Planning Board Meeting Minutes  
May 4, 2017

Call to order: Chairman Bob Earnest opened the meeting at about 6:00 PM
Planning Board Member Present: Jane Frizzell, John “Chip” Corson, Robert “Bob” Earnest, Carol White, Donna Colbeth, Kyle Koerber (new member; not voting)
Also Present: Marjorie Stratton, Tim Forester, Ernie Burgess, Cecil Doughty, Paul Belesca

COX-CHAPMAN PIER APPLICATION

Explanation of Process:
Bob explained that for the process of voting on the Findings of Fact, only minor amendments are allowed and no comments from the public or applicant will be allowed.

Motion: Moved by Chip Corson and seconded by Carol White to accept the Findings of Fact as is.

Vote: 3 - 2 (Jane Frizzell and Donna Colbeth opposed)
Jane Frizzell stated that she will be voting “no” on item D.

Tim Forester commented on point of order: He asked if this proceeding was being taped. Bob said it is not.

Donna Colbeth said that under item D. reference is made to comparison of existing stairs and “floats.” They are not floats.

The Board proceeded to vote on individual findings: See Findings of Fact and Conclusion of Law attached hereto.
Following the voting on the Findings of Fact and Conclusion of Law, the Board discussed future meetings. The next meeting will be on May 17th at 7:00 PM at the Recreation Center. The topic will be revision of the Land Use Ordinance.

Motion: Moved by Jane Frizzell and seconded by Chip Corson to adjourn the meeting at 6:30 PM.

Vote: 5 - 0; motion carried

Respectfully submitted,

Marjorie Stratton
Town Administrator
Town of Chebeague Island
192 North Road
Chebeague Island, ME 04017
www.townofchebeagueisland.org

Findings of Fact & Conclusion of Law

Date: May 4, 2017
Application Type: Permanent Pier with Seasonal Ramp and Float
Owners Name: Marian Cox-Chapman
Agent for Owner: Eco- Analysts, Inc. C/O Tim Forrester
Located at: 45 South Shore Drive
Zoning District: Commercial Fisheries and Maritime Activities Shoreland (CFMA), Limited Commercial Shoreland (LC), and Island Residential (IR)

Project Description:
The applicant has applied for a Shoreland zoning application to install a six (6‘) x forty (40’) feet permanent pier, with a six (6’) by ten (10’) foot permanent ramp attached to the upland side. Attached to the permanent pier will be a three (3’) by forty-eight (48’) foot seasonal ramp and twelve (12’) by twenty-four (24’) foot seasonal float, Tax Map I-01, Lot 032, located at 45 South Shore Drive.

FINDINGS OF FACT:

- The owner of the property, Marian Cox-Chapman, has provided the Planning Board (Board) with a deed recorded in the Cumberland County Registry of Deeds, Book 21462, Page 74,
- Mr. Forrester provided the Board with a letter of authorization from Ms. Cox-Chapman, showing reasonable right, title and interest in the property.
- The Board has demonstrated jurisdiction through the following sections of the Town Chebeague Island Zoning Ordinance (Zoning Ordinance), Ch. 17 Art. II, § 204.2.B, § 421, & § 602.5.
- 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 approval to the Board on February 17, 2017
- The Board held public hearings on March 16, 2017 and April 20, 2017
  - The Board heard testimony from several abutting property owners and has received numerous letters in favor and in opposition of the application; all written testimony has been included in the record for the Board’s consideration
- The Board held a site walk on April 10, 2017
- The Board found the application to be complete on April 20, 2017
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 majority of the permanent pier and access ramp will be installed and anchored to the existing exposed ledge which will minimize erosion. Furthermore, there will be minimal soil disturbance and excavation while installing piles. Based on this information above and in the record the Board finds that this criterion will be met.

Vote: Yes 5 No 0

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

There is an existing natural sandy beach and public access to the northeast of the proposed pier; the pier is located on ledge covered with rockweed which would make pedestrian traffic under and around the pier very difficult. Based on this information above and in the record the Board finds that this criterion will be met.

Vote: Yes 5 No 0

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

The applicant has stated that the 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.

Vote: Yes 5 No 0

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.

Mike Morse (Assistant Shoreland Zoning Coordinator, MDEP) provided the Board with an email, stating that the Board shall review the greater general neighborhood for similar residential uses. The Boards finds that the size and scope of the permanent pier, seasonal ramp and float are reasonably consistent with residential recreational uses, and the proposed pier, ramp and float is no larger than needed for the applicants use at all tide levels. The area of the lot where the pier, ramp, and float will be located is zoned CFMA on the official Zoning Map, these uses are permitted in the CFMA district. In addition, historically the
CFMA zone allows such residential and commercial recreational fishing uses. Furthermore, shorefront lot owners have the right to wharf out pursuant to title 38 M.R.S § 1022. Based on this information above and in the record the Board finds that this criterion will be met.

Vote: Yes 3  No 2 (Frizzell and Colbeth)

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 above and in the record the Board finds that this criterion will be met.

Vote: Yes 5  No 0

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 above and in the record the Board finds that this criterion will be met.

Vote: Yes 5  No 0

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 above and in the record the Board finds that this criterion will be met.

Vote: Yes 5  No 0

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 is no proposed lighting with this application, and the Harbor Master has stated that he is not aware of any Coast Guard requirements to light the private pier, ramp and float, the applicant is aware that if lighting is proposed later, the lighting will require separate review and approval from the Board. Based on this information above and in the record the Board finds that this criterion will be met.

Vote: Yes 5  No 0

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 applicant has amended the application to allow seven (7’) feet of headroom under the permanent pier at highest annual tide and sixteen (16’) feet nine (9”) inches at the intertidal area which will allow pedestrian passage under the pier. Based on this information above and in the record the Board finds that this criterion will be met.

Vote: Yes 5  No 0

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 and will be for private use only. Based on this information above and in the record the Board finds that this criterion will be met.

Vote: Yes 5  No 0

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, ACOE, and the Wharfing Out Permit from the Board of Selectmen have been granted. Based on this information above and in the record the Board finds that this criterion will be met.

Vote: Yes 5  No 0

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. Based on this information above and in the record the Board finds that this criterion will be met.

Vote: Yes 5  No 0

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). The First Public Hearing was held on March 16th at which time the Board tabled the hearing and application to conduct a site walk on April 10, 2017 and continue the public hearing and reviewing of the application at their April 20, 2017 meeting. Based on this information above and in the record the Board finds that this criterion will be met

Vote : Yes 5  No 0

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, location, and types of materials used (Pressure Treated Piles, Stainless Steel Hardware, and other structural members) 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.

Vote : Yes 5  No 0

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, during construction. Based on this information above and in the record the Board finds that this criterion will be met.

Vote : Yes 5  No 0

c) Will adequately provide for the disposal of all wastewater;

The application does not include any subsurface wastewater disposal systems. Based on this information above and in the record the Board finds that this criterion will be met.

Vote : Yes 5  No 0

d) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
The Harbor Master, MDEP and ACOE 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.

**Vote:** Yes  5   No  0

**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.

**Vote:** Yes  5   No  0

**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.

**Vote:** Yes  5   No  0

**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.

**Vote:** Yes  5   No  0

**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.

**Vote:** Yes  5   No  0

**i) Will avoid problems associated with flood plain development and use; and**

The base flood elevation shown on the Federal Insurance Rate Map (Panel 2301620023E) depicts the Base Flood Elevation at fourteen (14) 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.

**Vote:** Yes  5   No  0
j) **Is in conformance with the provisions of this Article.**

Based on the above finding of fact 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.

**Vote:** Yes 5  No 0

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. Based on this information above and in the record the Board finds that this criterion will be met.

**Vote:** Yes 5  No 0

**CONCLUSION:**

Therefore, the Town of Chebeague Island Planning Board hereby approves with the following conditions, the application for Marian Cox-Chapman to install a six (6') x forty (40') feet permanent pier, which a six (6') by ten (10') foot permanent ramp will attach to on the upland side. Attached to the permanent pier will be a three (3’) by forty-eight (48’) feet seasonal ramp and twelve (12’) by twenty-four (24’) foot seasonal float, as described in the application dated January 16, 2017 and the above findings of facts.

**Vote:** Yes 3  No 2 (Frizzell and Colbeth)

**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.
- No lighting has been approved with this application, separate review and approval from the Board will be required to install any lighting on the pier, ramp, or float.
- 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.
Town of Chebeague Island  
192 North Road  
Chebeague Island, ME 04017  
www.townofchebeagueisland.org

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 30 days.

**Date Approved:** May 4, 2017  
Town of Chebeague Island Planning Board

Robert Earnest, Chairman

Nancy Hill

Carol White

John Corson

Jane Frizzell

Donna Colbeth