

WISCASSET PLANNING BOARD
MINUTES, FEBRUARY 14, 2022
7 P.M. VIA ZOOM

Present: Al Cohen, Jackie Lowell, Peter McRae, Chair Karl Olson, Deb Pooler and Planner Emily Rabbe

Absent: Tony Gatti, Lester Morse and Stephen Wallace

1. Call to Order

Chair Karl Olson called the meeting to order at 7:01 p.m.

2. Approval of Minutes

Peter McRae moved to approve the minutes of December 13, 2021. Vote 4-0-1 (Cohen abstained)

3. Twin City Construction, Inc. – Subdivision pre-application, Young’s Point Road, Map R-9, Lot 7

Karl Olson said the application did not require site plan review, as according to Emily Rabbe’s memo, attached, creating a new lot could be accomplished without Planning Board approval inasmuch as Lot 9 was merged with Lot 7, and further, because Lot 7 has not been previously subdivided. Al Cohen moved that inasmuch as the lot will be absorbed into an existing lot under the same ownership, it does not require Planning Board approval. Vote 5-0-0.

4. Heather Pitcher – Building Permit application for 262 Bath Road, Map U-10, Lot 23

The application was handled by Emily Rabb as a de minimis change (copy attached). Al Cohen moved to accept Heather Pitcher’s application for the Conex box and two detached storage sheds as recommended by Emily Rabbe. Vote 5-0-0. (Memo attached.)

5. Other Business

Members whose terms have expired will be notified to apply for reappointment.

6. Adjournment

Al Cohen moved to adjourn the meeting at 7:12 p.m. Vote 5-0-0.



**Town of Wiscasset Planning Board
51 Bath Road
Wiscasset, Maine 04578**

DE MINIMIS SITE PLAN REVIEW DECISION

February 14, 2022

Pursuant to the provisions of Article VIII, Site Plan Review, of the Town of Wiscasset Land Use Ordinance, the Lincoln County Regional Planning Commission, contracted to provide planner support to the Town of Wiscasset Planning Board, has considered the recently added improvements to the property of Heather Pitcher, 262 Bath Road (U-10, Lot 023), as described in her site plan review application, dated February 3, 2022, including supporting data and related materials contained in the Planning Board and Code Enforcement records. The Planner makes the following findings and conclusions for the subject property.

FINDINGS OF FACT

Since the Planning Board issued site plan approval for ‘antique shop and second floor apartment’ on August 26, 2019, the property owner has added a Conex box approximately 160 sq. ft. in size; a 216 sq. ft. shed rented seasonally to another vendor and previously permitted by the Code Enforcement Officer; and a second shed measuring approximately 160 sq. ft. Inasmuch as the improvements are less than 2,500 sq. ft. in area, this application may be reviewed by the Planner per Article VIII, Section 2(A).

The property is located in the Commercial District, which allows for the current uses – antique shop and second floor apartment – with approval from the Planning Board, which was received in 2019. The Conex box and storage sheds are considered accessory structures, as defined in the Glossary of the Wiscasset Town Ordinance.

CONCLUSIONS

Based on the above facts, the submitted site plan review application filed on February 3, 2022; the supporting documentation from the Code Enforcement Officer; and the original Planning Board decision, dated August 26, 2019, the Lincoln County Regional Planning Commission,

through a contract for services to act as Town Planner, makes the following conclusions under Article VIII, Section 9, Site Plan Review Standards, of the Wiscasset Town Ordinance.

- A. **Utilization of Site**: The Conex box and storage sheds are located in preexisting cleared areas, so no impacts from excavation, infringement on environmentally sensitive resources, natural areas, aquifers, or drainage areas appears to have occurred.
- B. **Traffic Access**: Not applicable – the placement of the Conex box and storage sheds will not increase vehicular traffic for the site and does not affect vehicular access to the property. The location of the sheds and Conex box also do not appear to impact internal vehicular circulation.
- C. **Parking Layout and Design**: Not applicable – the parking area does not appear to have been altered since the original Planning Board approval in 2019 was issued.
- D. **Pedestrian Access**: Not applicable – pedestrian access remains unchanged since the original Planning Board approval in 2019 was issued.
- E. **Building**: Not applicable – the accessory structures placed on the site are accessory to the principal building and not accessible to the public.
- F. **Storage of Materials**: Not applicable – screening of sheds is not required.
- G. **Water Supply**: Not applicable – the accessory buildings are not served by a public or private water supply.
- H. **Sewage Disposal**: Not applicable – the accessory buildings are not served by a public or private sewage disposal system.
- I. **Utilities**: Not applicable – the accessory buildings are not connected to electric, telephone, and telecommunication services.
- J. **Natural Features**: Not applicable – no landscaping was disturbed as part of the placement of the Conex box and storage buildings.
- K. **Water Quality Protection**: The storage sheds and Conex box are not being used to store fuel, chemicals, chemical or industrial waste, or biodegradable raw materials so no impact on water quality is anticipated.
- L. **Hazardous, Special, and Radioactive Materials**: Not applicable – no storage of hazardous, special or radioactive materials.
- M. **Shoreland Relationship**: Not applicable.
- N. **Capacity of the Applicant**: Owner has operated an antique store on the property since 2019.

- O. **Solid Waste Management**: Not applicable – no impactful change since 2019 Planning Board approval.
- P. **Historic and Archeological Resources**: Not applicable – no impactful change since 2019 Planning Board approval
- Q. **Floodplain Management**: Not applicable. Per FEMA FIRM No. 23015C0331D, the property is located outside of all FEMA flood zones.
- R. **Off-Site Improvements**: Not applicable – no off-site improvements.
- S. **Groundwater Protection**: No adverse impacts to groundwater are anticipated from the addition of the storage sheds and Conex box.
- T. **Erosion Control**: Placement of the storage sheds and Conex box have not caused unreasonable soil erosion.
- U. **Buffering**: Not applicable – screening of sheds is not required.
- V. **Route 1 Standards**: Route 1 standards reviewed as part of the original Planning Board approval remain unchanged.

DECISION

Based on the above findings of fact and conclusions, the Town Planner, on behalf of the Planning Board, approves the amendment to the original August 26, 2019 site plan approval granted by the Wiscasset Planning Board to allow for the addition of a Conex box and two detached storage sheds.

February 11, 2022

Karl Olson, Chairman
Wiscasset Planning Board
51 Bath Road
Wiscasset, ME 04578

RE: Pre-Application Review of the Subdivision of Twin City Construction, Inc. Property situate Young's Point – Historically Referenced as 'Lot 9'

Dear Chairman Olson,

Thank you for providing me with a copy of the 'Subdivision of Twin City Construction, Inc. Property' materials, to be reviewed at the Planning Board's February 14, 2022 meeting as a pre-application.

If I've followed the bouncing ball correctly, it appears the following is a summary of the history of Lot 9's creation and eventual merger with Lot 7:

- The Wiscasset Planning Board approved the subdivision of Richard H. King, approved on December 3, 1984. The original subdivision contained nine (9) lots. The subdivision was approved on December 3, 1984 and recorded in Plan Book 34, Page 55 at the Lincoln County Registry of Deeds, on December 4, 1984.
- The Wiscasset Planning Board approved a lot line modification for Lots 8 and 9, making Lot 9 approximately 2.2 acres, as shown on the plan entitled "Amendment to Lots 8 and 9, Plumstead Acres, Subdivision of Richard H. King, Wiscasset Maine". The Plan was approved by the Board on July 08, 1996 and filed with the Lincoln County Registry of Deeds on July 11, 1996 in Plan Book 57, Page 64.
- Sometime after the 1996 Planning Board Approval, the Shoreland Zone requirements were amended to require a 100 ft. minimum shore frontage (the Wiscasset CEO believes this change may have occurred sometime in 2008). The lot was considered nonconforming to this standard. Inasmuch as Lot 9 was in the same ownership as Lot 7, the parcel immediately adjacent to Lot 9, the two parcels were merged per §1.11.3 of the Wiscasset Town Ordinance, Article XIII, Shoreland Zoning Ordinance:

"1.11.3.1 Nonconforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area,

lot width, and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width, or shore frontage shall be obtained by action of the Board of Appeals (emphasis added)."

"1.11.3.3 Contiguous Lots – Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimension requirement of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure, the lots shall be combined to the extent necessary to meet the dimensional requirements...(emphasis added)"

- As Lot 9 and Lot 7 were merged based upon the information provided in the bullets above, **it is my opinion that Lot 9 no longer exists.**

Included with the filed pre-application materials for the February 14, 2022 Wiscasset Planning Board meeting was a map prepared by Little River Land Surveying, Inc. entitled "Amendment to Lot 9 of Plumstead Acres", dated January 14, 2022. The plan proposes reestablishing Lot 9, plus adding 38,079 sq. ft. from Lot 7 to Lot 9, which is likely to allow Lot 9 to meet the 100 ft. minimum shore frontage requirement under the Shoreland Zone Ordinance (this should be confirmed with the applicant).

Inasmuch as Lot 9 was merged with Lot 7, and further, because Lot 7 has not been previously subdivided, I do not believe Article VII, Section 3.D(2), is applicable in this instance. **Instead, I believe the applicant can create this new Lot 9** (original boundary + the additional 38,079 sq. ft. described above) **without Wiscasset Planning Board approval** based on the State's definition of 'Subdivision', provided below:

"4. Subdivision. "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

(1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or

(2) The division of the tract or parcel is otherwise exempt under this subchapter. [PL 2001, c. 359, §1 (AMD).]

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c (emphasis added)."

I hope this information is helpful. Please let me know if you have any questions or would like to expand on this analysis at the February 14, 2022 Planning Board meeting.

Sincerely,

A handwritten signature in blue ink, appearing to read "ERabbe".

Emily Rabbe
Lincoln County Planner

ER: er

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