Planning Board Meeting Minutes,  
March 23, 2017 

The Planning Board held a meeting on Thursday, March 23, 2017, at the Chebeague Recreation Center.

Call to order: Chairman, Chip Corson called the meeting to order at 6:00 PM. 
Planning Board members present: Jane Frizzell, John “Chip” Corson, Robert “Bob” Earnest, Carol White, Donna Colbeth, Nancy Hill. 

Gilmartin Findings of Fact 
Raymond Gilmartin: Replacement of existing permanent pier and seasonal ramp and float, Tax Map 1-03 Lot 099, located at 8 Central Landing Road

Motion: Moved by Carol White and seconded by Bob Earnest to approve the Findings of Fact, dated March 23, 2017 and attached to these minutes, for the Gilmartin pier replacement project. 

Vote: 6-0; Motion Carried 

Other Business 
Discussion regarding scheduling of next meetings: 
• Monday, April 10, 5:00 PM, site walk for Cox-Chapman project; public invited to attend; no decisions to be made 
• Thursday, April 20, 6:00 PM, at the Chebeague Recreation Center, for deliberations on the Cox-Chapman pier application 
• The Workshop with Stephanie Carver, scheduled for March 29th, was cancelled.

Adjournment 
Motion: Moved by Bob Earnest and seconded by Carol White to adjourn the meeting at 6:22 PM 

Vote: 6-0; Motion Carried 

Respectfully submitted, 

Marjorie Stratton 
Town Administration
Findings of Fact & Conclusion of Law

Date: March 23, 2017
Application Type: Permanent Pier with Seasonal Ramp and Float
Owners Name: Raymond Gilmartin
Agent for Owner: Ecoanalysts, Inc. C/O Tim Forester
Located at: 8 Central Landing Road
Zoning District: Commercial Fisheries and Maritime Activities Shoreland (CFMA), Limit Commercial Shoreland (LC), and Island Business (IB)

Project Description:

The applicant has applied for a Shoreland zoning application to replace of existing permanent pier and seasonal ramp and float with a 6’ x 204” permanent pier, 4’ x 54’ seasonal ramp, and a 12’ x 32’ seasonal float, also install a 4’ wide set of stairs to access shoreline, located on Tax Map 1-03, Lot 099, at 8 Central Landing Road.

FINDINGS OF FACT:

• The owner of the property, Raymond Gilmartin, provided to the Planning Board (Board) a recorded deed in the Cumberland County Registry of Deeds, Book 9239, Page 263,
• Mr. Forrester provided the Board with a letter of authorization from Mr. Gilmartin, showing reasonable right, title and interest in the property.
• The Board has demonstrated jurisdiction through section Ch. 17 Art. II, § 204.2.B, § 421, & § 602.5 of the Town Chebeague Island Zoning Ordinance (Zoning Ordinance).
• The Board concluded that there are no conflicts of interest between any Board members and the applicant.
• The Coastal Water Commission reviewed the application and issued a written recommendation of the application to the Board on February 17, 2017
• The Board held a public hearing on March 16, 2017. There was no public comment or any written testimony provided to the Board regarding this application. The Board found the application to be complete and the Board decided to not conduct a site walk.

Ch. 17 Art. II, § 421.4

The following standards shall apply to all piers, docks, floats, wharves, bridges, and other structures and uses extending over and beyond the normal high water line of a body of water, submerged lands or wetland:

No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 204.2.C a second structure may be allowed and may remain as long as the lot is not further divided.
A. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

The application is to replace the existing pier in approximately the same location, the applicant has stated that the area the pier will be constructed to minimize erosion. Furthermore, there will be minimum soil disturbance and excavation upland. Based on this information above and in the record the Board finds that this criterion will be met.

B. The location shall not interfere with existing developed or natural beach areas.

The Board heard testimony from the Coastal Water Commission and has determined that the existing and proposed pier will not interfere with existing public accesses. Based on this information above and in the record the Board finds that this criterion will be met.

C. The facility shall be located so as to minimize adverse effects on fisheries.

The applicant has stated that Department of Marine Resources (DMR), Department of Inland Fisheries and Wildlife (IF&W) and the Harbor Master find that the application will not have any adverse impact on fisheries or wildlife habitat. Based on this information above and in the record the Board finds that this criterion will be met.

D. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area.

The application is to replace the existing pier in the same footprint, the six (6) foot width of the pier is consistent with residential piers, the floats will land in subtidal area for boating access and there are similar residential uses/structures in the surrounding area. Based on this information above and in the record the Board finds that this criterion will be met.

E. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

There are no proposed structures to be built on, over or abutting the pier. Based on this information and in the record the Planning Board finds that this criterion is not applicable.

F. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal highwater line of a water body or within a wetland shall be converted to residential dwelling units in any district.

There are no existing structures built on, over or abutting the pier. Based on this information and in the record the Planning Board finds that this criterion is not applicable.

G. Except in the Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

There are no proposed structures to be built on, over or abutting the pier. Based on this information and in the record the Planning Board finds that this criterion is not applicable.

H. Lighting on piers, wharves, docks, bridges, floats and other structures should be designed and installed to minimize negative impacts on other properties and safe navigation at night. Negative impacts include excessive lighting and unnecessary glare that can be a hazard to navigation. Public and Commercial facilities shall submit a lighting plan for review by the Planning Board for safety and compatibility with the proposed use. All lighting shall be in conformance with all Federal
State, and local standards including Coast Guard Regulations for lighting of piers or wharves where applicable.

There are no changes to the existing lighting on the pier, there is no existing lighting or proposed lighting on the floors. The Harbor Master has stated the lighting will be adequate for safety purposes and there have been no recorded complaints on the existing lighting. Based on this information above and in the record the Board finds that this criterion will be met.

I. Structures shall not unduly interfere with passage along or within the intertidal zone in order to protect established colonial rights for fishing, fowling and navigation. This may require accommodations such as steps or pier elevations that would allow passage over or beneath a structure.

The pier will be elevated fourteen point five (14.5) feet to eighteen (18) feet above grade within the intertidal area, which will allow adequate passage. Based on this information above and in the record the Board finds that this criterion will be met.

J. Where a waterfront structure is proposed that will serve more than one property, the property owners shall submit to the Town of Chebeague Island a proposed easement demonstrating that permanent access and maintenance rights shall be granted to the parties sharing the structure. The parties shall submit to the Code Enforcement Officer proof of recording of the easement after its review and approval by the Town of Chebeague Island.

The applicant has stated the pier will not serve other properties. Based on this information above and in the record the Board finds that this criterion will be met.

K. Before any construction or site preparation begins, the applicant must obtain all Federal, State and local permits, as required, including but not limited to a Code Enforcement Officer permit, permits from the Department of Environmental Protection under the Natural Resources Protection Act, 38 M.R.S.A. § 480-C as subsequently amended, the Army Corps of Engineers, and a Wharfing-Out permit issued by the Selectmen under 38 M.R.S., Ch. 9, as subsequently amended.

The applicant has applied for permits from the Maine Department of Environmental Protection (MDEP) and Army Corps of Engineers (ACOE). The applicant is aware that the Code Enforcement Officer will not issue any building permits until the approvals from the MDEP and ACOE have been granted. Based on this information above and in the record the Board finds that this criterion will be met.

L. Vegetation may be removed in excess of the standards in Section 427.5 of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.

There is no vegetation proposed to be removed and the applicant is not conducting any shoreline stabilization. Therefore, the Board find that this criterion is not applicable.

M. The Town of Chebeague Island shall notify all property owners within 1500 feet of the proposed project. In addition, the Town of Chebeague Island shall place Public Notices in four (4) locations to maximize notification of the affected citizenry and shall place Public Notices in two local papers.

The Town Clerk sent notices to abutters and posted the notice at the Town Office, the Stone Pier, Casco Bay Landing Pier, Doughty’s Market and on the CTC Ferry. Additionally, the Town Clerk placed a notice in two newspapers: The Forecaster (March 8, 2017) and Portland Press Herald (March 3, 2017). Based on this information above and in the record the Board finds that this criterion will be met.
Ch. 17 Art. II, § 602.5.C. Criteria for Review

1. After the submission of a complete application to the Code Enforcement Officer or the Planning Board, the Code Enforcement Officer or the Planning Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

a) Will maintain safe and healthful conditions;
Based on the proposed size, lighting, and being constructed in the same location, the application will maintain safe and healthful conditions. Based on this information above and in the record the Board finds that this criterion will be met.

b) Will not result in water pollution, erosion, or sedimentation to surface waters;
There will be minimal soil disturbances and the pilings material will meet the MDEP and Environmental Protection Agency (EPA) standards. Based on this information above and in the record the Board finds that this criterion will be met.

c) Will adequately provide for the disposal of all wastewater;
The application does not include any subsurface wastewater disposal systems; therefore, the Board find that this criterion is not applicable.

d) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
The Harbor Master finds that the application will not have any adverse impact on fisheries or wildlife habitat. Based on this information above and in the record the Board finds that this criterion will be met.

e) Will conserve shoreland vegetation;
There will be minimal upland soil disturbances and no proposed removal of vegetation. Based on this information above and in the record the Board finds that this criterion will be met.

f) Will conserve shore cover and visual as well as actual points of access to inland and coastal waters;
A single pier and stairway will conserve the shoreline by eliminating various separate shoreline accesses and the pier location will not impact any existing public accesses. Based on this information above and in the record the Board finds that this criterion will be met.

g) Will protect archaeological and historic resources as designated in the Comprehensive Plan;
The applicant has submitted a letter from the Maine Historic Preservation Commission stating the application will not impact any archaeological and historic resources. Additionally, there doesn’t appear to be any archaeological and historic resources outlined in the Comprehensive Plan in relation to this application and lot. Based on this information above and in the record the Board finds that this criterion will be met.

h) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities Overlay District;
The Board heard testimony from the Harbor Master stating the application will not affect the existing commercial fisheries and maritime activities in the surrounding area. Based on this information above and in the record the Board finds that this criterion will be met.
Town of Chebeague Island
192 North Road
Chebeague Island, ME 04017
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i) Will avoid problems associated with flood plain development and use; and
The base flood elevation shown on the Federal Insurance Rate Map (Panel 2301620021D) depicts the Base Flood Elevation at eleven (11) feet and within a V2 flood zone. The flood zone is not associated with a Resource Protection Floodplain overlay district. Ch. 17 Art. IV, § 6.N of the Town of Chebeague Island Floodplain Management Ordinance, states that wharves, piers, and docks are considered a functionally water dependent use and are a permitted use within the floodplain. Based on this information above and in the record the Board finds that this criterion will be met.

j) Is in conformance with the provisions of this Article.
The application is in conformance with Ch. 17 Art. II, § 204.2.B and § 421 of the Zoning Ordinance. Based on this information above and in the record the Board finds that this criterion will be met.

k) Is not in a floodplain adjacent to tidal waters (RP/FP Overlay District), and that an approved Letter of Map Amendment has been issued by the National Flood Insurance Program
The lot is not associated with the Resource Protection Floodplain overlay district. Therefore, the Board finds that this criterion is not applicable.

CONCLUSION:

Therefore, the Town of Chebeague Island Planning Board hereby approves with the following conditions, the application for Raymond Gilmartin to replace the existing permanent pier and seasonal ramp and float with a 6’ x 204’ permanent pier, 4’ x 54’ seasonal ramp, and a 12’ x 32’ seasonal float, also install a 4’ wide set of stairs to access shoreline, on Tax Map L-03, Lot 099, located at 8 Central Landing Road, as described in the application January 23, 2017 and the above findings of facts.

Conditions of Approval:

- Soil Erosion Control and Stormwater Management Measures shall be in place prior to construction; the Code Enforcement Officer may require additional measures be taken
- Wharfing out and Building permits shall be obtained prior to the start of construction/use
- This approval will expire twelve (12) months from the date of Planning Board approval if the project or the use has not been started within this allotted time
- A certified person in erosion control practices by the Maine Department of Environmental Protection must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion.
- Plan approval is also conditioned upon compliance by the Applicant with the Plans and specifications which have been received by the Planning Board in connection with the development proposal as well as with any oral or written commitments regarding the project which were specifically made by the Applicant to the Board in the course of its deliberations, any alterations that are not de-minimis shall require Planning Board approval as an amendment to this approval.
- The applicant must apply for and obtain all applicable permits for the proposed development under the Natural Resources Protection Act, Title 38 M.R.S.A. section 480-C, the Site Location of Development Act, the Erosion and Sedimentation Control law, Title 38 M.R.S.A. section 420-C, the Stormwater Management Law, the Federal Clean Waters Act as delegated to the State of Maine, and all other applicable state and federal laws regulating the use or development of land.
Pursuant to Ch. 17 Art. II, §603.7.A.2 of the Town of Chebeague Island Zoning Ordinance, this decision can be appealed to the Board of Adjustments and Appeals within thirty (30) days.

Date Approved: March 23, 2017
Town of Chebeague Island Planning Board

John Corson, Chairman
Nancy Hill
Carol White
Robert Earnest
Jane Frizzell
Donna Colbeth