Minutes of the TOCI Planning Board, November 21, 2013 at 7:15 at the Hall

Members present: Sam Birkett, Chip Corson, Louise Doughty, Mabel Doughty, Jane Frizzell and Beth Howe
Also present: CEO Ron Tozier

1. Member attendance at meetings
Beth reminded members that our rules say that no member can miss more than 2 consecutive meetings without an excuse. Doing so can result in being replaced. Such absences have occurred, though Beth is liberal about excuses. But everyone must keep in mind that the more meetings someone misses, the less they can pick up the thread of where issues and applications are in the process of discussion, the more work it puts on other members., and the less fair it is to applicants.

2. Sunset Committee
Beth said that Sam had said she was willing to serve on this committee but then withdrew. Beth put her name in, in order to try to insure that someone from the Planning Board was on the committee. But she said she would gladly give way if someone else wanted to volunteer. No one did.

3. Minutes
Jane moved, seconded by Sam to adopt the minutes of the meeting of October 17, 2013. Approved unanimously.

4. Process for reviewing shoreland zoning applications on Hope Island
Beth said that the meeting that the lawyers for both sides will attend has been put off till December 12. Ron said that he has a meeting of the Board of Appeals that evening. Beth said we will see if we can go back to December 5.

Beth said that having this meeting before December 5 allows us to get a better understanding from Ron of what the issues are on Hope that have resulted in these two applications. Also it gives us an opportunity to discuss whether we need to ask for additional information from Hope before that meeting.

Ron reviewed some of the actions in the shoreland zone that have been taken. These have come out of the settlement of the suit by the Town and DEP against the Scorpio Company. The settlement included removing some structures and getting permits from the Town for the others. The gazebo on the Southwest side of the island has been removed. There is still a road there. One of the applications is to approve after the fact all the roads that have been built in the shoreland zone. The road along the north/east shore did exist as a path in 1975. That means it can be expanded without permission. The road along the south/west side of the island is new. The court agreement specified that the parts in the 75 foot buffer or resource protection zone would have to be no larger than 4 foot wide, grassed and mowed.
paths. The rest of the roads between the 75 and 250 foot boundaries can be roads for cars and trucks.

The second application is to review the creation of a duck pond in the southeast part of the island. Part of it is in the shoreland zone.

Ron said he was going to present a slide show of pictures of the roads, showing the current problems. These are not primarily issues of the construction of the roads themselves. The roads are well built. But there are issues about drainage and erosion, especially since the south side of the island is largely a cliff, going into deep water that is a good place for lobstering. The group should think about what kinds of treatments would improve these situations and what they would like to see about this from the applicant. Drainage issues concerning runoff, including polluted runoff from a manure pile and from the many birds of the island, could be dealt with by things like soil stabilization and revegetation, but there are also many other engineering options that might be used.

Beth said that the application and the aerial photo of the island does not make clear what roads they have built, and we should ask them to be clearer about that. Ron said that there also may well be additional roads in the future and it would be useful to ask them to include these future plans in their application.

Chip said it seemed wrong to him to have us be asked to approve after the fact construction which was illegal under our ordinance. Beth and Ron said that building roads in the shoreland zone is not necessarily illegal. The law tries to keep roads that are not just driveways to houses out of the 75 foot resource protection zone. But it is possible to have roads in the rest of the shoreland zone as long as they go through a permitting process that insures that they meet the requirements of the shoreland zoning law which is primarily concerned with creating drainage patterns and a buffer that prevents runoff from flowing into Casco Bay.

Ron showed the slides, with the pictures progressing from the west to the east end of the south side road. There were truck tracks in the area that is supposed to be a path, and the paths are too wide and have not been vegetated except by volunteer regrowth. Much of the roadbed has been created along the steep slope face by building up the outside of the road with large boulders, topped by several grades of finer gravel. This allows the water from the road to flow over the edge of the road, picking up velocity as it runs down the steep, rocky slope of the roadbed, and across often cleared, unvegetated areas, into the Bay.

Ron showed slides of the interior of the island, where the Cacoulides have created a flat grassy area by breaking up the ledge into gravel and then replacing it with loam and grass. They can produce not only gravel but good loam as well. He also showed the excavation and staging area for the large piles of gravel and loam. This backs up against the shoreland 250 foot boundary.
Finally he showed a picture of a large manure pile, created by dumping manure directly from the road into the 75 foot resource protection area. This manure pile appears to have no measures that would prevent runoff from flowing down into the water.

Ron said the other Hope Island application is for approval of the duck pond on the southeast side of the island. Part of it is in the 250 foot part of the shoreland zone and there is a road down to the edge of it that has a very steep grade and needs to have its drainage improved. He had no pictures of this area, and there was very little discussion of it.

He asked if the Board thinks it needs to have a site visit to the island to get a better idea of what has been built and the issues the roads and pond have left unresolved. Everyone on the board indicated that a site visit would be very useful, though several members said they might have difficulty getting around on the island. Ron said he would talk with Anne Torregrossa, the Town’s lawyer, about whether this could be arranged.

Beth said that, since we are asking the Cacoulides to produce formal maps and engineering drawings of what exists and what should be done, it might be worth considering whether the Board should hire its own engineer to evaluate the application materials. She read out section 602.5.B.6 which says that in relation to shoreland zoning applications, the Board may require the applicant to establish an escrow fund that the Town could use to hire its own engineer. No decision was made on this suggestion.

Beth said that she would work on a request to the applicants, detailing the additional information we need to have in order to evaluate the applications. She will send a draft of this around to everyone else for comments/additions/deletions. And then it can go to the applicants.

Respectfully submitted,

Beth Howe