

Minutes of the TOCI Planning Board, Tuesday March 26, 2013 at 7:15 at the Hall

Present: Chip Corson (left almost immediately to take his dog to the vet), Mabel Doughty, Jane Frizzell, Charles Hall and Beth Howe (Chair)

Absent: Sam Birkett and Louise Doughty

Also present: Ron Tozier, CEO and Jonathan KomLosy and Jay Corson.

1. Minutes of the meeting of February 21, 2013

Jane moved approval of the minutes, seconded by Charles. Approved unanimously.

2. Revision of TOCI Zoning Ordinance: Site Plan Review, section 206.4 Classification of Projects

Beth said that the meeting will focus particularly on the issue of how to define the break-point between minor site plans. Minor site plans have a somewhat simplified review, whereas major site plans require more information, often by technical experts, because they have a larger impact.

Currently the dividing line is set at buildings larger and smaller than 5000 square feet. A proposal was made and adopted earlier to lower this to 3000 square feet. It would also be possible not to use the building size at all, but instead to use the amount of impermeable area created by the development.

Chip asked what the reason is for setting the dividing line at 3000 square feet. Beth said the major issue is probably treatment of the stormwater. Smaller projects don't usually clear a lot of land, and therefore don't change the stormwater drainage patterns a lot, whereas large projects may do that and need to have systematic planning for how to prevent the stormwater from running off into neighboring properties.

Jonathan said that major site plans require more technical help which is costly. He said he had spent \$27,000 on the materials for the last meeting of the Cumberland Planning Board on the Slow Bell. There are additional requirements for well inspections by the State since commercial projects, by definition, have public water supplies.

Beth said that there is a general relationship between the size of the project and the amount of technical assistance required for the site plan, but that actual examples we have differ quite a lot.. Of 14 site plans reviewed by Cumberland and TOCI, all but one of which were minor site plan reviews, four small ones had required no technical assistance. Several required that a survey be done and a septic system designed, but the site plan was drawn by the applicant. Two had hired an engineering firm to develop the site plan, and one had a volunteer develop one. Most of the public buildings like the Museum, the Library/Health Center and the Rec had involved engineers and architects, though the projects differed considerably in size.

Charles said he was initially in favor of reducing the break-point to 3000 square feet because he hoped it would enable the Board to correct drainage problems in existing developments. But now he thinks this is largely an enforcement issue. Beth and Ron agreed. The Planning Board

cannot review projects once they have been approved, but if the plan that was approved was not followed, the requirements of the plan could be enforced. Ron said that he does not have a lot of leverage in getting property owners to correct existing drainage problems, since they are, in effect, grandfathered.

Jonathan said that the applicant for site plan review, whether it is major or minor, can always ask for waivers on certain application requirements. They may be able to do this before they have put out money for studies.

Mark pointed out that the ordinance allows the Town to hire its own engineer to review projects. This work is then charged to the applicant. He is not arguing for it, but just pointing it out.

Mark asked whether the issue of the difference between 3000 square feet and 5000 square feet is primarily an issue for the applicant or for the neighbors, the general public and the environment.. Several people said it was both. He thinks Chebeague should be business friendly.

Jane asked what kind of projects could Chebeague realistically have that would be larger than 5000 square feet. She thinks this is getting too large to be appropriate for the island. Jonathan said if a boatbuilding operation came here, it would probably be larger than that. It would also employ lots of people.

Jay said that the more impediments the Town puts in the path of development, the fewer jobs the island will be able to develop, and ultimately it will become a retirement community. Jane said she sympathizes with businesses just starting up, but it is also important to protect the community as a whole.

Beth suggested that the group look at the idea of using impervious surface rather than the size of the building. It would relate more directly to the drainage issues that is one of our main concerns. Jonathan asked whether gravel is considered an impervious surface. Ron said he had just been looking at the state law on this, and it is. The table of 14 projects showed that in terms of impervious surface, the projects we have had in recent years vary from several involving less than 1000 square feet of impervious surface, through 3, 4, 5, and 6,000 square feet to the Rec Center, which, because of the pool, parking and tennis court, has about 38,000 square feet. What if 10,000 square feet were the cut point between major and minor site plans.

Ron said that it would be better to use a different term than “impervious surface” because technologies, like concrete with bubbles in it, are being developed to create surfaces that aren’t considered impervious but still can cover a lot of ground, so developers can get around the limit on impervious surface. He suggested using “disturbed area” instead to determine the size of a development, and have as measures things like cutting trees and brush and digging up the ground.

Jonathan said that if we used impervious surface, any development would do its best to minimize its parking area. Beth said the ordinance requires a certain number of parking spaces for each kind and size of development. Jane added that it would also be possible to have a really large building with only a small amount of impervious surface other than the roof.

Beth asked whether the Board is interested in exploring the practicality of something like impervious surface further. There was little response, so she moved to consider it further. Mabel seconded the motion. The vote was a tie – 2 for and 2 against, so officially it failed.

Beth suggested voting on the two cutoff points for the division between major and minor. She moved to vote on 5000 square feet as the dividing line. Mabel seconded. Ron asked if the Planning Board can require a developer to have plans to deal with drainage problems even if the project was a minor site plan. Beth said it could and read out some of the long section in the criteria for approving site plans about the stormwater management (criteria G).

The vote was called and the result was 3 in favor and one opposed, so the motion carried.

3. Code Enforcement and Hope Island

Ron said that a notice of violation had been issued against Cacoulides under Section 80K of state law. It was the result of a site walk on Hope Island with Cacoulides' lawyer and engineer, DEP, the Town's lawyer and Ron. The notice of violation focused on the most obvious violations of the shoreland zoning, in order to make the Town's case as strong as possible. The Selectmen were also involved in this decision.

Last week there was another meeting between these parties to try to work out a settlement between the Town and the Cacoulides so the case would not have to go to trial. No agreement was reached, but some discussion may continue. However, Ron said he had little hope for an agreement after the meeting. Jonathan asked whether Ron or the Planning Board has seen a general plan for the work on Hope, to get some idea of how long it will last. Ron has asked Cacoulides for such a plan, but he does not have one. In fact, Ron's work on the Hope Island issues over the past year was intended to have such a plan made. But this has not worked.

Ron also reported on Paul Belesca's application to add 2 more temporary floats to his wharf. This is particularly important for making it easier to get gas. He has talked with DEP about this. Since the floats will be in the water for less than 7 months, the decision does not have to go to the Coastal Waters Commission or the Planning Board. Jonathan asked whether anyone looks at how the land property boundaries extend into the water. Ron said that Paul must have a submerged land lease from the State, and the application will be reviewed by the Army Corps of Engineers; they will look at that. Mark said he thought it would be good for Coastal waters to review such applications. It might also be more realistic to change the Town's definition of "temporary" from 7 to 8 months to correspond better to the time that people really need to use the wharf. Jonathan agreed.

Beth adjourned the meeting.

Respectfully submitted,

Beth Howe