shortly after I purchased the property and half owner of the road system and the portion of the property that became Islesboro Marine Enterprises. The business was incorporated in late 1977. To the best of my knowledge the road was always privately owned and never a public right of way. Some of the properties had deeded right of ways to their properties, but not for the general public. The question came up sometime in the 1980s and we had an attorney confirm this. We vastly improved the road from the main road to the shore, as it was only seasonably passable when I purchased it. During the time I owned it we put up a barrier once a year to close the road to insure that there could be no more question that the road was privately owned.

Sincerely, Earl Mackenzie

Sent from my iPad