



# TOWN OF WELLS, MAINE PLANNING BOARD

Meeting Minutes  
Monday, February 25, 2019, 7:00 P.M.  
Wells Town Hall  
208 Sanford Road

## **CALL TO ORDER AND DETERMINATION OF QUORUM**

Chairman Chuck Millian called the meeting to order at 7:00 P.M. Members present: Charles Anderson, Brian Toomey, Richard DeBold and Richard Seiden.

Staff present: Mike Livingston, Town Engineer/Planner and Cinni Davidson, Meeting Recorder.

Welcome to Rick Seiden as the newest member of the Board.

## **MINUTES**

February 11 2019

### **MOTION**

Motion by Mr. DeBold, seconded by Mr. Toomey, to approve the minutes as amended. **PASSED** 4-0-1 with Mr. Seiden abstaining.

## **PUBLIC HEARING**

- I. TO CONSIDER ORDINANCE AMENDMENTS TO CHAPTER 145 (LAND USE)  
To permit Farm/ Lemonade/ Egg Stands; To define Net Habitable Floor Area; To define Accessory Living Spaces as not being dwelling units; To clarify the definition of Kitchen Facility; To clarify the definition of Home business; To permit Accessory Retail use in the Light Industrial District; To exempt Utility Structures from complying with some dimensional requirements; To alter Building/ Structure setbacks from multifamily developments; To include Solar Arrays as a Public Utility Facility; and To clarify Daytime Hours within the Noise Ordinance.**

Mr. Livingston reviewed the list of changes proposed to clarify the ordinance: #1 farm stands and lemonade stands ("non-commercial" is being deleted from §145-47.3 A & B), #2 net habitable floor area, #3 accessory living space definition, #4 revise "kitchen" definition, #5 revise definition of a home business, #6 allow accessory business retail use in the Light Industrial District, #7 exempt utility structures from meeting dimensional requirements, #8 revise

1 building separation for multifamily developments (“structure” would include decks, platforms,  
2 stairs, etc. when the separation is calculated), #9 include solar arrays as a public utility facility  
3 (publicly regulated utility includes anything under the PUC jurisdiction. A private solar array  
4 does not come under the PUC.), #10 noise ordinance changes for commercial and residential  
5 properties (allowed uses would cover the food trucks at Congdon’s, weddings at Wells Reserve,  
6 ice cream trucks, etc. Enforcement by the police is clarified. A private party at a residence that  
7 becomes exceptionally noisy would be considered a violation.)  
8

## 9 MOTION

10 Motion by Mr. Toomey, seconded by Mr. DeBold, to close the public hearing. **PASSED**  
11 unanimously.  
12

## 13 DEVELOPMENT REVIEW & WORKSHOPS

- 14
- 15 **I. HARBORSIDE VILLAGE**– Robert & Marijane Blake; and Brandy Bourassa, owners;  
16 The Landings, LLC, applicant; Joseph Coronati of Jones & Beach Engineers, Inc, agent.  
17 Final Subdivision Application for a Multifamily Development consisting of 41 dwelling  
18 units (26 dwellings to be duplex units: 13 buildings; and 15 dwellings to be single units)  
19 on one 19.45 acre parcel of land. The parcel is located off of Stephen Eaton Lane via  
20 Papa Smurf Lane and Bourassa Lane. The parcel is located within the Residential A and  
21 General Business District. Tax Map 134, Lot 70, Map 138, Lots 19C, 19D, and 19G.  
22 **Consider receipt of the Final Subdivision Application; consider compliance with**  
23 **Preliminary Conditions of Approval and final completeness requirements; consider**  
24 **request for additional time satisfy conditions of approval and obtain approvals from**  
25 **MDEP and Army Corps**  
26

27 Chris Coppi, wetland scientist with Albert Frick Associates, Attorney Alan Shepard and Joe  
28 Russo representing the applicant were present.  
29

30 Mr. Livingston reviewed the history of the project for the benefit of the two newest Board  
31 members. The proposed main entrance is on Papa Smurfs Way. The second entrance for  
32 emergency use would be off Bourassa Lane. Stephen Eaton Lane would be upgraded from the  
33 project to Route One. Preliminary approval was granted last August and included several  
34 conditions. The ordinance calls for a 6 month period between preliminary approval and  
35 submitting the plan for final approval. The applicant is requesting a 180 day extension for the  
36 final submission. Approvals from the DEP and Water and Sewer Districts haven’t been received  
37 yet and the conditions in the preliminary approval aren’t met. The Board needs to consider  
38 whether to receive the application or refuse to act on it without prejudice. Mr. Livingston read  
39 §202-9 A. (1) regarding final plan submission. Once the Board receives it, there are 30 days to  
40 find it complete. An extension of the 30 days could be granted, or failure to complete the  
41 application could be treated as a denial.  
42

43 The applications to DEP and ACOE were submitted last Friday and it will take about 45 days to  
44 get decisions from them. Mr. Shepard said a new engineering firm was hired, and final  
45 configuration should wait for a determination on the wetlands and vernal pools. Mr. Livingston  
46 said that the DEP Stormwater Permit process will be time-consuming since there are major  
47 issues to address. One month should be allowed for the design with an additional minimum of 2-  
48 3 months to get it approved. The Board can grant a temporary waiver if the permit isn’t approved

1 and submitted with the final application but it must be approved by MDEP and received prior to  
2 final approval. Mr. Millian asked if it would be preferable for the Board not to receive the final  
3 application tonight, since the deadlines in the ordinance are so tight. Mr. Shepard felt that  
4 starting over with another preliminary application was unnecessary. Mr. Livingston said the  
5 ordinance was written with deadlines to protect the Town, developers and abutters from long  
6 processes. The 180 days from preliminary approval to final application have already expired,  
7 and the applications to DEP and ACOE will take at least another 180 days.

8  
9 **MOTION**

10 Motion by Mr. Toomey, seconded by Mr. Anderson, that the Board refuse without prejudice to  
11 accept the final application and go back to the submission of a preliminary application.

12 Discussion: Scenario #1 The Board does not receive the final application tonight or #2 The  
13 Board could receive it and grant an extension for the completeness review.

14  
15 The motion passed 4-0-1 with Mr. Seiden abstaining.

16  
17 **II. WESLEY BY THE SEA – PHASE 3** – Preacher’s Aid Society of New England,  
18 owner/applicant. BH2M Engineers agent. Preliminary Subdivision Application for a 10  
19 lot/dwelling unit residential cluster major subdivision off of Dorfield Lane and  
20 HARRISSECKET ROAD. The property is approximately 25 acres in size and is located with the  
21 Rural and 75’ Shoreland Overlay Districts. Tax Map 79, Lot 2 and 3. **Workshop**  
22 **Preliminary Completeness and determine a possible Preliminary Public Hearing**  
23

24 Walter Pelkey of BH2M and Wesley Palmer, Executive Director of the Preachers Aid Society  
25 were present. Mr. Livingston reviewed the comments in his memo. Residential cluster standards  
26 require that Shoreland Overlay areas are undeveloped and remain Open Space. A culvert pipe  
27 and outlet apron are proposed within the Shoreland Overlay zone. The culvert would be buried  
28 under grass except for the outlet and rip rap apron. The Board needs to determine if this would  
29 be “developed” or “undeveloped” space, but cannot grant a waiver. This affects the stormwater  
30 design and elevation of the wet pond. The pond outlet from the culvert goes within 75’ of the  
31 brook. The brook separates this property from the abutting property. If the pond has to be raised  
32 it would have to be enlarged to accommodate the same amount of stormwater. The engineers  
33 estimate raising the pond 2 ft. would get it out of the Shoreland Zone. One possibility is moving  
34 the pond closer to the houses rather than enlarging it. Mr. Livingston said the Board can’t grant  
35 a waiver because this comes under §145, not §202.

36  
37 The intersection with the gravel pit entrance was also discussed, and whether Dorfield Lane  
38 should align with it. Lot 9 does not meet the 3:1 length to width ratio. The Board could grant a  
39 waiver to 5:1, or the Board could require the road to be relocated but a waiver of 4:1 would still  
40 be needed.

41 **MOTION**

42 Motion by Mr. Toomey, seconded by Mr. DeBold, to grant the waiver to allow a 5:1 ratio for Lot  
43 9. **PASSED** 4-0-1 with Mr. Seiden abstaining.

44  
45 **MOTION**

46 Motion by Mr. Toomey, seconded by Mr. Anderson, to schedule a preliminary public hearing for  
47 March 11. **PASSED** 4-0-1 with Mr. Seiden abstaining.

1 **III. BAREFOOT COTTAGE HOMES** – Seal Harbor, LLC, applicant. Attar Engineering,  
2 Inc, agent. Site Plan Amendment Application #5 to depict the as-built conditions of the  
3 property including reconfigured parking, lot coverage, dumpster relocation, landscaping  
4 and enlarged garages; and resolve site plan approval items in default. No changes in use  
5 proposed to the existing/ grandfathered 56 Hotel/Motel units (Lodging Facility), 1 single  
6 family dwelling unit, or Accessory office, clubhouse, guardhouse, pool or patio. The  
7 property is located off of Barefoot Cottage Road/ Route One and is within the General  
8 Business and Residential A Districts. Tax Map 43, Lot 3-3. **Receive Site Plan**  
9 **Amendment, determine if a site walk is necessary, consider completeness if**  
10 **appropriate**

11  
12 **MOTION**

13 Motion by Mr. Toomey, seconded by Mr. Anderson, to receive the site plan amendment  
14 application #5. **PASSED** 4-0-1 with Mr. Seiden abstaining.

15  
16 Applicant Mark Gallagher was present. This amendment is intended to resolve defaults affecting  
17 another project of this applicant. There are some property line encroachments, a fence needs to  
18 be replaced, and a vegetated buffer is needed. Another site walk is advisable and can be done  
19 now because this is a site plan.

20  
21 Mr. Gallagher said the Condo Association Board plans to replace the fence in the spring. The  
22 combination of high winds and snowplowing has damaged the fence. The dumpster was  
23 relocated to the outside because of several accidents while it was in the garage. The entire road  
24 from the original emergency gate to beyond Rite Aid has been paved.

25  
26 **MOTION**

27 Motion by Mr. Toomey, seconded by Mr. DeBold, to schedule a site walk for Saturday, March 2  
28 at 9 AM. **PASSED** 4-0-1 with Mr. Seiden abstaining.

29  
30 Results of the site walk and completeness will be discussed at the next meeting.

31  
32 **IV. FOUR SEASONS FARM (FKA BRANCH FARM ROAD) SUBDIVISION** - Seal  
33 Harbor, LLC, owner/applicant; Attar Engineering Inc. agent. Final Subdivision  
34 Application to amend the 1988 Taylor Property Development Subdivision plan by  
35 dividing lot 17-3 into two parcels: one 2.3 acres parcel for the existing farm house and  
36 one 9.21 acre parcel to construct 4 single family dwellings as a Multifamily  
37 Development. A 60' wide private right-of-way to be constructed off of Branch Road.  
38 Parcel is located off of 1285 Branch Road and is within the Rural District. Tax  
39 Map 77, Lot 17-3 **Workshop compliance and draft Final Findings of Fact &**  
40 **Decisions**

41  
42 Applicant Mark Gallagher was present. Mr. Livingston reviewed the list of plan edits to be done  
43 on road design and stormwater. One drain manhole needs to be modified to prevent ponding onto  
44 the abutting property. Performance guaranties or cash bonds are required for the base pavement  
45 before building permits are issued and for the top coat before the last certificate of occupancy is  
46 issued. The defaults on the Barefoot project have to be resolved for approval of this project.  
47 Attar Engineering will provide the Planning Office with an as-built plan. Mr. Livingston and  
48 Mr. Gallagher will work out the details of the performance guaranties.

1 **MOTION**

2 Motion by Mr. Toomey, seconded by Mr. Anderson, to grant a 60 day extension. **PASSED** 4-0-1  
3 with Mr. Seiden abstaining.

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5 **V. TO CONSIDER ORDINANCE AMENDMENTS TO CHAPTER 145 (LAND USE)**  
6 **To permit Farm/ Lemonade/ Egg Stands; To define Net Habitable Floor Area; To**  
7 **define Accessory Living Spaces as not being dwelling units; To clarify the definition**  
8 **of Kitchen Facility; To clarify the definition of Home business; To permit**  
9 **Accessory Retail use in the Light Industrial District; To exempt Utility Structures**  
10 **from complying with some dimensional requirements; To alter Building/ Structure**  
11 **setbacks from multifamily developments; To include Solar Arrays as a Public**  
12 **Utility Facility; and To clarify Daytime Hours within the Noise Ordinance.**  
13 **Workshop Public Comments, Workshop comments or proposed changes and make**  
14 **final recommendations to the Board of Selectmen.**

15  
16 #1 Farm stands and lemonade stands

17  
18 **MOTION**

19 Motion by Mr. Toomey, seconded by Mr. Anderson, to delete “non-commercial” from §145-47.3  
20 A & B and move this item forward to the Selectmen. **PASSED** unanimously.

21  
22 **MOTION**

23 Motion by Mr. Toomey, seconded by Mr. Anderson, to move the following items forward to the  
24 Selectmen with a positive recommendation: #2 net habitable floor area, #3 accessory living space  
25 definition, #4 revise “kitchen” definition, #5 revise definition of a home business, #6 allow  
26 accessory business retail use in the Light Industrial District, #7 exempt utility structures from  
27 meeting dimensional requirements, #8 revise building separation for multifamily developments  
28 #9 include solar arrays as a public utility facility. **PASSED** unanimously.

29  
30 #10 noise ordinance changes for commercial and residential properties

31  
32 Mr. Toomey felt the language of the noise question is still too subjective and it should not be put  
33 on the June ballot because additional work is required.

34  
35 **MOTION**

36 Motion by Mr. Toomey, seconded by Mr. Anderson, not to pass this item to the Selectmen with a  
37 positive recommendation. **PASSED** unanimously.

38  
39 **OTHER BUSINESS**

40  
41  
42 ~MMA is holding workshops for Planning Board and Zoning Board members. The Portland  
43 workshop will be held on March 20. The Planning Office will make reservations.

1 **ADJOURN**

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**MOTION**

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Motion by Mr. Toomey, seconded by Mr. DeBold, to adjourn. Passed unanimously.

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MINUTES APPROVED \_\_\_\_\_, 2019

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ACCEPTED BY:

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Brian Toomey, Secretary

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Cinndi Davidson, Recorder

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DRAFT