

**07/11/05**

Minutes  
Town of Damariscotta  
Planning Board Meeting  
July 11, 2005

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**Roll Call**

Chairman George Parker called the meeting to order at 7:30 p.m. There was a quorum present throughout. Members present were Fred Sewall, Paul Stevens, Jonathan Eaton, Wilder Hunt, and George Parker. The audience included:

- Anthony Bernard, 158 Church Street, Damariscotta, ME -4543 – Concerned Church Street resident
- Ellen Bernard, 158 Church Street, Damariscotta, ME 04543 – Concerned Church Street resident
- Andrea Cox, 155 Church Street, Damariscotta, ME 04543 – Concerned Church Street resident & Abutter to Romeo’s
- Ryan Cox, 155 Church street, Damariscotta, ME 04543 – Concerned Church Street resident & Abutter to Romeo’s
- Romeo’s
- Nicholas Chasse, Damariscotta, ME 04543 – Church Street Business Owner
- Nancy Freeman, Church Street Damariscotta, ME 04543 – Concerned Citizen
- George Freeman, Church Street Damariscotta, ME 04543 – Concerned Citizen
- Larry Sidelinger, Damariscotta, ME 04543 – abutter to Hanley Sub Division on Back Meadow Road

- Dorothy K. Sidelinger, 42 Back Meadow Road, Damariscotta, ME -4543 – abutter to Hanley Sub Division on Back Meadow Road
- Roderick Craib, Maine Coast Surveying, P O Box 1210, Damariscotta, ME – Surveyor/Representative – Hanley Subdivision(The Farm) Back Meadow Road
- Art Mayers, Lincoln County Weekly - press reporter
- Michael McIntyre, 8 Spoonrift Lane, Cape Elizabeth – Applicant
- Bonnie York, 133 Egypt Road, Damariscotta, ME 04543 – Seller’s Real Estate Agent
- Collie Varick, 165 Church Street, Damariscotta, ME 04543 – Seller/current owner
- Tom Raymond, 174 Church Street, Damariscotta, ME 04543 – abutter to McIntyre Sub Division on Church Street
- Nan White, 49 Mills Road, Newcastle, ME 04553 – Representative – Coastal Kids Preschool
- Sonya Hunt, 150 Hunt Hill Road, Newcastle, ME 04553 – Applicant – Coastal Kids Preschool
- Bob Petti, 25 Lewis Point Road, Damariscotta, ME 04543 – Representative – Coastal Kids Preschool
- Jessica Carter, 49 Carter Ridge Road, Jefferson, ME – Representative – Coastal Kids Preschool
- Kathleen Flory, 299 State Route 129, Walpole, ME – Representative – Coastal Kids Preschool
- Bob Furman, Lincoln Surveying Company, P O Box 720, Damariscotta, ME -4543 – Surveyor/Representative – Storer Subdivision
- Mark Hanley, 1829 Bristol Road, Bristol, ME – Applicant – The Farm Sub Division, Back Meadow Road
- Jewel Hanley, 1829 Bristol Road, Bristol, ME – Applicant – The Farm Sub Division, Back Meadow Road
- Sherwood Olin, Lincoln County News – Press reporter

## **1. Minutes**

The Board reviewed a corrected copy of the minutes for the April 04, 2005 meeting. These minutes were acted on at the May meeting and only required the Board’s signature. The Board also reviewed a draft of the minutes for the May 2, 2005 meeting. Paul Stevens made a motion and Fred Sewall seconded the motion to accept the minutes of the May 2, 2005 meeting as submitted. The Board voted 4-0 to approve the minutes.

## **2. Church Street Re-zoning issue**

George Parker made reference to a letter written by Andrea Cox and addressed to the Planning Board. He asked the group present if anyone else had the chance to read it. Andrea stated that she did not send it to anyone else, just the Planning Board. Parker told the room that the letter was a copulation of research done by Cox in the comprehensive plan and the land use ordinance, etc. He stated that the conclusion reached by Cox and outlined in the letter were that it does appear that the intent of the comprehensive plan and land use ordinance to protect the residential neighborhoods NOT to promote the commercial development. Parker read aloud from the letter a paragraph that clearly stated that the facts of the ordinances in place did not necessarily agree with Cox's personal opinion, she did make some suggestions, including;

- 1) Change zoning from C2 to general residential for a certain distance from Church Street for lots #23, 22, 21,29 etc
- 2) Add a district buffer
- 3) Promote and enhance the residential use by lowering the speed limit to 25 MPH
- 4) Adding stop signs to create a 4-way stop at the intersections of Church & School & Hodgdon Streets.
- 5) Posting a "no thru trucks" sign at Church Street
- 6) Making plans to extend the sidewalks as funds become available

Cox's letter stated it was risky to start making special zones; it would be clearer and cleaner to rely on what was in black & white and use it to the height of its ability. The letter finishes up by stating it would be wise to give the issue more time and more thorough thought. While Cox conceded that the place for the discussion may not be a Planning Board with other agenda items, as it may be lengthy. Cox then offered her time if needed to help see the item through to conclusion.

Parker and the Board agreed it was a very nicely written letter.

Ellen Bernard asked if she could speak from the audience. Chairman Parker recognized her and gave her the floor. Mrs. Bernard told the Board she did not know the protocol, but she would like to make a motion to put the decision aside until there could be a special meeting just about the Church Street issues and that she thought that was a

terrific idea. Parker told Mrs. Bernard that the motions actually come from the Board, but her sentiments are noted as well. Parker then stated that he would like to open it for comments from the Board members.

Wilder Hunt stated that for him, this actually clouded the issue even more. He stated it definitely gave them something to mull over, but he told the Board that he came to this meeting prepared to cast his vote for no change, because it's been hanging over their heads for a couple of years and he felt it was time to decide.

Parker told them that the selectmen have appointed a land use committee specifically to address the potential big box store coming to town, but he believes they have now expanded the role to pick up the ordinance changes and Church Street issue. He stated it is a small committee and that he is on it as well.

Jonathan Eaton questioned the continuity of the actual residents of the area and stated that they needed to get together and come up with a plan to present.

Parker then stated that one possibility may be to create a whole other zone – C3 and revise acceptable uses and deal with specific issues, rather than muck up the existing zoning. Eaton asked how the C3 zone would be broken out of the area. Parker agreed that was a very good question and that he did not know.

Fred Sewall stated that both sides of the issue have valid points and it will have to come down to a compromise somewhere. He stated that he fully supports forwarding the information on to the review committee for deeper exploration.

Paul Stevens agreed with Sewall. It seems there is new information coming forward each time the issue comes forward.

Wilder Hunt made a motion that the Planning Board take no action on the zoning issue and pass the information and the decision on to the Board of Selectmen for their committee to review. Jonathan Eaton seconded the motion.

The Board voted 4-0 in favor of the motion.

### **3. Richard Storer – Sub Division – Egypt Road – Final Approval**

Robert Furman came before the Board representing Richard Storer. He presented the site plan to the Board for review. Being that this plan had been before the Board previously there was little discussion. Parker asked if there was any changes or surprises. There were not. The subdivision shows a lot that was sold last year lot B then delineates the new lot, C and then lot A which Mr. Storer will retain. Parker asked if they went with an actual right of way access. Mr. Furman stated that there is a 50' wide strip of land retained by Mr. Storer that will remain as part of lot A but lot C will have right of way use for access.

Parker then asked about the rest of the paperwork on the subdivision. Mr. Furman stated that they had dropped everything off at the Town Office. There was an application and Mr. Furman indicated that he did have receipts. The Board reviewed the site plan and the test pits were located.

Fred Sewall made a motion to accept the application for Subdivision. Paul Stevens seconded the motion. The Board voted 4-0 in favor of the Storer Subdivision. The Board then signed the copies of the subdivision plans.

### **4. Michael McIntyre – Sub Division – Church Street – Preliminary Discussion**

Michael McIntyre introduced himself to the Board and the audience as a small developer/builder from Cape Elizabeth, Maine. He told the Board that he has an option to purchase agreement on the Varick property located at 165 Church Street. He plans to make 2 additional lots for a total of 3 lots on that property, with the existing house being 1 lot.

Mr. McIntyre told the Board that he had talked to the Fire Department and the water & sewer people and they are fine with his plans. He stated he spoke with the Road Commissioner, Terry Sutherburg and he is requiring McIntyre to stay with current driveway onto Church Street.

Mr. McIntyre then spoke about the size of the lots he was proposing to create in comparison with lots size in that neighborhood. He stated that 2 lots will be 100% and 1 will be 50% larger than the zoning requirements on lot size in that area. He went on to say that 33

existing lots on Church Street are same size or smaller than the smallest lot he proposes to create with his subdivision. He also stated that 39 existing lots on Church Street are the same size or smaller than the other 2 lots he is proposing. He told the Board he plans on leaving the lots residential in use, planning to build a 2 bedroom, 2 bathroom single level home on one lot, and the other lot he plans at this time to keep it for himself, possibly building a rental unit for now.

George Parker asked about proposed advances. Mr. McIntyre confirmed this and stated that he had a letter from abutter Nick Chasse. In order to do this project, Mr. McIntyre told the Board he was 20' shy of having the proper amount of road frontage, so he spoke with Nick Chasse and there will be a land swap to ensure the proper measurements. Nick will give Mr. McIntyre 20' +/- on the front, and McIntyre will give Nick 20' +/- on the rear of the property.

Parker then asked about the existing garage. McIntyre indicated he plans to move it completely. Parker asked if it would be placed the proper set back from the property lines. McIntyre indicated he would definitely comply with those requirements as well, conceding that he will need to move the garage at least 15 - 20 feet. Parker indicated it might be a tight fit onto the lot in question. McIntyre stated if needed he would tear it down and rebuild if that were a cheaper option for him.

Parker asked about the use of the existing driveway. McIntyre indicated that the drive towards the small bridge will service 2 of the lots and the other end of the drive will service the one lot that he will retain for now. Parker also asked about run off, because there has been a lot of discussion at previous meetings, about the run off in that area and the direction and flow of the run off. McIntyre showed the Board on his drawings the current direction of the run off, down the driveway, out to the road. He showed the Board the location of some culverts and their direction. McIntyre indicated that he had to open the driveway up for the water company so he could very easily add culvert to ensure the water is captured and goes down the road, not across the road to the Shiminski property. McIntyre indicated he wanted to make sure it stayed dry.

Parker indicated what the Board really needed to do tonight was determine whether or not they had a complete application. Parker then asked about notification to the abutters. McIntyre told him that he did notify them, and received them all back as well. He presented the green slips to the Board as well. Parker stated that the Board would not be able to officially act on the application that night, but he

wanted to get some feedback from any abutters present to flush out any other issues in the neighborhood. Parker asked if McIntyre was anticipating any covenants attached to the property. McIntyre stated no.

Parker asked if McIntyre got a copy of the letter from the Fire Department. McIntyre stated that he did, and had included copies in each application packet. McIntyre then indicated that he had letters from the Sanitary District, a letter from the Fire Chief, a letter from the Bank, and a letter from Nick Chasse. Parker stated that it appeared that this lot had its own septic system. He went on to read from the Sanitary District letter "that it was not physically connected to the system, it was stubbed at the street." McIntyre stated that this was correct, for now.

The Board then reviewed the plans and the application for completeness. Parker indicated to McIntyre that the final drawing needed to show the actual roads going into the subdivision; any changes should be clearly shown on the final drawing. Parker then asked the Board if anything was missing. Sewall did not think so. Parker asked about a topographical map. Parker told McIntyre that he should submit a scale copy on a topo map just to be sure of the grades. Parker did not think a topo map for the entire property was not necessary, but McIntyre should indicate the flow of the water.

Fred Sewall made a motion to accept the application as complete. Wilder Hunt seconded the motion. The Board voted 4-0 to accept the application as complete.

George Parker then opened the floor to the audience for any comment on the project. Mr. Raymond of 174 Church Street asked Mr. McIntyre about the trees currently on the lot. McIntyre asked if he was referring to the trees along the road. Mr. Raymond confirmed this. McIntyre stated he would be leaving most of the trees. He stated he felt it needed to be thinned out for the health of the trees. He went on to say he planned on removing some of the trees up near the house to help let in more light and dry up the property a bit. McIntyre stated the buffer on the road was just a beneficial to him as it was the neighbors, so he planned to leave a buffer.

Being no more questions or comments, Chairman Parker closed the open part of the meeting. He went on to say the Board would take up the final approval whenever Mr. McIntyre was ready with his final drawings and final conveyances with Mr. Chasse.

## **5. Mark & Jewel Hanley - Sub Division – Back Meadow Road – Preliminary Discussion**

Roderick Craib came before the Board with Mark & Jewel Hanley presenting the final plans seeking final approval on the Hanley subdivision off Back Meadow Road, named "The Farm". Mr. Craib told the Board it was property formally known as the Nissen Farm. Craib told the Board it was to be an 8-lot subdivision. Craib stated that Hanley has already sold one back lot to Stormeyer and wants to divide off 8 more lots and retain ownership of the back property for future use.

Rod Craib showed the location of the test pits on each of the lots except for one lot, that he had not had the chance to go out and locate. Parker asked if there was a test pit report, Craib indicated there was. Craib stated there would be approximately 1000 feet of road built. That length would not take them all the way into the Stormeyer lot, so that would be a private driveway from that point on. Craib showed the Board the location of a "hammer head" turn around at the end of lot 4. Parker asked about the continuation of the road. Craib indicated it was designed so that it can be extended in the future, they would not be driving over the Stormeyer property. Craib told the Board that the wetlands have all been delineated and shown on the plan with dotted lines. Parker saw that there were several small ponds on the property. Craib showed the direction of drainage for each. He told the Board they are planning to build a detention pond. Parker asked if there was an application in with DEP for stormwater management. Craib stated that they were not required to submit an application because they stayed under the threshold. Parker asked if they were anticipating needing the pond as a result of breaking that threshold. Craib stated that was correct. It would contain all the runoff on-site.

Craib told the Board there were some restrictive covenants that were attached to the application. Craib asked Parker if the Board would require letters from the Fire Department, Transfer Station etc. Parker told him yes, the Board would need those for the next meeting. Parker asked if Gartley and Dorsky would be designing the road. Craib stated they would provide typical cross sections. Hanley stated that his plan is to build it exactly to town specification and then have the town take the road over. Jonathan Eaton asked about the use of a cul de sac at the end. Craib indicated they would use a hammerhead turn around. Craib indicated that he had not received all notices back yet. Craib then asked if he would need to re-notify the abutters for the next

Planning Board meeting. Parker felt it would not be a bad idea, however they had a lot of abutters, so he thought since they had been notified and did not show up tonight, it was probably not completely necessary to do so again.

Fred Sewall made a motion to accept the application for subdivision as complete. Paul Stevens seconded the motion. The Board voted 4-0 in favor of accepting the application as complete.

**6. Sonya Hunt – Coastal Kids Preschool – Change in Use Jackie’s Trail**

Sonya Hunt presented a Site Review application on behalf of the Coastal Kids Preschool (CKP) for Change in Use. She told the Board that CKP has an option to purchase the building located on Jackie’s Trail that is currently being used as counseling offices. She told the Board that CKP is proposing to move their preschool to this location. She also stated that they were not going to change the outside of the building at all. Fred Sewall asked what the use of the building would be. Hunt indicated it was for a half day preschool. Parker asked if the preschool was subject to license approval by the State of Maine. Hunt stated that they were. Hunt stated that they were already licensed through the State, but that they would have to come out to inspect the new site, as well as the State Fire Marshall. Hunt also told the Board that they were required to install a sprinkler system. Parker asked if the building was on well water or town water. Hunt indicated it had a private well. She also stated that they would be connecting into the town system and needed to put in a 2-inch pipe from the road. She stated if they did not hook into the town’s system, they would need to put in a 3,000-gallon storage tank inside the building. Parker then asked about the septic system. Hunt stated that it had it’s own septic system and then she told the Board she had a letter from Ken Cotton on the existing septic system that she could get to the Board. She stated the current septic usage was similar to their proposed usage, except they only use it half a day. She told the Board that they do not provide meals, the children bring their own.

Parker asked if the abutters had been notified. Hunt indicated that they had been. Parker asked if the notices were sent by certified mail. Hunt stated that they were, but that she’d not received the receipts back from the attorney, Rick Salewski, who they’d hired to take care of that. Parker told the Board that he personally had received a call from Scott Hilton, who is an abutter. Mr. Hilton stated that he did not receive the notice certified, that it got mixed in with his other mail. Hunt stated that she would ask Salewski’s office about it. Parker told

her that CKP would need to submit copies of those certified notices. Parker then told the Board that Hilton's only concern was surrounding a temporary fence that he and Laroy Ellingwood had given the previous owner permission to install until the roadway was established. Hilton indicated to Parker that he'd like to see that fence removed. Hunt stated that CKP did not have a problem with that. Hunt then stated that she knew that Mark Hagar got his notice, because Mark had called her and stated that he did not have any problems with it. Hunt then stated that she would need to check with Salewski's office, because they knew the notices needed to go out certified.

Parker then stated that because there was a question whether or not the notices actually went out certified, the best the Board could do is take the application under advisement and have the official hearing at next month's meeting. Parker asked Hunt if that was going to be a problem. Hunt then stated that they could go ahead and purchase the property without knowing beyond a doubt that they could utilize it as a preschool. She told Parker that they had hoped to open September 1<sup>st</sup> in their new location, and they needed to do all the work inside first. She stated they hoped they could close August 1<sup>st</sup> in order to begin the work in time to complete it. Hunt stated that the lease on their current location ran out at the end of August. Parker stated that Scott Hilton did not wish to hold up the whole project, he just wanted his wishes to remove the fence known.

Parker stated he felt it was important to get input from abutters, because there would be more traffic in and out of the driveway during operation hours than before. Hunt conceded there would be drop offs between 8:15 and 8:45. Parker asked how many employees. Hunt told him 6.

Parker asked the Board how they should deal with this in order to possibly allow Hunt to begin work on the site, but yet still have her come back to finalize the approval. Hunt stated that she also did not want to get to August and find there was a problem with abutters prohibiting them from using it as the preschool. Parker stated that it was not a question of them being able to use the space as a preschool, it was more a question of what the Board might require them to do along the lot lines with abutters, such as Scott Hilton.

Fred Sewall asked Hunt if notices had been sent. Hunt stated that she did not personally send the notices. She stated that she asked the attorney, Richard Salewski to notify all abutters on the property. She further stated that she knew the notices were sent, because Mark Hagar notified her. Hunt stated that she tried to contact Salewski

today to obtain copies of the notices and the method used to send them, but they did not manage to connect. Parker stated it was not like they were adding any buildings and the use of the property was only slightly different. Parker then asked Hunt to show where the playground was planned. Hunt showed the Board an area at the rear of the building. Sewall asked if that was all that was missing. Parker indicated that was all.

Parker then asked if the Board felt they could approve the application contingent upon them coming back to the next meeting with notices and or meeting with abutters to discuss any issues. Hunt stated that was part of their contingency on the purchase order, that they be able to change the use to a preschool. She went on to say that they would not be able to move forward on the purchase without the Board's approval. She stated they were applying for funding through the Genesis Fund as a temporary funding until Rural Housing Development can take over funding and a community development fund for the entire project.

Parker stated that they needed to have some evidence that the abutters have received their notices. He then asked the Planning Board what they thought. Wilder Hunt felt most of the requirements had been met, other than the notices. He then asked if they could approve it with contingencies or how did that need to work. Parker stated it was 2 separate motions, one that it was complete and then one to approve. Jonathan Eaton stated that they could not actually have a completed application without the notices. Parker agreed that was true. The Board felt it was a real stickler point. Eaton asked if they were missing all the abutters, or just one. Parker then stated that the abutters consisted of Sweetser, Ellingwood, Hilton, and Hagar. Hunt stated she had Salewski do the notices to ensure they were done properly, and she did not get copies for proof.

At this point, the Board felt they could not move forward without proof of notification. Fred Sewall suggested the Board meet in 2 weeks time, instead of next month to address this application. Parker stated that was what he'd like to do, is table the discussion to a later date when they could get abutters notified and possibly present and then the CKP would be free to go. Parker then stated that a week's time may be too soon, if the notices were not sent, to allow for that to be done. Hunt then stated that there was a public notice in the paper for 3 weeks. Parker told her if she could clip the notice from the paper and note the issue it was in, that would also be helpful.

The Board decided to table this discussion and meet again this month,

giving CKP enough time to resend the notices, if necessary. The Board agreed on July 21<sup>st</sup> at 7pm to attend to the missing pieces of this application.

**Adjournment:** Fred Sewall made a motion to adjourn at 9:30 pm. Paul Stevens seconded the motion. On a vote of 4-0, the Board agreed to adjourn the meeting at 9:30 pm.

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George Parker, Chairman

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Jonathan Eaton

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Wilder Hunt

Respectfully Submitted by:

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Paul Stevens

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Rebecca J. Bartolotta

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Fred Sewall

DAMARISCOTTA PLANNING BOARD