

PLANNING BOARD
December 11, 2012
7:00 PM

MEMBERS PRESENT: Richard Johnson, Walter Geist, Pat Rice, Steve Senske, J. Phil Strand, Louis Rieg, John Warner

OTHERS PRESENT: Brad Lawson, Zoning C.E.O., Richard Sena, Councilman, Sally Carlson, Supervisor, Paul Potter, Engineer, John McGraw, Louise Ortman, Zoning Board Member, Helen Emick, Alternate Zoning Board Member, Clayton Emick, Joe Bergen, Kathleen Gradel, Don McCord

Mr. Rice opened the meeting and welcomed and thanked everyone for attending the meeting. Mr. Rice stated the agenda included continued discussion with regard to Mr. McGraw's proposal for his properties in Bootey Bay. He asked Mr. McGraw or Mr. Potter if they had any information they would like to present to the board. Mr. Potter provided each board member with the items the board requested during the last meeting which included; the original survey of the property, lease agreement and dock permit with the Power Boat Club and information from a local realtor comparing sales between 100' to 125' lots. Mr. McGraw stated there in no lease agreement with the Power Boat Club beyond 2012.

Mr. Johnson asked what would happen with the dock permit for 24 slips the Power Boat Club has. Mr. Potter said Mr. McGraw would contact the office of O.G.S. and have the permit transferred to Mr. McGraw who now owns the property as the license is transferable.

Mr. Rice asked if at this point Mr. McGraw was intending on eliminating the Power Boat Club. Mr. Potter said this would be part of the phasing and explained it would be necessary when the back lots in phase two were sold in order to give them access to the lake.

Mr. Senske stated in front of the board at this point the only thing this proposal is before this board for is the request for a variance on the size of the lot going from 125' to 100'. Mr. Potter said that was true. Mr. Lawson said they are looking at the whole project and the board should be looking at it as a whole. Mr. Lawson explained the back lots will then have to use another piece of property if they want lake access/rights according to the town's lake front regulations.

Mr. Potter said they are asking for a 25' variance on all parcels and for the back lots to be able to use the Power Boat Club for lake access.

To clarify the request, Mr. Senske stated again, the request is for the lot sizes to go from 125' to 100' and for the 7 back parcels to be able to share 101' of Lake Frontage. Mr. Rice asked Mr. Lawson if he calculated the 101' during the last meeting to be sure they were within the parameters. Mr. Lawson said they were within the parameters to recommend a special permit be granted. After discussion, it was decided the 101' should actually be 105' to meet regulation and Mr. Lawson said it would be up to the Zoning Board of Appeals to decide on an area variance for the 4' difference.

Mr. Senske asked at what point they would be asking the town to take over the road. Mr. Potter said his plans are to develop the roadway so that it meets the town's specifications and would not want to make any request until the entire phase two was developed because at that point the access would be easier for EMS

and highway. Mr. Potter said the development and maintenance would be Mr. McGraw's responsibility until the project was complete. The board discussed the \$300,000 bond and Mr. Potter explained the \$300,000 is the estimated cost to develop wetlands utilizing Caster on an offsite area and the entire roadway.

Mr. Lawson said the project is before this board to make a recommendation to the town board and do the S.E.Q.R. for the town. Mr. Rice said he did not see the hardship in the request and stated he thought it would be in their best interest to request that the town have this rezoned to R-1 so the 100' would no longer be an issue, several other felt the same. Mr. Potter said they did talk to the town board about that and said the problem with that idea is that the re-zoning process from R-5 to R-1 takes a lot longer and this would eliminate any development for the area along Route 394.

After reviewing the S.E.Q.R, Mr. Potter made corrections; #7, it should be crossed off, #17 there will be no cash bond and the taxes are not paid as of now. After discussion Ms. Gradel said it sounds like it is possible to grant the request with; no cash bond, unpaid taxes, the assumption that the town will eventually assume the maintenance of the road and Mr. McGraw will maintain the existing Power Boat Club Property with undefined terms and went on to say it seems there are an awful lot on contingencies that need to be worked out. Mr. Rice said if the town was to grant the variance it would probably be done under certain terms and conditions and if they were not met the town would have remedies with Mr. McGraw for failure to comply.

Mrs. Ortman asked the board to consider; the Comprehensive Plan and all the time each board has spent on it, consider the reason for zoning ordinances and the attempts that have been made to keep the lake front from being over crowded, preserving green space and open territories as well as all things listed in the Comprehensive Plan. Mr. Ortman said as a zoning board member she does not think the board's consideration should be about the financial future of a developer and his investments. Mrs. Ortman went on to say in terms of some of the properties that are sub-standard lots along the lake front, as a zoning board member each request for a variance is looked at individually and on its own merits and the board goes through an extensive process of checks and balances. She said as a member of the zoning board she would welcome an opportunity to look at each lot and to grant variances if this is what board members recommend as they have done it with several requests within the town.

Mr. Geist asked if the town has received any comments from town residents regarding the project. Mr. Lawson said they have received some. Mr. Bergen said he himself has a concern because he only heard about this email through a forwarded email. He knows that the Planning Board meets on the second Tuesday of the month from the town web-site but an agenda was not posted and there was nothing posted about a meeting with regard to this topic. He said he thinks it's an issue and would have a concern personally about a vote being taken tonight because he feels it requires time for public information and input. He said it appears with all the uncertainties that more deliberation is needed.

Mrs. Emick asked if the subdivided lots were going to be year round or seasonal homes and would they then fall under section 405 of the zoning ordinance. She said also, based on what she is hearing Mr. McGraw is doing the subdividing and it sounds as though he is directing what type of homes can be built. There was discussion about which section it should fall under and who would be in control. Mrs. Emick said she also supports Mrs. Ortman's comments with regards to the Comprehensive Plan and protecting the waterfront. She said the law is there for a reason.

Mr. Senske said he understands Mr. Emick's concerns; but the board has to also be responsible to tax payers and said this project has the potential to increase the assessments by millions of dollars, as the property is

currently zoned someone could come in and build a motel/hotel and he would assume there would be a whole lot more people accessing the lake than there would be with single family homes that may or may not be seasonal. He said many people have 40' lakefront homes and R-5 is the only district in North Harmony that requires 125' of Lake Frontage and he thinks Mr. McGraw's request will reduce the number of people accessing the lake.

Mr. Emick asked if there were currently any liens to on the property and if having the back taxes not being paid was cause for concern about a tax sale on the property. Mr. Rice said he believed there were but that would not impact the board's decision. Mr. McGraw said there were no liens on the property. Mrs. Emick also asked if an agenda could be posted for the planning board meetings. Mr. Emick stated with an agenda, seasonal people would be able to email comments with regards to the topics listed.

Mr. Bergen asked if there was an application to rezone the property to R-1 would that allow the 100' lot size as a right. Mr. Rice said yes. Mr. Bergen asked how long of a process does an application like this take. Mr. Rice said the application would be made to the town board and they may request a recommendation of the Planning Board and there would have to be public hearing before it would be passed it could be a number of months. Mr. Lawson said an application would have to be presented to the town board, which may choose to refer it back to the planning board for recommendation; they would then go back to the town board and there may be several hearings as well as S.E.Q.R. hearing and could take several months.

After lengthy discussion with regard to Mr. McGraw's application the board asked Mr. McGraw and Mr. Potter to supply the board with the following information prior to the next regular meeting;

- Define the proposal for the Power Boat Club in relation to each outlined phase
- Proposal with regard to the wetlands
- Description of buffers for both Lakefront as well as rear parcels
- Deed restrictions
- Proposed map indicating location of homes plotted on lots as well as setbacks and proposed location of the commercial line
- Height limitations

The next regular meeting is scheduled for Tuesday, January 8, 2013

The meeting concluded at 8:25 PM

Respectfully submitted,
Penny Best
Planning Board Clerk