Planning Board Meeting Minutes

The Planning Board met in Workshop on Thursday, August 17, 2017, at the Chebeague Recreation Center beginning from 6:04PM to PM

1. Meeting called to Order at 6:03pm by Bob Earnest; in attendance: Nancy, Jane, Chip, Caitlin, Bob, Nick Adams, Kyle, Marjorie, Jim Forrester, Scott Dyer, Steven Silin, Diane Lukac, Cecil and Jim Wilson.

Planning Board Member Absent: Carol White

Bob Earnest explained the agenda, moved by Nancy Hill, seconded by Chip to open the public hearing

2. Public Hearing

- Steven Silin, a new permanent pier, seasonal ramp and seasonal float, Tax Map 1-06, Lot 009, located at 1Curit Road
  - Tim Forrester explained project. Stairs will have to be relocated.
  - Rollers-Bob unclear where they would be in use.
  - A total of 8 Solar Deck dots will be utilized.
  - DEP and Army Corps permits received.
  - Chip asked about eel grass- Jim gave an explanation.

Chip Corson moved to close the public hearing at 6:25pm, seconded by Nancy Hill

3. New Business

- See attached Findings of Fact & Conclusion of Law

3. Review and approve prior meeting minutes

- Motion: Moved by Chip Corson, seconded by Nancy Hill to approve the July 20, 2017 meeting minutes

VOTE: 5-0-1

4. Adjourn Meeting
Findings of Fact & Conclusion of Law

Date: August 18, 2017
Application Type: Permanent Pier with Seasonal Ramp and Float
Owners Name: Steven Silin
Agent for Owner: Atlantic Environmental, LLC. C/O Tim Forrester
Located at: 1 Curit Farm Road
Zoning District: Limited Residential Shoreland (LR), and Island Residential (IR)

Project Description:

The applicant has applied for a Shoreland Zoning application to install a 5' x 150' fixed permanent pier and a seasonal 3' x 40' ramp and a seasonal 12' x 20' float, Tax Map I-06, Lot 009, located at 1 Curit Farm Road

FINDINGS OF FACT:

- The owner of the property, Steven Silin, has provided the Planning Board (Board) with a deed recorded in the Cumberland County Registry of Deeds, Book 17325, Page 189,
- Mr. Forrester provided the Board with a letter of authorization from Mr. Silin, 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 Waters Commission reviewed the application and issued a written recommendation of approval to the Board on July 28, 2017.
- The Board held a public hearing on August 17, 2017
  - The Board heard testimony from the applicant and two abutting property owners, both who were in favor of the application. The Board did not receive any written testimony and the oral testimony presented at the Public Hearing was considered by the Board in their deliberations.
- The Board does not see the need for a site walk of the premises
- The Board found the application to be complete on August 17, 2017
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 Board finds that the access location, construction methods and processes are appropriate for the use and standards and will minimize soil disturbances. Based on this information above and in the record the Board finds that this criterion will be met.

Vote: Yes 6          No 0

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

The project is located on mostly boulders and rock weal, additionally the parcel is not associated with any existing developed or natural beach areas. Based on this information above and in the record the Board finds that this criterion will be met.

Vote: Yes 6          No 0

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

According to the Department of Marine Resources (DMR), Department of Inland Fisheries and Wildlife (IF&W), and the Maine Department of Environmental Protection's (MDEP) review and approval of the application, there will be no adverse effects on fisheries. Based on this information above and in the record the Board finds that this criterion will be met.

Vote: Yes 6          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.

Based on the information provided the facility is no larger in diameter than necessary, the facility will be consistent with other residential piers in the area, and the size is well within guidelines. Based on this information above and in the record the Board finds that this criterion will be met.

Vote: Yes 6          No 0
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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 6 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 6 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 6 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.

The flush mounted solar accent lighting emits lighting straight up illuminating the top rail which limits light from penetrating beyond the top rail. Additionally, the Harbormaster has found the lighting plan to be in compliance with standards and regulations. Based on this information above and in the record the Board finds that this criterion will be met.
Vote: Yes 6 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 structure has been designed to protect the rights for fishing, fowling and navigation and will allow passage beneath the structure. Based on this information above and in the record the Board finds that this criterion will be met.

**Vote:** Yes 6  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 6  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 received permit approvals from the MDEP and Army Corps of Engineers (ACOE). The applicant is aware that the Code Enforcement Officer will not issue any building permits until the Wharfing Out License has been issued from the Board of Selectmen. Based on this information above and in the record the Board finds that this criterion will be met.

**Vote:** Yes 6  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 Shoreland stabilization associated with this application; therefore the Board finds this section not applicable. Based on this information above and in the record the Board finds that this criterion will be met.

**Vote:** Yes 6  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 Northern Edition of the Forecaster (August 10, 2017) and the Portland Press Herald (August 1, 2017). Based on this information above and in the record the Board finds that this criterion will be met.

Vote: Yes 6 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;

The pilings, hardware and methods have been approved by the MDEP and ACOE. Based on this information above and in the record the Board finds that this criterion will be met.

Vote: Yes 6 No 0

b) Will not result in water pollution, erosion, or sedimentation to surface waters;

The use of helical anchors and driven piles, as well as using a barge at low tide during construction the application will minimize water pollution, erosion, or sedimentation to surface waters. Based on this information above and in the record the Board finds that this criterion will be met.

Vote: Yes 6 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 6 No 0

d) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

According to the DMR, IF&W, and MDEP’s review and approval of the application, there will be no adverse effects on fisheries. Based on this information above and in the record the Board finds that this criterion will be met.

Vote: Yes 6 No 0
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e) Will conserve shoreland vegetation;

The design of the steps allows light to pass through and the applicant has stated that only
minimal vegetation will be removed as needed for the use and will be in compliance with the
Shoreland Zoning Regulations. Based on this information above and in the record the Board
finds that this criterion will be met.
Vote: Yes 6  No 0

f) Will conserve shore cover and visual as well as actual points of access to inland and coastal
waters;

The minimal footprint of the stairs and use of helical anchors will preserve actual points of
access, additionally there are no inland waters associated with this application. Based on this
information above and in the record the Board finds that this criterion will be met.
Vote: Yes 6  No 0

g) Will protect archaeological and historic resources as designated in the Comprehensive
Plan;

There are no archaeological or historic resources as designated in the Comprehensive Plan
associated with the property and the Maine Historic Preservation Commission states that there
are no historic properties associated with the property in their approval letter on March 3, 2017.
Based on this information above and in the record the Board finds that this criterion will be met.
Vote: Yes 6  No 0

h) Will not adversely affect existing commercial fishing or maritime activities in a Commercial
Fisheries/ Maritime Activities Overlay District;

The property is not located within the Commercial Fisheries/Maritime Activities Overlay
District. Based on this information above and in the record the Board finds that this criterion
will be met.
Vote: Yes 6  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 2301620021D)
depicts the Base Flood Elevation at ten (10) feet and within an A2 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 6  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 6  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 6  No 0

CONCLUSION:

Therefore, the Town of Chebeague Island Planning Board hereby approves with the following conditions, the application for Steven Silin to a install 5' x 150' fixed permanent pier and a seasonal 3' x 40' ramp and a seasonal 12' x 20' float, Tax Map I-06, Lot 009, located at 1 Curit Farm Road, as described in the application dated July 5, 2017 and the above findings of facts.

Vote: Yes 6  No 0

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 30 days.

**Date Approved:** August 18, 2017

Robert Earnest, Chairman of the Board