

Planning Board

Alan Bellows - Chair
Robert Ham
Bruce Bowler
Annette Stormont



Town of Boothbay Planning Board Meeting
Wednesday, January 31, 2018
6:30PM – Town Office Conference Room

MINUTES

1. **CALL MEETING TO ORDER:** Alan Bellows called the meeting to order at 6:30PM.

- **Roll call of Members & other officials in attendance:** Alan Bellows, Robert Ham, Bruce Bowler, Annette Stormont, CEO Jason Lorrain, Sally Daggett attorney for the Town of Boothbay and Secretary Sherry Tibbetts
- **Any commentary by the Board or instructions to the audience prior to reviews:**

2. **OLD BUSINESS:** None

3. **NEW BUSINESS:**

COMPLETENESS REVIEW: (The Planning Board, if Planning Board approval is required, shall notify the applicant either that the application is complete, or if the application is incomplete, that additional material is needed to make the application complete.)

- **Applicant: David Brett Family, represented by Leighton and Associates**

Mailing Address: 880 Sand Pine Drive NE, St. Petersburg, FL 33703

Property location: Negro Island, Tax Map/lot: R9/14/4

Zone: General Residential, Shoreland Zone

Principal reviewer: Annette Stormont

Application Review: Applicant wishes to raise the ridgeline of the roof to use the grandfathered volume, to the extent allowed. The applicant also wishes to do exterior front porch renovations. Renovations include deck, porch cover, bench seating & attached storage shed.

Nicholas Plummer for Leighton and Associates was present to discuss this application.

Mr. Plummer gave a brief overview of the project, he said that some of the renovations had previously been approved but had not yet been done.

As there were no questions from the board or members of the audience, the board went directly to the findings of fact.

Findings of Fact:

The owners are David Brett Family relating to the property located on Negro Island. Property taxes have been paid in full.

The deed for the property can be seen at the Lincoln County Registry of Deeds in Book 2913 on page 16 and the property is located on 134 Negro Island.

The property is located in the General Residential Zone and is in the Shoreland Zoning Overlay. The property is identified as Assessor's tax map/lot: R09/0014/4 and contains 0.72 acres.

The applicant wishes to raise the ridgeline of the roof to use the grandfathered volume, to the extent allowed. The applicant also wishes to do exterior front porch renovations. Renovations include deck, porch cover, bench seating & attached storage shed.

Conclusions:

Annette Stormont made a motion that the applicant has demonstrated Right, Title or Interest on the property in question and Bruce Bowler seconded the motion. Vote: 4-0 in favor.

Annette Stormont made a motion that the applicant has demonstrated that this proposal meets the criteria set forth in Section 1.8 and 3.6 (A-H) Review Criteria of the Town of Boothbay Zoning Ordinance and Bruce Bowler seconded the motion. Vote: 4-0 in favor.

Annette Stormont made a motion that the applicant has demonstrated that this proposal meets the criteria set forth in Section 3.9.7.4 (3.9.7.4.1, 3.9.7.4.1.1, 3.9.7.4.1.2, 3.9.7.4.1.3 of the Town of Boothbay Zoning Ordinance and Bruce Bowler seconded the motion. Vote: 4-0 in favor.

Annette Stormont made a motion that the applicant has demonstrated that this proposal meets the criteria set forth in Section 3.11.23.3 Non – conforming structures, 3.11.23.3.1.5 Additional Standards [Shoreland Overlay Zone] of the Town of Boothbay Zoning Ordinance and Bruce Bowler seconded the motion. Vote: 4-0 in favor.

Decision:

Based on the above findings of fact and conclusions, the plans and supporting information submitted, testimony and evidence submitted at the Planning Board meetings on the application, on a motion made by Annette Stormont and seconded by Rob Ham, the Planning Board approved the development permit application with no additional conditions of approval set forth. Vote: 4-0 in favor.

- **Applicant: Coastal Maine Botanical Gardens**

Mailing address: 132 Botanical Garden Drive, Boothbay, ME 04537

Property location: Botanical Garden Drive, Tax Map/lot: R4/109, 23, 24

Zone: General Residential, Shoreland Zone, Watershed Overlay, Water Reservoirs Protection

Principal Reviewer: Bruce Bowler

Application Review: Applicant requests approval to construct Phase 1 Expansion to the CMBG site. Phase 1 improvements included in this application are the paving of entrance road, construction of new visitor center and entrance buildings, and storm water and utility infrastructure, including electrical distribution, telephone, on-site water domestic, for protection and irrigation systems. This work is stated by CMBG as outside the water reservoir protection district and watershed overlay zone.

Present to discuss this application were Jan Weigman, Wright Pierce engineer for the project, Mary Castigan, attorney for CMBG and Bill Cullina.

Sally Daggett started the discussion by advising the Board that they should treat this as a new application.

Ms. Daggett also addressed the use issue by saying that she did not think this board needed to get into the use issue as the application tonight was supposed to be all outside of the Watershed Overlay Zone (WOZ).

Ms. Daggett next addressed the WOZ line and said she feels the Planning Board can interpret the ordinance to determine where they believe this line is.

Jan Weigman, Wright Pierce engineer for this project showed a map of the site plan and his interpretation of where the WOZ line is based on CMBG & Wright Pierce's interpretation of the ordinance. They propose it changes lightly with the new road. Mr. Weigman said the Town has moved the line for other developments (he mentioned the Country Club) and said that it is not uncommon to move this line. CMBG would like the board to use the WOZ line they indicated on their plans as it would be at the completion of construction as the line.

Mary Castigan read from the ordinance and walked the board through the ordinance and how CMBG interpreted it to arrive at their position.

Alan Bellows asked if it was typical to look at the line after the project was done instead of before it starts. Mr. Bellows also read part of the ordinance and questioned which parts apply.

Kevin Anthony said if you follow Ms. Castigan's login then anyone would be able to bulldoze right up to the edge of Adam's Pond and then change the WOZ line and that was not the intent of the ordinance. Mr. Anthony said the intent of the ordinance was to do with natural changes. Mr. Anthony feels the WOZ line should remain what it was before any development.

Jason Anthony said he supports his brother's belief that the ordinance's intent is natural changes. Jason Anthony went on to say he is not sure the Planning Board has the right to allow an applicant to move the WOZ line, that only the voters of the town can do that.

Mike Fritz asked what the difference is in square feet between the two lines.

Jan Weigman said it was approximately 10,000 square feet, or an additional 2.6 acres.

Allan Bellows referred to the new map showing the WOZ line as the ATTAR engineering firm shows it and said he feels this is the one that should be used.

Sally Daggett said it is the board's decision. She explained that as there were questions about the line, the CEO when issuing the stop work order took the 2004 zoning map and tried to overlay the CMBG plan on it and hand drew the line. Then the Town hired ATTAR to overlay the maps and create where the line should be (more sophisticated and accurate than a hand drawn line).

Mary Castigan spoke about past projects where the board has looked at the impact of phosphorus on the complete project.

Sally Dagget said this was two different issues, that for the use issue you need to look at pre-development and it is a different story when you are looking at water runoff.

Jason Anthony asked how the board could go forward with the application when the project is divided by the WOZ line.

Gary Arnold said he has geology training and that no matter where the surface water is or where you move the line, the water is going to follow underground in the direction of the old watershed. He urged the board to act on the conservative side and to use the old map.

Rob Ham questioned the difference between the line on the old map and the line ATTAR created.

Alan Bellows said he believe there are three lines they could use:

- The one on the Wright Pierce plans

- The line created by ATTAR engineers

- The physical boundary on 12/2016 before any work was done on the property.

Sue Mello asked where the line was on the Wright Pierce plans. She said the original application said 3.2 acres was diverted and now CMBG is asking for 2.6 acres additionally.

Joe Paolillo said he thinks everyone is getting too mired down in the science, he said the original line was based on something that was imperfect and what is important is what line was used when the application was made, what was on the plans at that time.

Bruce Bowler said he feels the line that should be considered is the line on the ATTAR map. It is as close as can be interpreted to what the voters approved. He does not believe that CMBG or any applicant should be allowed to change the line.

Annette Stormont said she goes along with what Mr. Bowler said.

Rob Ham said he is OK with going along with Mr. Bowler. Mr. Ham said he had questions because according to the ATTAR line a small part of CMBG's building was in the WOZ. He asked if the board had any discretion on small areas being slightly within the zone.

Alan Bellows said he believed the board had to look at this application as if no work has been done. It is a new application.

Sally Dagget asked if in view of the recent comments from the board and the WOZ line they intended to use, the applicant would want to proceed or table this application until after they could file a request for the Board of Appeals to determine where the WOZ line is.

Mary Castigan asked if the board would take a small recess while CMBG discussed this issue.

At 7:35PM Alan Bellows called a brief recess.

At 7:45 Alan Bellows called the meeting back to order.

Mary Castigan requested that the application be tabled to another Planning Board meeting as they would need a lot of information they did not have with them tonight, information about previous use and pre-existing uses and what can be on the line.

Bruce Bowler made a motion to table this application until the board's next meeting on 02/21/2018 and Annette Stormont seconded the motion. Vote: 4-0 in favor.

Jean Reese Gibson asked about the use and why it did not need to be discussed at this session.

Allan Bellows said the use did not need to be discussed at this session. The Board of Appeals determined the use to be a Museum and that is an allowed use in the General Residential Zone which is where this application is supposed to be.

4. OTHER BUSINESS:

PRE-APPLICATION REVIEW: (Pre-Application Meeting. An applicant may appear informally at a regular meeting of the Planning Board to informally discuss a proposed development. No fees shall apply and no binding commitment shall be made between the applicant and the Planning Board.)

5. APPROVE MINUTES: Bruce Bowler made a motion to approve the minutes of 12/20/2017 as presented and Rob Ham seconded the motion. Vote: 4-0 in favor.

6. ADJOURN MEETING: At 8:00PM Annette Stormont made a motion to adjourn the meeting and Bruce Bowler seconded the motion. Vote: 4-0 in favor.

Minutes respectfully submitted
Sherry Tibbetts
Secretary