

WINTHROP PLANNING BOARD
Wednesday, December 7, 2005
Minutes

Council Members Present: Chairman Eric Robbins: Board Members, Bryant Hoffman, Edward Vigneault, Stephen Robbins, Robert Ashby, Clark Phinney, and Andrew Flint, Beth Young (CEO) and Julie Winberg (Secretary). Absent: Rick O'Brien

Public in Attendance: Andy Dunbar, Randy Tarbox, Ronald Towle, and Carol Towle Elliott Thayer, Michael Goodenough, Nancy Dykstra, Tara Mullins, Pamela Rosen, Max Bryant, John Vautier, Beth Vautier.

Chairman Robbins called the meeting to order at 7:05 P.M.

Public Hearing – Ordered that the Winthrop Planning Board meet to consider the following items:

Item No.

05-26 Case # 208 – John A. Vautier - requests a conditional use permit for earthmoving to construct a single-family residence in the Shoreland Zoning District, 56 Welch's Point Road, Cobbossee Lake, (Town Map 53 Lot 24).

Mr. Vautier presented his request to the Board. It consists of a 30 x 38 foot house on $\frac{3}{4}$ acre. The center of the house is approximately 110' back from the water with 32' from one side of the property line and 30' from the other side of the property line.

The property slopes gently. It has been all cleared and connected to water and sewer. There is no structure on the site. The property had a cabin on it originally but has been subsequently torn down prior to this applicant's purchase of it. A year later, the applicants obtained a permit to build a shed, which still exists and will remain in the same use. Erosion control standards are in place and the applicant has talked with Winthrop Utilities about sewer lines and they showed the applicant where the hookup is on the property.

A manufactured home will be placed on the property with the estimated delivery date of February 6, 2006. Excavation will be done until mid-February, with seeding in the spring.

There being no further discussion, the public portion of the meeting was closed at 7:16 p.m.

Board Member Robbins noted that he was not satisfied with the lack of thoroughness of the applicant's submission as it lacked among other things, erosion control plans or plot plans.

Aside from that, the applicant should have erosion control stabilization in place and inspected by the CEO prior to issuance of the permit. The Board was unanimous in their request of installing a silt fence, with hay barrier, then inspection before the permit issues.

Pamela Rosen (73 Welch Point Road, 578 Main Street, Monmouth, Me 04259) was present and spoke in reference to this application as follows: an explanation of the oversight that the Board has in reference to sites and clearing that has and continues to be occurring; the notification process for abutters and the timeframe that is required.

The Board addressed these concerns explaining that it does not oversee behavior on properties and when something goes on that effects code enforcement, unless it relates to this particular application, the resident should address those types of concern to the Code Enforcement Officer.

In addition, applicants are allowed to remove trees for construction and the CEO will send to this resident a copy of the Ordinance and the standards and conditions of tree removal for any property.

Board Member Robbins also noted that this proposed structure is going to be constructed further from the water than the setback requirement. He went on to say that an applicant may remove trees from 100' back and within that 100' there are strict regulations.

The applicant will install a silt fence, seed and stabilize. The riprap request, which they will also be doing, is something that the DEP needs to address. The Board instructed the applicant to consult with the Soil Conservation Service.

The CEO noted that in reference to timber harvesting, the intention for trees to be removed to construct a home is limited to 40%.

The Board determined that 200 cubic yards would be moved and what is not used will be hauled to a gravel pit in Monmouth that the excavator owns.

Motion by Vigneault seconded by Robbins that Case # 208 – John A. Vautier – request for a conditional use permit for earthmoving to construct a single-family residence in the Shoreland Zoning District, 56 Welch's Point Road, Cobbossee Lake, (Town Map 53 Lot 24) be approved with the condition that a silt fence and hay balls be placed for erosion control and inspected by the CEO prior to construction and that conditions #2, # 6, #7 be applied. Vote was unanimous (7-0)

05-27 Case # 209 – Ronald and Carol Towle – request a conditional use permit to remove and replace non-conforming structures and for earthmoving to construct a single-family residence and a residential garage in the Shoreland Zoning District, 77 Maranacook Station Lane, Maranacook Lake, (Town Map 56 Lots 14 & 15).

Ronald and Carol Towle – request a conditional use permit to remove and replace non-conforming structures and for earthmoving to construct a single-family residence and a residential garage in the Shoreland Zoning District, 77 Maranacook Station Lane, Maranacook Lake, (Town Map 56 Lots 14 & 15).

Board Member Robbins informed the Board that he provided free advice concerning the septic tank to the applicants. The Board was unanimous that recusal was not necessary.

Representing the Towles was Andy Dunbar from Thayer Engineering Company.

Mr. Dunbar reviewed the history of the application that originally went to the Board of Zoning Appeals.

In summary, Carol and Ron Towle, along with Randy Tarbox, are the joint owners of the property that is located on the west shore of Maranacook. Each of these two lots, which are proposed to become one, has a principle structure on it. The structure on each of these lots is a cottage built approximately 40 years ago. The Towles have been involved with the properties since the mid 1980's. The southern lot has a shed, cottage and dock. The northern lot has a cottage. There is a concrete walkway that runs along the shore.

The only upgrade to these lots has been a new septic system and pump station with a capacity for a four-bedroom design. The Towles are proposing building a home with one to two bedrooms on one lot and a garage on the other. This septic system can accommodate a larger structure. A full survey was done. Mr. Tarbox has designed the structures and presented to the Board the proposed building plans. The house will be built on the northern lot with a basement. The garage

will be built on the southern lot, large enough to accommodate two vehicles and a workbench area along with lawn/driveway equipment.

The house size is approximately 34 x 33 and the garage, similar in size, is slightly smaller at 30 x 35. They roof of both structures is designed at an 8/12 pitch. The roof on both structures will be either architectural shingles or metal. The home is an open concept. The southernmost lot has riprap and this will be extended across the northern lot. The present dock will be removed. There will be full erosion and sediment plan and stabilization and landscaping close to the lake will be planted to establish a buffer. Prior to construction silt fencing and hay balls will be placed.

Earthmoving is expected to be no more than 25 cubic yards...with 1/2 of that to be placed back into the site and the contractor has approved disposal area that he will take the remaining yardage to.

In addition, the DEP sent a letter to the Board for their consideration after reviewing this application, which they did cite as incomplete. The Department concluded that a variance is not appropriate in this instance. Again, the Board's decision must be based on the four "undue hardship" criteria contained in the Winthrop ordinance and in Title 30-A section 4353.4. In order to grant the variance the Board must find that all four of the criteria are met. The first criterion is that the land in question cannot yield a reasonable return without the variance. The Towles already have an existing cottage or cottages on the lot. These buildings give the Towles a reasonable return from the property. Reasonable return must not be equated to maximum return. Nor is it necessary to convert a seasonal structure into a year-round home in order to gain a reasonable return. With the limited information that was made available to the Department, the DEP recommended that a variance not be granted for the additional 8305 cubic feet of volume.

Mr. Dunbar handed out revised site plans for the Board's review. These site plans showed the decrease in size for the garage to 26 x 30, and the home to 30 x 34. The design would still remain as a one-bedroom home with cathedral ceiling. The garage would have the same roof pitch as the house. The roof pitch has now been reduced to.

The primary reason for seeking a variance was due to the type of structure that is now in place on these lots is low flat buildings. (photos of the site were passed to Board Members to confirm).

Mr. Dunbar also informed the Board that the existing sidewalks on the waterside were going to be left as is. He commented that from an erosion control standpoint, this would be beneficial. He explained that after discussion with the

applicants over these sidewalks, as there is one on each of the lots, the applicants decided to leave them as is as they are a good stabilizer. The side setbacks were also significantly reduced.

Mr. Tarbox passed out the house plans in which the actual reduction of both the house and the garage were reflected.

Mr. Dunbar ran thru the hardship rules of the Code for informational purposes for the Board's benefit as follows:

- a) That the property in question cannot yield a reasonable return unless a variance is granted. The applicants feel that without granting this variance, this home cannot yield a reasonable return.*
- b) That the need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood. The applicants felt that the homes are uniquely small; the interior volume of the existing structure is driving forward this application.*
- c) That the granting of the variance will not alter the essential character of the locality, adversely affect adjoining or nearby properties, nor endanger the public health, safety and welfare. The applicants felt that they were not altering in any way the essential character of the neighborhood as similar projects throughout the area fit with their proposal. The applicants feel that their proposal will not negatively impact what is already out there.*
- d) That the hardship is not the result of action taken by the applicant or a prior owner. The applicants felt that the hardship was a result of the revisions of the land use ordinances in Winthrop....revisions that took place well after their original purchase in the early 1980's and their original intent of eventually retiring to this site.*

Mr. Dunbar then reviewed for informational purposes how the Board of Zoning Appeals responded to the hardship rules as follows:

- e) That the property in question cannot yield a reasonable return unless a variance is granted. All agreed*
- f) That the need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood. All agreed*
- g) That the granting of the variance will not alter the essential character of the locality, adversely affect adjoining or nearby properties, nor endanger the public health, safety and welfare. All agreed*
- h) That the hardship is not the result of action taken by the applicant or a prior owner. All agreed*

He informed the Planning Board that the Board of Zoning Appeals approved the variance request with the conditions as follows: that the garage be designated never to be inhabited as a home; no loft rooms; no significant grade changed between the garage and the lake and one dock, erosion control be installed leaving the walkways in place on both lots, and the structures be constructed as the plans distributed on this date.

There being no further comment from the applicants or the public, this portion of the meeting was closed at 7:45.

The Planning Board thanked Mr. Dunbar and the applicants for reviewing, for informational purposes, the application from the onset.

The Planning Board had no further questions of the applicants or their representative as the only decision concerning their appearance before the Planning Board involved earthmoving.

Motion by Robbins and seconded by Flint that Case # 209 – Ronald and Carol Towle - request for a conditional use permit to remove and replace non-conforming structures and for earthmoving to construct a single-family residence and a residential garage in the Shoreland Zoning District, 77 Maranacook Station Lane, Maranacook Lake, (Town Map 56 Lots 14 & 15) be approved with the condition that the information that 241.9 cubic feet will be moved be noted and that conditions # 2, # 6, #7 be in place. The vote was unanimous (7-0).

05-26 Case # 210 – Enid L. Murray - requests a conditional use permit to remove and replace a non-conforming structure and for earthmoving to construct a single-family residence in the Shoreland Zoning District, 60 Lower Diamond Farm Lane, Cobbossee Lake, (Town Map 18 Lot 7).

Board Member Robbins informed the Board that he did the septic design for this applicant on this site over a year ago. He has no financial gain and feels that there is no conflict of interest. The Board stated unanimously that there was no need for Board Member Robbins to recuse himself.

Elliott Thayer and Hal Wiseberger were representing the applicant. He explained to the Board that a revised plan with some changes would be handed out at this meeting due to the fact that they just received new information on the placement of the well location.

This single-family residence will have a crawl space. The house will be built over the well – and that is the change from the original submission. The modification improves the original plan as the placement of the house has moved slightly.

The lot is less than 50,000 square feet and has been in the family over 40 years. The revised building location does not encroach on the 100 foot set back. The footprint has not changed. The only modification is the enlarged proposed parking area, which will be approximately 600 feet. 100 cubic yards to 150 cubic yards is projected to be moved.

Tyra Mullins inquired if driveways are included in the 20' setback. The CEO responded that if it is an existing driveway it does not. She also asked if this residence is going to have a second story. The applicant's representative responded that the building is approximately 28 x 52 - 1500 square foot house with no anticipation of building a second story. The CEO interjected that the applicant could put a 2nd story as long as they keep it within the 35' height requirement.

Nancy Dykstra, an abutter, asked why that site was chosen and why the house was not set further towards the back.

The applicant's representative responded that this 3 bedroom residence has an existing septic system and there wasn't a reason to move the residence further back as this was the chosen location by the applicant and it met all the required setbacks.

There being no further discussion the public portion of the hearing was closed at 7:55 p.m.

Motion by Robbins and seconded by Vigneault that Case # 210 – Enid L. Murray – request for a conditional use permit to remove and replace a non-conforming structure and for earthmoving to construct a single-family residence in the Shoreland Zoning District, 60 Lower Diamond Farm Lane, Cobbossee Lake, (Town Map 18 Lot 7) be approved with the condition that the applicant agent make note that the existing cottage will not be used as a living space and the general erosion controls be added to the site plan with conditions # 2, # 6, #7 be in place. The vote was unanimous (7-0).

Approval of Minutes –

Motion by Vigneault and seconded by Flint that the minutes be approved as submitted.

Meeting Adjourned at 8:30 p.m. with a unanimous vote.