

**Minutes of the meeting of the Town of Chebeague Island Planning Board,
Thursday September 15, 2011 at 7:15 in the Hall**

Present: Sam Birkett, Ernie Burgess, Louise Doughty, Mabel Doughty, Jane Frizzell, Charles Hall, and Beth Howe (Chair)

Also present: Ron Tozier, CEO

1. Minutes of the meeting of August 25, 2011. Jane moved, seconded by Sam that the minutes be approved. The vote was unanimously in favor.

Beth said that on other administrative matters, we need to have an election for a chair and a vice chair. Also we adopted the wrong minutes at the last meeting. They should have been those of November 2010. We will do these at the next meeting.

2. Hamilton Beach Bluff Stabilization

Beth explained that this is a project that was approved in November 2010. Originally there was a group of six applicants and now that the project has been bid upon, there may only be three. If that is the case, a new application will have to be submitted to explain how the areas of the bluff that will not be stabilized will be integrated in those that will. This meeting is not a hearing but just an informal workshop. Even so, Beth sent a letter to all the people within 1500 of the site. In addition, Beth said that if the project goes forward with all six original applicants, there are requirements that were spelled out in the conditions of approval that are beginning to need to be met.

Beth asked Barney Baker, the engineer for the applicants to describe the current status of the project.

Barney said that all six applicants are still going ahead with the application so the design is the same as what was submitted to DEP and the Planning Board last year. Seven bids were received for the project. The bids were expensive and initially the group thought that changes would be needed in the design to reduce the cost to enable some of the applicants to participate. But in the end, everyone is on board with the original proposal. Anderson landscaping is the chosen contractor. In addition, John Thaxter will serve as an on-island project facilitator for the applicants. There will be some minor modifications related to the plantings and the length of the stone mattresses, but these are not sufficient to require a new application to DEP or the Planning Board. Baker is hoping that the project can move forward quickly. It will take a month just to mobilize materials and equipment, before the project can begin construction.

Barney went through the current status of the various conditions of approval from 2010: He has given the bid documents to Ron and Ron came to the pre-bid meeting. He will also be at the pre-construction meeting.

Planting plan: The contract documents have rosa rugosa and bayberry as the plants for the areas above the mattresses. But the applicants have also contracted with Terry DeWan for landscaping help. His staff member Sarah Woody will prepare the final plan which will supplement the rosa rugosa and bayberry with additional plants. The final planting plan will be submitted to Ron. The plants will not be planted until next spring.

The septic systems of all the houses were shown on the bid drawings.

The correct location of the boundary markers at the end of the project is a condition of the contract.

The state of the beach will be monitored once construction begins and if protection is needed, it will be provided.

There is a plan for evacuating the equipment from the beach in case of storm with two possibilities. One alternative is to take the equipment off the beach by barge, taking it so a good hurricane hole. The other possibility is to take the equipment to the top of the bluff to the Zaugg property which will be used for storing materials needed for the project. This plan will be given to Ron to review.

Beth opened the floor for questions from the Planning Board:

Beth said that in the original 2010 plan alternatives were provided for the relationship between the mattresses and the toe stones. Will these alternatives be used to reduce the cost of the project? Barney said that those alternatives were not included in the bidding documents and will not be used. The mattresses will go all the way down to the base of the toe stones.

Mabel asked how the State and Federal governments will know if there are modifications needed in their approval of the plan? Barney said that no modifications are necessary. DEP is mostly interested in the armoring part of the plan and less with the plantings. He did talk with DEP about possibly doing a simplified treatment of all six lots, but in the end, that is not necessary.

Beth said that to some extent this is an honor system in relation to modifications. But Ron will be keeping in touch with the project as it proceeds. Jack Turner said that John Thaxter will also.

There were no more questions from the Board.

Beth asked the Board how they should act on the project.

Jack Turner said that three weeks ago when he had called Beth about the project, he thought that changes would have to be made. He is delighted this is not what is happening. He appreciates the Board's willingness to have them come to present where the project stands now, and he hopes they do not think that this has been a waste of time.

Beth said that the Board was planning to meet already. She thinks this project does not need any action if it proceeds according to the plans approved last fall. The Board should just send the applicants on their way to work with Ron on the details. This seems like a good project and the more people along the bluff who are involved, the better.

3. Should there be a definition of "a shed" in the Zoning Ordinance?

Beth said that this came up because of the Boat Yard's 70' x 70' shed. The real issue is sheds closer to the lot line than the setbacks. This is an issue because the current side and back setbacks are quite large. One option for us would be to reduce the setbacks to the size they were before 1975 and take the exception for sheds out, since the side and rear setbacks would only be

20 feet. But she does not really want to have the group take on the issue of the setbacks now, as the first issue on changes in the zoning. It raises lots of other issues.

Ron said that Ron said that the issue here was that when the Boat Yard came in asking for 70' x 70' he and Beth realized that this was pretty open ended. What he needs is some consensus among members of the Board about how to deal with the issue of sheds. He does not mind if he says no to someone building a shed, and then they appeal the decision to the Board of Appeals and it is over-turned. But he needs to have a consistent position for everyone who comes in asking about sheds. The first Boat Yard shed in the setback went to the Board of Appeals, and that was ok. In addition, it still had to come to the Planning Board because it is a commercial development.

Beth asked if building a shed to build a boat is a commercial use. Ron said if the boat is for the fisherman himself it is not commercial, but if it is to be sold, it is a commercial use, though it could be a home occupation.

Mabel asked if you can have a shed on a lot with no house. Hank Whetham's shed is an example of this.

Sam asked if there is a limit on the number of sheds. Ron said no, until the lot is full.

Charles made the distinction between small/residential sheds versus large/commercial ones, but Beth said our land use does not separate commercial and residential uses very strictly.

Mabel: It seems like the decision need to be made on an individual basis.

Charles said that Paul White originally defined the Boat Yard's shed as a garage since you could drive into it. Paul thought of a shed as a small building. The Board of Appeals wanted to accommodate the Boat Yard, and thought that its decision would not set any kind of precedent. As a member of the BOA at the time he thought the decision was correct, but as a Planning Board member he thinks the Board should address the question of residential versus large commercial sheds and how they fit into other situations. He thinks there should be a prohibition of people sleeping in sheds.

Beth said that maybe it is not a big issue for people to use sheds in the summer for temporary overflow housing, but we don't want people living permanently in sheds. But then several people had examples of people building houses who lived in sheds while they did. You could say that there could be no sleeping in sheds, or just prohibit them having plumbing. But that means no potting sheds.

Beth asked "Is it worth struggling thorough this zoning thicket, for the return we would get from it"?

Ron said it is important to discuss this. The case of small sheds and garages is clear. And he can tell applicants not to sleep in them. But what about a lumber shed? It is a commercial use, but it may be at the owner's house.

Mabel asked what about height. Beth said 35 feet is the height limit on the island. That is pretty tall. Jane said she thought it would be easy to have a height limit on a shed. Mabel asked about cutting off people's view. Beth said we have no regulation of that.

Charles said that Bill Longley in Cumberland would have accepted a 24' x 24' building as a shed. But that is quite large – as big as a cottage.

Beth said we could define a shed in restrictive way – square footage and fairly small. But then she said fishermen need sheds, and how large do they need to be? Ernie said they can never be large enough. In any case if the definition is small, then people just go to the Board of Appeals and get a variance. Ron said that is a good way for it to work – the neighbors have a say and there may be conditions placed on the shed.

Ernie said you can have sheds, garages, shops, barns – each with their own definition of setback. Jane said that the only one that could be built in the setback is a shed.

Beth said there is a fundamental issue about the definition of sheds – how much detail in regulations should Chebeague have? The more elaborate our regulations get – defining sheds, garages, shops etc, and not for living – and many communities do this -- is this inimicable to the way people live on Chebeague? Jane asked how fair is it to build a huge shed 15 feet from someone's lot line. Charles said it would be different if they have been heard at the Planning Board than if they have not.

Beth said that one of the problems on Chebeague is that there are many buildings that were built before there was any zoning and don't conform to the current zoning. They generally are harmless and it is difficult to argue that someone can't do what exists already.

Ron said you can't live a building without an approved septic system – that is a state regulation and an enforcement issue, not something that we can change. The only issue here is the 15 feet. You could move it back to 30 feet or limit its size in a residential area, since any commercial building would come to the Planning Board anyway. You could have anything come to the Planning Board

Beth said “what if we just stuck with the size?” Jane asked what is fair to put within 15 feet of someone else's lot?

The discussion wandered on. Finally Beth said to Ron “you say you want more guidance” . . . He said he wants the discussion – that helps him get a sense of the community attitudes about sheds.

Beth said that one thing we could do would be to take the exemption for sheds out of the residential district so they would have to conform to the setbacks, but leave it in the commercial district to have the small setback.

Jane said let's have a motion on shed size and the setback. Let's do small – 20 x 20 and 18 feet tall. Ron said use square footage. How about 240 square feet? Beth asked if that is large enough for fishermen or carpenters. Ernie said two stories would be useful – storage above and work below. Jane said that that would be ok under the fishing language in the ordinance. Beth

said she thought not. And Jane said that even though she thinks fishermen should have what they need, that house may not always belong to a fisherman and you might end up with a large shed that is inappropriate for the area.

Beth said how about changing the language where the shed exemption is laid out to say that only sheds smaller than xx size would be allowed up to the 15 foot line. If you want to have it bigger, you have to come to the Planning Board. Ron said you could put a height restriction on it as well, but keeping the square footage small probably would limit the height as well. This would be a significant change in the ordinance. This would only be for residential sheds.

Beth thinks that one problem with this whole approach is that the current setbacks are excessive. But she doesn't want to take that up now – we do not need to start with that.

Louise asked if heat in sheds is regulated – most have a wood stove, with paint and shavings all around.

Beth said this really is a can of worms. But should we vote on the idea of having some limitation on the size of sheds in residential areas? Sam said if you limit the size of sheds, would people build more sheds. Beth said that this would not limit the size of any shed except ones within 15 feet of the property line.

Beth asked Ron if we have given him the guidance he wanted. He said yes. Beth said that she thought her idea of starting work on the Zoning Ordinance through small issues was unrealistic – small things make big cans of worms.

Ron said that Jane and Charles have raised an important issue – how big a shed can someone build right next to your property line. Now he has to say yes to any size building, as long as it is a shed. He thinks that there may be agreement on a smaller size. Beth said we could just say in the ordinance “except that sheds smaller than xx, and driveways . . .” Ron suggested 240 square feet, or 300 square feet with height restriction of 16 feet either attached or detached. This would be in keeping with other towns. Beth said we could only change it in the residential zone, except that the commercial zone mostly has houses. Jane said she wanted it in both zones. Beth said she would bring a proposal with the sizes worked out to the next meeting.

Ron said he had put the application for a 30 square foot kelp aquaculture site north of Little Chebeague on Beverly's website. DMR must hold a public hearing on it if five residents so request. Beth said that CICA is sponsoring an informational meeting on it at 9:00 this Sunday.

Respectfully submitted,

Beth Howe