

**TOWN OF TUFTONBORO  
PLANNING BOARD  
January 2, 2020  
MINUTES**

**Members Present:** Matt Young, Chairman, Tony Triolo, Vice-Chairman, Bill Marcussen, Selectmen's Representative, Laureen Hadley, Gary Qua, Members, Carol Bush, Alternate.

**Members Absent:** John Cameron, Kate Nesbit, Members, George Maidof, Alternate.

**Staff Present:** Lee Ann Hendrickson, Administrative Secretary.

Chairman Young opened the meeting at 7:04 PM at the Town House, 247 Middle Road.

Chairman Young appointed Carol Bush, Alternate, to sit in for Kate Nesbit, Member.

**I. Public Comment**

None.

**II. Consideration of Minutes**

**December 19, 2019**

**It was moved by Bill Marcussen and seconded by Gary Qua to approve the December 19, 2019 Tuftonboro Planning Board minutes as submitted. All members voted in favor. The motion passed.**

**III. Scheduled Appointments/Public Hearings**

**LFT Holdings, LLC and Mahnaz Mahidastiti**

Tax Map #40-4-1-1

Site Plan Review; Retail Store (Pier 19)

Matt Young stated the property fell into disuse for more than a period of one year therefore, the proposed use required a variance and site plan approval. He stated the applicant has received a variance and read the ZBA Notice of Decision. He noted the application is complete.

**It was moved by Gary Qua and seconded by Laureen Hadley to accept jurisdiction of the application. All members voted in favor. The motion passed.**

Matt Young stated he received a phone call this morning from a person who expressed concern regarding the procedural process; noting the person believed the slip owners association should be party to the applicant because the parking lot is part of the association. He stated he felt it was prudent to contact Planning Board Counsel regarding such; noting counsel stated the Planning Board could use extreme caution and continue the application to allow him time to further review the matter. He stated counsel noted it is the Board's decision whether to continue the application.

Gary Qua asked if the parking lot for the condominium units and the store are delineated separately.

Matt Young replied no. He stated there is no question that there is available parking. He stated the variance granted was for the grandfathered use of the property.

Board consensus to proceed with the application.

Mark McConkey stated the intent of the applicant is to reopen the commercial building formerly known as Pier 19; noting the use would include the sale of groceries, convenience items, takeout food, and ice cream

and to dispense gasoline. He stated the applicant intends to repurpose a portion of the interior space to construct four retail kiosks. He stated the plan depicts litter storage, lighting and parking and noted the abutters, condominium association and individual condominium association owners were noticed.

Matt Young verified there are no exterior changes to the building proposed except for cosmetic in nature and the intent is to use all of the interior space for retail sales.

Mark McConkey stated the inside use of the building, loading dock and restrooms would remain the same.

Mahnaz Mahidashti stated she is proposing a country store and will be using the entire area of the building.

Referencing the gas dock, Matt Young stated underground tanks are governed by NHDES Subsurface Tank Bureau and further explained NHDES' role in such.

Gary Qua confirmed that the State inspects the gas tanks.

Mark McConkey stated the applicant is required to be a registered operator.

Laureen Hadley asked if the store would be open year round and questioned whether interior seating is proposed.

Mahnaz Mahidashti stated the store would be open year round and only the five seats that were previously provided would be maintained.

Matt Young stated any increase in lot coverage would require additional review. He stated the Board has received a letter from the Fire Department and questioned whether the applicant has contacted NHDOT with regard to the crosswalk.

Mahnaz Mahidashti replied no.

Matt Young requested the applicant to contact NHDOT.

Bill Marcussen stated the crosswalk issue has been previously discussed and voted on at Town Meeting; noting such was defeated. He stated the State has specific requirements that have to be adhered to and following the installation of the crosswalk it then becomes the Town's responsibility to maintain it. He stated the matter was brought before the BOS by summer island residents who had expressed concern about pedestrians crossing from the docks to the store. He stated there have been no prior incidents with pedestrians or accidents. He stated when a crosswalk is installed the pedestrian may draw a false sense of security.

*Tony Triolo recused himself.*

Carol Bush asked the name of the store.

Mahnaz Mahidashti replied Pier 19.

Gary Qua verified a chamber type septic system on site and asked if it has been inspected.

Mark McConkey stated he believes the system is in working order and noted the Codes Officer will most likely request an inspection. He stated the applicant has received a State approval for the system.

Tony Triolo stated he spoke with the vendor who last pumped the system; noting the vendor recommended an inspection.

Mark McConkey stated the Board of Health will require nitrate and sanitary testing prior to opening the operation.

*Chairman Young opened the public hearing.*

Robert Reed, 2 Union Wharf Road, stated he is happy to see the store open again. He questioned the traffic pattern for delivery trucks; noting there has been cases where the driver has ended up in the ditch.

Mahnaz Mahidashti stated protocol relative to such would be established with the drivers.

Fran Laase, 5 Bay Road, requested to review the plan. He asked if there would be an exterior portable toilet and whether the interior bathrooms would be available to the public.

Mahnaz Mahidashti stated there are two interior bathrooms and the availability of such is required to serve food and sell liquor.

Matt Young stated that previously portable toilets were across the street at the dock and recommended such.

Fran Laase stated valet docking was previously proposed and the docks were left open for store access.

Matt Young noted the portion of the dock that Mr. Laase is referring to consists of eight docks and is under the control of the dock owners association.

Fran Laase asked where a boater would park if they wanted to go to the store.

Matt Young replied the public wharf.

Michael O'Keefe, owner of slip #23 and Board of Director of the Pier 19 Condominium Association, asked if there are any proposed changes to the outside of the building.

Matt Young replied no.

Michael O'Keefe asked if the parking lot would be reconfigured.

Matt Young replied no.

Michael O'Keefe stated what happens to the parking lot is dictated by the Board of Directors. He noted the bathrooms that are accessed from the outside of the building are owned by the slip owners and not part of the commercial unit.

Matt Young stated the latter is a civil matter and outside of the jurisdiction of the Planning Board.

David Hill, Board of Director of the Pier 19 Condominium Association, stated he wants to ensure that the potential buyer understands the slip owners own the bathrooms that are accessed from outside the building and that they do not own or have access to those bathrooms. He noted the association has previously allowed employees to use the bathrooms.

Matt Young stated such is a condominium document question and not a questioned for the Planning Board. He stated the Board of Health will not allow the applicant to serve food without bathroom access.

Fran Laase stated the Town has no right to allow public launching.

Bill Marcussen stated the property boundary does not go in front of the ramp.

Jack Parsons stated two ramps exist.

Fran Laase stated he wants to ensure the ramp remains open for public use.

The Board and applicant discussed operating hours and delivery hours. The Board and applicant agreed to Sunday –Saturday 7 AM – 7 PM with possibly later hours in the summer.

**It was moved by Bill Marcussen and seconded by Gary Qua to close the public hearing. All members voted in favor. The motion passed.**

Gary Qua stated his biggest concerns are safe drinking water and a working septic system. He asked if there are catch basins on the property.

Matt Young stated the site has some drainage control on the front of the lot however, there is no drainage control on the rear of the lot. He stated a recommendation could be made to construct an 18” bark berm however, the applicant would have to address such with the association. He stated the applicant has requested several waivers; noting many of the waiver are due to conditions that currently exist on site. He read the following waivers; Section 4.3.2, 4.3.2(B) through (H), 4.3.2(J), 4.3.3, 4.3.3(A) through (M).

**It was moved by Gary Qua and seconded by Bill Marcussen to grant a waiver for Section 4.3.2. All members voted in favor. The motion passed.**

**It was moved by Gary Qua and seconded by Bill Marcussen to grant a waiver for Section 4.3.2. All members voted in favor. The motion passed.**

**It was moved by Laureen Hadley and seconded by Gary Qua to grant a waiver for Section 4.3.2(B). All members voted in favor. The motion passed.**

**It was moved by Carol Bush and seconded by Gary Qua to grant a waiver for Section 4.3.2(C). All members voted in favor. The motion passed.**

**It was moved by Laureen Hadley and seconded by Gary Qua to grant a waiver for Section 4.3.2(D). All members voted in favor. The motion passed.**

**It was moved by Carol Bush and seconded by Gary Qua to grant a waiver for Section 4.3.2(E). All members voted in favor. The motion passed.**

**It was moved by Gary Qua and seconded by Laureen Hadley to grant a waiver for Section 4.3.2(F). All members voted in favor. The motion passed.**

**It was moved by Bill Marcussen and seconded by Gary Qua to grant a waiver for Section 4.3.2(G). All members voted in favor. The motion passed.**

**It was moved by Carol Bush and seconded by Gary Qua to grant a waiver for Section 4.3.2(H). All members voted in favor. The motion passed.**

**It was moved by Gary Qua and seconded by Laureen Hadley to grant a waiver for Section 4.3.2(J). All members voted in favor. The motion passed.**

**It was moved by Carol Bush and seconded by Gary Qua to grant a waiver for Section 4.3.3. All members voted in favor. The motion passed.**

**It was moved by Carol Bush and seconded by Gary Qua to grant a waiver for Section 4.3.3(A). All members voted in favor. The motion passed.**

It was moved by Carol Bush and seconded by Laureen Hadley to grant a waiver for Section 4.3.3(B). All members voted in favor. The motion passed.

It was moved by Gary Qua and seconded by Laureen Hadley to grant a waiver for Section 4.3.3(C). All members voted in favor. The motion passed.

It was moved by Carol Bush and seconded by Gary Qua to grant a waiver for Section 4.3.3(D). All members voted in favor. The motion passed.

It was moved by Carol Bush and seconded by Gary Qua to grant a waiver for Section 4.3.3(E). All members voted in favor. The motion passed.

It was moved by Laureen Hadley and seconded by Gary Qua to grant a waiver for Section 4.3.3(F). All members voted in favor. The motion passed.

It was moved by Carol Bush and seconded by Gary Qua to grant a waiver for Section 4.3.3(G). All members voted in favor. The motion passed.

It was moved by Carol Bush and seconded by Gary Qua to grant a waiver for Section 4.3.3(H). All members voted in favor. The motion passed.

It was moved by Carol Bush and seconded by Laureen Hadley to grant a waiver for Section 4.3.3(I). All members voted in favor. The motion passed.

It was moved by Gary Qua and seconded by Laureen Hadley to grant a waiver for Section 4.3.3(J). All members voted in favor. The motion passed.

It was moved by Gary Qua and seconded by Carol Bush to grant a waiver for Section 4.3.3(K). All members voted in favor. The motion passed.

It was moved by Laureen Hadley and seconded by Gary Qua to grant a waiver for Section 4.3.3(L). All members voted in favor. The motion passed.

It was moved by Carol Bush and seconded by Gary Qua to grant a waiver for Section 4.3.3(M). All members voted in favor. The motion passed.

Matt Young stated the bathroom use is outlined in the condominium documents and is a civil matter and will be addressed by the Board of Health, applicant and association. He stated there is no NHDOT Change of Use required and noted the parking requirements are met (35 spaces). He reviewed the following conditions of approval;

1. The applicant shall contact NHDOT to discuss the installation of a crosswalk and whether such will be required.
2. The approval is subject to ZBA approval and any conditions attached thereto.
3. This approval is subject to any State or local permits and any conditions attached thereto.
4. Operating hours shall be restricted to 6 AM to 10 PM.
5. Delivery hours shall be restricted to 6 AM to 9 PM.

It was moved by Gary Qua and seconded by Laureen Hadley to approve the LFT Holdings, LLC and Mahnaz Mahidashti Site Plan Review application, Tax Map 40-4-1-1, subject to the recommended conditions of approval. All members voted in favor. The motion passed.

#### **Planning Board Fee Schedule**

Staff reviewed the changes incorporated from the December 19, 2019 meeting.

Chairman Young opened the public hearing.

It was moved by Tony Triolo and seconded by Laureen Hadley to close the public hearing. All members voted in favor. The motion passed.

It was moved by Carol Bush and seconded by Gary Qua to adopt the Planning Board Fee Schedule. All members voted in favor. The motion passed.

**IV. Action Item**

N/A

**V. Discussion Items**

**Potential Lot Merger for Tax Map #44-1-53 and #45-1-14 (LFT Property Holdings, LLC/Albee)**

Alana Albee stated that since she came before the Board in 2018 LFT Property Holdings, LLC has reconsidered selling two lots within their approved subdivision to her. She stated the intent is to leave the lots as is however, if the Board requires her to merge the lots that she would do so. She reviewed Attorney Roger Murray's opinion that he provided to the Board in 2018; noting that removing the lots from the approved subdivision may require the refiling of the subdivision plan. She stated LFT Property Holdings, LLC asked her to contact Jim Rines, White Mountain Surveying & Engineering, and request him to provide the density calculations that would be needed (per Attorney Murray's letter).

Matt Young stated he would contact Jim Rines and the Board's current counsel, Attorney Pasay, as well because he questions whether the subdivision legally exists since the conditions of the approval were never met. He stated the property is currently for sale as an approved subdivision. He questioned whether the lots can be sold. He also questioned how the 50' setback from the green space is impacted if the boundary line is adjusted.

**Zoning Amendment; Section 3.6.F.13**

Gary Qua stated the information he previously provided to the Board was derived from surrounding towns. He stated he spoke to Jack Parsons today; noting Mr. Parsons is concerned about residential storage as well as commercial storage.

Laureen asked if the Town has fines.

Bill Marcussen replied yes, however such is applied through a court process.

**VI. Informational Items**

The Board received the following information; 2020 Planning Board Schedule.

Matt Young noted final approval was given to Albee/Pierce/Hooper Boundary Line Adjustment.

**VII. Other Business**

**VIII. Public Comment**

None.

It was moved by Laureen Hadley and seconded by Gary Qua to adjourn the January 2, 2020 Tuftonboro Planning Board meeting. All members voted in favor. The motion passed.

There being no further business before the Board, the meeting adjourned at 9:05 PM.

Respectfully Submitted,

*Lee Ann Hendrickson*

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