

**TOWN OF LOVELL
PLANNING BOARD**

**MINUTES OF THE REGULAR MEETING
October 1, 2008**

Members Present: Walter Grzyb, Steve Korth, Bill McCormick, Dean Stearns and Chairman Ed Ryan. Lovell CEO, Ron McAllister, was also present.

Members Absent: Paul Bois and John Donnelly

Noting that there was a quorum of the Planning Board present, Chairman Ryan called the meeting to order at approximately 7:31 PM.

APPROVAL OF THE SEPTEMBER 3, 2008 MINUTES

A motion was made by Mr. Stearns to accept the minutes of the September 3, 2008 meeting that had been distributed previously to the Board. The motion was unanimously approved by the Board.

ITEM #3 – CONDITIONAL USE APPLICATIONS

JOHNSON PROPERTY – 42 N. LOWER BAY RD.

Mr. Neil Johnson, representing the Johnson Family, summarized the proposed project as one to replace a block foundation under their existing cottage on Kezar Lake with a concrete foundation, to raise the first floor of the cottage to be one foot above the 100 year floodplain and, at the same time, increase the footprint of the structure by approximately 250 square feet, including a deck of 160 square feet.

Chairman Ryan noted for the Applicant that the Lovell Zoning Ordinance requires that in instances such as this, where the structure to be repaired lies within the 100-foot setback from the shoreline, the Board is required to ascertain that the distance that the structure is proposed to be moved back is to the greatest practical extent.

Mr. Johnson, Mr. Ross Cudlitz PE, the consulting engineer on the project, and Mr. Nate York, the contractor, variously reported on and answered questions of the Board regarding the problems involved with trying to move the structure back from the lake. The discussion utilized an extensive drawing by Bliss and Associates, *Boundary Survey and Site Plan* dated April 16, 2008 and a report prepared by Mr. Cudlitz dated September 19, 2008, as follows:

- Drainage – Significant drainage runs across the middle of the cleared portion of this property coming from a 16 inch culvert under the low point of N. Lower Bay Road, that picks up all of the run-off of the steep land on the Northern side the road. This substantial run-off combined with the on-site run off of the westerly forested segment of the property follows a

clearly defined channel on the westerly side of the structure and to a lesser degree on the easterly side. There was testimony that nothing could be done to change the culvert because it is, in fact, located in the proper place given the topography of the land on that side of the road.

- ❑ Side line setbacks – Moving the structure in an easterly direction straight back would quickly get to the required 20 foot setback from the easterly property line and to a significant drainage ditch.
- ❑ Construction access – There was concern expressed that if the structure was moved back to the greatest possible extent, the need of a clearing of 18 to 25 feet around the structure as a construction corridor would cause extensive damage to the trees on the easterly side of the property and that grading for drainage away from the building would also make walking around the structure on the easterly side precarious.
- ❑ Construction on the north westerly side of the property was deemed to be impractical by Mr. Cudlitz because of the steepness of the grade and any construction on that segment of the parcel would almost require clear cutting an 18,000 square foot site vs. the 10,000 square foot canopy opening that exists today.

There was a question asked by the Board relating to Mr. Bliss' transmittal letter wherein he stated that "Although the Johnson family does own the property on the opposite side of North Lower Bay Road, that property is restricted by deed covenant, allowing a garage or a storage building only." However, the *Site Plan* clearly shows the proposed leaching field to be located there. Mr. Johnson clarified that Mr. Bliss' comments related to structures and that the deed restriction clearly permits the property to be used for septic purposes.

A motion was made by Mr. Grzyb to approve the application as presented and depicted on the *Site Plan* of Bliss & Associates described above. There was neither further discussion nor questions from the Board. Upon a vote of the Board, three members voted to approve the motion (Grzyb, Stearns and McCormick), one vote against (Ryan) and one abstention (Korth).

Mr. Johnson then turned his attention to the Application for Permit under the Floodplain Management Ordinance, which had been submitted previously to the Planning Board. Since the Permit application had only been reviewed by Chairman Ryan and the Lovell CEO and had not actually been distributed to the Board members, a brief recess ensued as the Application was read by the Board members.

Mr. Johnson volunteered that Best Management Practices regarding erosion control during the construction period would be drawn-up and submitted to the CEO prior to construction commencing.

A motion was made by Mr. McCormick to approve the Permit Application pending the receipt and the acceptance of the Best Management Practices regarding erosion control

during construction by the CEO. The motion was unanimously approved by the Board through a show of hands.

ITEM #3 – CONDITIONAL USE APPLICATIONS
HARMON PROPERTY – 33 FOX COVE ROAD

This is a Conditional Use Application that involves relocation and a new foundation under an existing structure located in the floodplain. The Board is in receipt of the Application for Permit under the Lovell Floodplain Management Ordinance.

The Application was prepared by Mr. Bliss of Bliss & Associates, Inc. who could not be present at this meeting. In his place Mr. R. Batchelor of Batchelor Construction was present to answer any questions that the Board might have relating to the Application.

There being no questions or discussion, a motion was made by Mr. Grzyb to approve the Application for Permit as presented in the supporting documentation submitted by Mr. Bliss dated August 25, 2008 and the Bliss prepared site plan drawing included therein dated September 13, 2007. The motion was unanimously approved by the Board through a show of hands.

ITEM #3 – CONDITIONAL USE APPLICATIONS
HUNSFICKER PROPERTY – 82 NORTH LOWER BAY ROAD

This is a Conditional Use Application for this property that involves the expansion and placement of a foundation under an existing cottage that is in the Shoreline Zone.

Correspondence from Mr. Bliss dated September 17, 2008, indicated the intention for this Application to be heard at the November 5th regular meeting of the Planning Board.

As a result, this Application was tabled and will be continued to the November 5, 2008 meeting.

ITEM #3 – CONDITIONAL USE APPLICATIONS
DAL-RUS CORPORATION (DALLINGER)

Present for this application were two officers of Dal-Rus Corp., President Ms. Jane D. Dopheide and Treasurer Ms. Margery D. Sholes. Dan Daniels of Dan Daniels Building Contractor, Inc. was also present.

Mr. Daniels proceeded to explain that the proposed project is to raise the structure, move it back to the point that the lake side of the building does not cantilever over the lake and the new foundation can be established on dry land and not the existing large rocks that are right at the water's edge. Mr. Daniels sketch of the property indicated that moving the building back 10 to 11 feet would accomplish these goals

Chairman Ryan noted for the Applicant that the Lovell Zoning Ordinance requires that in instances such as this where the structure to be repaired lies within the 100-foot setback from the shoreline, that the Board was required to ascertain that the distance that the structure is proposed to be moved back is to the greatest practical extent.

Chairman Ryan indicated that he, Mr. McCormick and CEO McAllister had performed a site inspection with Mr. Daniels a couple of weeks ago. As shown on the sketch there appears to be a total distance of 41 feet that could be used to move the structure and still meet the 20-foot setback requirement from the road. He indicated that in order for the Board to make a decision, it requires that it be provided with revised drawings to scale that would show the flood plain, contour lines, the existence of significant trees, provisions for parking, etc.

The officers of the Corporation were concerned that moving the structure too far back would negatively impact the view. The option of leaving the structure where it is and just replacing the existing piling foundation, realizing full well that it would have to be repaired from time to time, was also discussed. The Officers indicated that they would review their options and, if appropriate, would attempt to get the required drawings as soon as practical noting that time is of the essence.

Mr. Ryan was sympathetic to that need and offered that if the drawings could be obtained quickly, the Board could schedule a site visit in the interim period and possibly come to some agreement in principle that could be ratified at the next regular meeting of the Board in November.

ITEM #6 – NEW BUSINESS

PROPOSED ORDINANCE AMENDMENT – SETBACK DEFINITION

This is a continuation of the discussion that has taken place at previous meetings of the Board regarding measuring setbacks from a traveled way.

The proposed ordinance amendment prepared by J.T. Lockman of the Southern Maine Regional Planning Commission was distributed to the Board. Chairman Ryan asked that the Board take time to review the Amendment and asked that the item be tabled until the next regular meeting of the Board on November 5, 2008.

ITEM # 7 – OTHER –NON-AGENDA ITEMS

BENDER PROPERTY – 485 WEST LOVELL ROAD

Chairman Ryan endeavored to summarize the steps undertaken since the September 3, 2008 Board meeting during which a report was rendered by Mr. McCormick of a visit to the Bender property construction site. Chairman Ryan characterized his disclosures in this regard to be only informational for the Board and that there was no action required on the part of the Board. As a result, any attempt to include in these minutes an in depth discussion of the various meetings held between and among the various Town Officials

responsible for such matters, the Town attorney, the Bender's and the Bender's attorney, would be deemed to be inappropriate.

Nevertheless, Mr. McCormick did raise the issue that there appears to be a potential flaw in the policies and procedures being followed in the Town relating to matters over which the Planning Board has jurisdiction and to which it has given substantive attention and upon which it has rendered an opinion or finding. It was recommended that the Board review its practices to determine whether, or the extent to which they should be strengthened to ensure that the opinions and the intentions of the Board are properly interpreted in construction plans and properly implemented in the execution of those plans. Mr. McCormick stated that he believes that correlation is critical and that the Board should consider adopting procedures through which it would become aware of every substantive change from approved documents.

No action was taken by the Board on any non-agenda item.

There being no further business to be addressed by the Board, Chairman Ryan asked for a motion to adjourn. Such motion was made by Mr. Stearns and unanimously approved by the Board through a show of hands at 9:29 PM.

Respectively submitted,

Bill McCormick
Planning Board Recording Secretary.

