

**Bar Harbor Planning Board
March 6, 2019
Council Chambers — Municipal Building
93 Cottage Street in Bar Harbor
4:00 PM**

I. CALL TO ORDER

Chair St. Germain called the meeting to order at 4:00 PM.

Meeting call to order
@ 4:00 PM

Members present were Chairperson Tom St. Germain, Vice-chair Joe Cough, and Secretary Basil Eleftheriou, Jr. The chair noted that John Fitzpatrick was on his way (see below). The fifth seat on the board is currently vacant.

Quorum/ 3 members
Fitzpatrick
absent/running late

Town staff present were Planning Director Michele Gagnon, Code Enforcement Officer Angela Chamberlain and Administrative Assistant Tammy Desjardin

II. ADOPTION OF THE AGENDA

Mr. Cough moved to adopt the agenda as prepared. Mr. Eleftheriou seconded the motion. The motion carried unanimously (3-0).

Agenda adopted as
prepared

III. EXCUSED ABSENCES

Chair St. Germain informed the board and the public that Mr. Fitzpatrick was going to be late. It was agreed that no motion was needed on this matter. The meeting adjourned before Mr. Fitzpatrick was able to join.

IV. PUBLIC COMMENT PERIOD

Charter Commission member Anna Durand asked for Planning Board input. Ideas and suggestions that have been heard — should the Warrant Committee comment on Planning Board articles to be voted on; should the recommended actions for land use articles not be on the ballot; should the members of the Planning Board be elected; should the Warrant Committee be smaller and should the School Board and Planning Board be the Budget Committee. She is looking for the expertise of the board for guidance.

Charter Commission
asking for board input
into process

Donna Carlson thanked the board for all the work they do. Ms. Carlson liked the joint Council – Planning Board workshop. Ms. Carlson commented that the most important thing for her is that people be able to continue to live here, work year-round, and preserve what we have left of year-round community members. Ms. Carlson also spoke on the matter of limiting vacation rentals to Bar Harbor residents or property owners who have Homestead Exemption. She asked the board if they would have the town attorney weigh in on the legality of limiting vacation rentals to homesteaders. Chair St. Germain said that at the last meeting the Planning Board directed the Planner to get a legal opinion on this matter.

Planner to look into
and report on the
legality of limiting
vacation rental to
homesteaders

V. APPROVAL OF MINUTES

a. February 6, 2019

Mr. Eleftheriou moved to approve the minutes of the February 6, 2019 regular meeting as prepared. Mr. Cough seconded the motion. The motion carried unanimously (3-0).

Minutes adopted as prepared

VI. REGULAR BUSINESS

- a. Final recommendation — Museum:** It was explained that the Planning Board is to make a recommendation as to whether the proposed amendments ought to be adopted or ought not to be adopted.

Chair St. Germain remarked that the group that asked for this initially has not purchased the lot and the group has no other site in mind. Mr. Cough felt the board acted quickly in order to help the group and the board should put more thought into the decision. Mr. Eleftheriou also thought the recommendation should be refined a bit before recommending passage.

Mr. Cough motioned that the Planning Board ought not to adopt the amendment. Mr. Eleftheriou seconded the motion. The motion carried unanimously (3-0).

Proposed museum amendment - board voted ought not to be adopted

- b. Final recommendation — Appendix A:**

Mr. Cough moved that the proposed amendment ought to be adopted. Mr. Eleftheriou, seconded the motion. The motion carried unanimously (3-0).

Proposed Appendix A amendment - board voted ought to be adopted

- c. Final recommendation — Citizens Petition to prohibit berthing piers for large cruise ships:**

Mr. Eleftheriou questioned if that was a surface water use rather than a land use matter. If not a land use matter, this would be a Town Council rather than a Planning Board decision.

Proposed Citizen Petition to prohibit berthing piers for large cruise ships - board voted ought not to be adopted

Mr. Cough made a motion of ought not to be adopted. Mr. Eleftheriou seconded the motion. The motion carried unanimously (3-0).

- d. Completeness Review : SD-2018-01-Hamilton Hill Subdivision
Project Location: 18 Eagle Lake Road, Bar Harbor Tax Map 107
Lots 001-000 and 001-002
Applicant: Kebo Properties, LLC**

Completeness Review for Hamilton Hill Subdivision

Application: The applicant is proposing to develop a 16-lot subdivision.

St. Germain recuses himself/board count is 2 members

As an abutting property owner to the project, Mr. St. Germain recused himself and exited the room. Vice-chair Cough took over the chair.

Present were Jodi O'Neal, PE from the James W. Sewall Company and owner/developer Chris Swan.

There was a question and answer period between the board and the applicant.

Board voted to accept Sketch Plan list of submission waivers

Mr. Eleftheriou motioned to accept the waivers during Sketch Plan Review dated July 18, 2018, make a motion to approve all waivers listed. There was discussion between Mr. Eleftheriou and Mr. Cough about referencing the Sketch Plan or Exhibit 2 and a question posed to the City Planner about what may be preferable. Mr. Cough seconded the motion. The motion carried unanimously (2-0).

Using the Staff Report, Mr. Eleftheriou began a discussion about the waivers still missing that need to be added to the list of waivers requested by the applicant:

Board voted to add items to list of submission waivers as noted in the staff report – applicant to add items to list

Mr. Eleftheriou motioned to accept the waivers as requested with the following items also to be added to the waiver list, as noted in the staff report.

- 3. B Purchase & sale agreement.**
- 4. B Proposed deed for roads or other property to be dedicated.**
- 7. G Design plan for shared subsurface wastewater system.**
- 9. Q Location of existing and proposed signs on site plan.**
- 9. DD Existing/proposed easement/access to water bodies shown on site.**
- 9. EE Access locations to adjacent undeveloped land shown on site plan.**
- 9. FF Existing/proposed recreation/open space land shown on site plan.**
- 9. JJ Soil test pit locations shown on site plan.**
- 22. A Existing/proposed sign detail.**

Mr. Cough seconded the motion. The motion carried unanimously (2-0).

The planner explained that the rest of the items listed in the Staff Report are small items that the applicant omitted to submit and asked that the board consider that these items be provided at compliance review.

The board asked questions about these items. The applicant will find out if an easement from Emera is needed. It was stated that the power would be underground.

Applicant to find out if Emera easement is needed

Mr. Cough explained that he was uncomfortable accepting this application as complete. He noted that the capacity letter from the water company is missing. The timing of the SLODA permit was discussed. Mr. Cough noted that at the next meeting the board could consider completeness review and compliance review back to back. A discussion about the water tower shown on the plan ensued.

Mr. Eleftheriou went through the Staff Report list of Suggestions for Subsequent Submission. Mr. Cough noted that the previously waived items referred to as 4. B Proposed deed for roads or other property to be dedicated, on page 3 of the Staff Report, should maybe not have been waived, as there may be a need for dedicated easements such as for utilities.

Mr. Eleftheriou pointed out that on plan C-1, the applicant needed to change the minimum lot size from 40,000 SF without sewer to 10,000 SF with sewer and the maximum lot coverage from 25% without sewer to 50% with sewer.

There was a discussion about the board asking for a performance guarantee for stormwater as brought up previously by Mr. Fitzpatrick. The planner explained that as a planner she has never asked for performance guarantee in relationship to stormwater but has asked that stormwater infrastructure such as level spreaders be installed under the supervision of an engineer and/or that an engineer inspect the work and certifies that it is installed to standards.

Discussion regarding performance guarantee for stormwater

Mr. Cough asked if there were issues with the grades for the road. Mr. Cough asked the planner if it was fine. The planner responded that staff would be checking this tomorrow. Mr. Swan added that the access road to the project was off Kebo Street as the grades were more favorable compared to 13% to 14% off the Eagle Lake Road, which would not have been good. Mr. Cough said that he had never heard of a T turn around. He asked if the town had standards for T

turn around. The planner explained that the town did not hence the reason the applicant was asking for modification of standard.

Chair Cough asked if there were members of the public that wanted to comment. No one cared to comment.

Mr. Eleftheriou motioned to find the application SD-2018-01-Hamilton Hill Subdivision incomplete pending receipt of the following items, these items are outlined in the staff report:

- **Demonstration of relationship between Kebo Properties and Chris Swan.**
- **Demonstration of SLODA permit application.**
- **MaineDOT Driveway/Entrance permit.**
- **Capacity statement from Public Works.**
- **Capacity statement from the Sewer Department.**
- **Statement from the Water Department.**
- **Applicant's name on the plans to be signed and recorded at the registry of deeds.**
- **Statement that lot monumentations will be placed prior to any building permit being issued.**
- **Abutting subdivision's name and the name of the owner/developer to be shown on the plan.**
- **Existing and proposed lot coverage to be shown on the plan with percentages to match notes in the legend.**
- **Intersection turning radii to be shown on the street plan.**
- **Proposed street name to be shown on the plan.**
- **Minimum lot size shown without town sewer and lot coverage shown without town sewer.**

The applicant asked to get feedback about the DEP permitting. A conversation ensued. Mr. Eleftheriou added that the items should be received by March 18 by noon and scheduled a public hearing for April 3 or the next available meeting if submission should not come in a timely manner. Mr. Cough seconded the motion. The motion carried unanimously (2-0).

Mr. Cough noted that the meeting dates on the first page of the Staff Report, the fourth one down, August 9, 2019 should be corrected to August 9, 2018.

Mr. St. Germain re-entered the room, regained his place at the table and the role as the chair.

Board voted to find the application incomplete pending receipt of items, as listed

Board also voted - if the applicant submits material by March 18 @ noon, a public hearing will be scheduled for April 3. If the applicant does not meet the March 18 noon deadline than a public hearing will be scheduled for the next available meeting

Correction of date on Staff Report

St. Germain re-takes the chair/board count is 3 members

VII. OTHER BUSINESS

a. Dormitory amendment

Chair St. Germain informed the board and public members present that he had met with the Planning Director the previous week and will be meeting again on March 8, 2019 to work on dormitories.

St. Germain and Planner to continue working on dormitories

b. Vacation rentals

Cough leaves the meeting/board count is 2 members

Mr. Cough excuses himself and leaves for Mass at 5:53 PM.

Mr. St. Germain asked board members if they had looked over his ideas on how to proceed with vacation rentals. The conversation settled around needing guidance from the Town Council, the possible effects of changing the length of vacation rentals and density. Mr. St. Germain explained that it is important to meet the June vote. He also noted that maybe the money to hire a third party enforcer should be used to conduct a housing study. Mr. Eleftheriou said that the board has been talking about the need for a planning study for three or four years. It was mentioned that the MDI Island Trust study is not specific to the needs of Bar Harbor.

Board notes the importance of addressing vacation rental in time for the June vote

Board notes the need for a housing study

Erica Brooks, Bar Harbor resident and real estate agent, spoke about the economic benefits of vacation rentals. She said that vacation rentals allow many people to stay here, as an affordable way to live here. Some do it for retirement income.

Resident Brooks speaks about the benefits of vacation rentals

Mr. St. Germain indicated that there is not much of an appetite from the Planning Board to have the housing resulting from the increased density turned into short-term rentals.

Board is interested in increasing density for year round units

Ms. Brooks said that many people are renting for less than three nights and are out of compliance. They would like to see the ordinance change so they can be operating legally. They are worried that when the town starts enforcing next year they will be found in violation. Ms. Brooks also thinks that we should keep this simple instead of trying to cure any supposed housing crisis because of the vacation rental term. Her opinion is that we should not worry about that. She thinks that if we can get the ordinance cleaned up a bit, that further down the road we can work on the housing piece.

Resident Brooks wants the definition of vacation rental to be changed to legalize the less than 5-day rentals

Eleftheriou asks if renting more than 30 days violates the vacation rentals

Mr. Eleftheriou asked if renting more than 30 days is a violation of the ordinance. He also asked how the maximum of 30 days was arrived at.

Donna Carlson would like to know if the town could figure a way to notify neighbors when permits are issued that would result in an increase in density and having the neighbors be part of the process, if for example a property owner is building a second unit on their lot. Ms. Carlson is also concerned that increased density would lead to off street parking and worries about the safety of children.

Mr. Eleftheriou added that the lot coverage per family would not necessarily result in additional structures on a lot, as it could be apartments.

Resident Carlson wants neighbor notification when permit results in increased density. Also concerned with off street parking/safety for children

VIII. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA

The board had no suggestion for future agenda item.

Chairman St. Germain asked if there were no upcoming applications. The Planning Director mentioned that the KOA campground at the head of the island was coming.

No comments/suggestions for next agenda

IX. ADJOURNMENT

Mr. Eleftheriou motioned to adjourn at 6:15 PM. Mr. St. Germain seconded the motion. The motion carried (2-0) as Mr. Cough has already left the meeting.

Meeting adjourn at 6:15 PM

Minutes approved by the Bar Harbor Planning Board on March 20, 2019:

Date APRIL 2, 2019
Basil Eleftheriou Jr., Secretary
Bar Harbor Planning Board