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**CAMDEN PLANNING BOARD
MINUTES OF MEETING
December 5, 2013**

PRESENT: Chair Chris MacLean; Vice Chair Lowrie Sargent; Members Richard Householder, and John Scholz; Alternate Members Richard Bernhard and Kim Tuttle; Don White, Select Board Liaison; Town Attorney Bill Kelly; and CEO Steve Wilson

ABSENT: Member Jan MacKinnon

The meeting of the Planning Board was convened at 5:00 pm.

1. Public Input on Non-agenda Items: No one came forward.

2. Minutes:

November 5, 2013:

Page 4 Line 39: “did not review Article VI Section ~~Article~~ 7 a – f at their meeting.”

Page 7 Line 30: “The ~~Pixley’s~~ Pixleys are one of the homeowners who were notified but have not changed their ads ...”

Page 10 Line 8: “reviewed the ~~State’s Planning Board Manual~~ Maine Municipal Association’s Guide for Local Planning Boards and...”

Page 10 Line 27: “...the hearing public portion of the hearing.”

MOTION by Mr. MacLean seconded by Mr. Scholz to approve the Minutes of the Planning Board Meeting of November 5, 2013, with corrections noted.

VOTE: 5-0-1 with Mr. MacLean abstaining because he was not present for the entire meeting

3. Site Plan Approval: Residential Pier

Daniel and Joann Passeri: Map 125 Lot 12: Village District (V); 84 Bay View Street

The Chair will not participate as a voting member because he had not taken part in the initial review and had not attended the Site Walk. Because Ms. MacKinnon is absent, both Alternates will be voting.

Applicant’s Presentation:

Will Gartley of Gartley and Dorsky Engineer and Surveying, the Applicant and Owners’ Agent, provided an update:

- ✓ The Application was found Complete by the Planning Board, and they are now asking for Planning Board approval so they can continue on to the Select Board;
- ✓ they have been to the Harbor Committee twice and been approved twice;
- ✓ A copy of the Harbor Committee’s Review and Finding of Fact Checklist dated 11/15/2013 has been provided for the record;
- ✓ the required DEP permit has been approved and is awaiting signature;
- ✓ a Site Walk was held where there was a discussion of how to deal with the floats at the Yacht Club if the need arises. Neither Yacht Club Commodore Penny Abbott, nor Harbormaster Steve Pixley had been present at the Site Walk, nor was Mr. MacLean from the Board – all other Board members had attended.

1 Steve Pixley: He looked at this Application with Mr. Gartley a month or so ago and he
2 saw no problem. There might be one issue - a 15' turn where the Club moors six boats. One of
3 these boats that may have to be adjusted 6' or 7' to the west; this does not create a hardship in
4 anyway. Knowing ahead of time that these will be unskilled students sailing in this area, Mr.
5 Sargent asked when Mr. Pixley would make an adjustment if one was needed. Mr. Pixley
6 replied that he would have to wait to see what kind of vessel the owner was going to put on the
7 pier. Mr. Gartley noted that the owner intends to moor his boat off the pier; he will keep a dinghy
8 at the float, and will only bring the boat to the pier at high tide when he will be sailing.
9

10 Mr. Scholz suggested that the Commodore already informed the Board that she had
11 concerns about student sailors coming into this area, and he wondered if Mr. Pixley could
12 confirm that adjustments would be made if she continues to be concerned once the pier is in
13 place. Mr. Pixley confirmed that he had both the authority to make adjustments, and the room to
14 make adjustments. Mr. Sargent suggested that this willingness on Mr. Pixley's part to change the
15 location of the sailing school moorings if the pier or the owner's boat causes concerns be
16 considered as a Condition of Approval.
17

18 ARTICLE XII: Site Plan Approval: The Application under review consists of:
19

- 20 • Site Plan Application dated 10/09/2013
- 21 • Agent Letter dated 10/09/2013
- 22 • Submission Letter dated 9/25/2013
- 23 • Tax Map 125
- 24 • Abutter List
- 25 • Warranty Deed dated 7/18/2013
- 26 • FEMA FIRM Panel dated 5/4/2013
- 27 • MIFW Habitat Map dated 3/22/2013
- 28 • Photographs 1 and 2 dated 9/25/2013
- 29 • Aerial Photo: AE-1 dated 9/25/2013
- 30 • Boundary Survey: Plan SV-1 dated 7/2/2013
- 31 • Site Plan: C-1 dated 9/25/2013 stamped and seal by an engineer
32

33 The Chair turned to Article XII Approval Criteria noting that many of these items would
34 not apply here.¹ After review, the following Motion was offered:
35

36 **MOTION by Mr. Sargent seconded by Mr. Householder** that the Board approve the Plan and
37 send it on to the Select Board for their approval because the Board has found that each of the
38 individual requirements have either been satisfied have either been found to be not applicable or
39 have been satisfied by the Plan. The following condition of approval applies: Both the Yacht
40 Club and the Harbormaster have found that there may, in the future, be a conflict between boats
41 that are moored at this pier and the Yacht Club Sailing School boats. If there is a conflict, the
42 Harbor Master will get involved and relocate the sailing school moorings so they are away from
43 conflict with the pier.
44

¹ See Attachment A – Article XII Section 6 Site Plan Approval Criteria

1 Mr. Gartley finds this an odd condition because it is completely out of control of the Applicant to
2 resolve this issue. The Chair recommended a change to the wording that would make the Town
3 responsible for making adjustments. Mr. Wilson agreed saying that Mr. Pixley is responsible for
4 the safety of the boats in the harbor and not the pier owners. Mr. Sargent, with Mr.
5 Householder's consent, agreed to amend his motion:
6

7 **MOTION by Mr. Sargent seconded by Mr. Householder that subject to the understanding**
8 **of the Board that the Harbormaster is willing and able to intervene and make adjustments**
9 **to mooring used by students at the Yacht Club Sailing School should the need arise, the**
10 **Application for a pier at 84 Bay View Street is approved.**

11 **VOTE: 5-0-0**

12
13 The members of the Board signed the Site Plan.

14
15 **4. Site Plan Pre-Application Discussion:** Expansion of a Non-conforming Use
16 Bretta, LLC d.b.a. The Camden Harbour Inn: 83 Bay View Street
17

18 Will Gartley of Gartley and Dorsky Engineering and Surveying and a representative from
19 Phi Design were present to represent the owners in a preliminary discussion regarding a proposal
20 to expand the Inn building. A representative of PHI Construction, the contractor of record for
21 the proposed project, and Oscar Varest, one of the owners, were present to answer questions.
22

23 Mr. Gartley explained that they are here this evening to determine if the Board believes
24 that parking requirements could create a stumbling block that they will need to address before
25 they move forward with an actual application. The Ordinance language is not clear whether
26 expansions are to be considered the same as alterations with regard to parking requirements; they
27 have done calculations based on their interpretation that they are, and want to make sure the
28 Board agrees with this and with their findings:
29

30 Per the Ordinance at Article X Part II Section 4:

31 (b): Off-Street Parking Requirements: #3 Lodgings 1 per room and #4 Restaurants 1 space for
32 each 4 seats:
33

34 The Inn's current status:

35 22 rooms require 22 spaces @ 1/room

36 The 96 seats in the restaurant require 24 spaces @ 1 space/4 seats

37 They have 33 spaces on site and 27 "grandfathered" spaces for a total of 60 spaces
38

39 (c) In computing the required off-street parking, the following rules shall apply:

40 "4. In the case of an expansion of an existing building or structure, the required number of new
41 spaces shall be the number of spaces required for the addition itself. The new spaces for the addition
42 shall not be required to make up any deficit that may attend the original building ..."

43 Using this example:

- 44 • They will lose 16 seats in the dining room freeing up 4 spaces
- 45 • They will be adding 7 rooms requiring 7 spaces
- 46 • They will need 3 new off-street spaces
47

1 Mr. Gartley pointed out that they are not expanding the footprint of the building, but they
2 are reworking and renovating the building with an addition contained within the existing
3 footprint. Mr. Sargent suggested that the term “expansion” may not cover situations where
4 alterations are made that should require adjustments to parking. Mr. Wilson replied that parking
5 is driven by use and parking requirements would come under review.
6

7 → Mr. Sargent asked the CEO to add this section of the Ordinance to the Board’s laundry list of
8 amendments so they can work on clarifying the language of the parking requirements.
9

10 They are working on a design for a three-story addition with space for drive-in parking
11 created under the addition to replace the four spaces that will be lost by the addition. The details
12 of access to this area are not finished. They must deal with a 4' - 5' drop in elevation that may
13 require a retaining wall if the drive between the two levels is widened to accommodate two-way
14 traffic. They have to maintain the connection between the upper and lower entrances to facilitate
15 deliveries, but they may move the shed and tanks instead of building a wall. The drive will have
16 to be shifted to accommodate the addition and that will involve some grading and fill. If they do
17 widen the drive as well, the Site Plan he has with him this evening will change. They can always
18 reduce the number of seats in the restaurant if they cannot accommodate all the parking they
19 need for the addition.
20

21 Mr. Sargent: He is of the opinion that the owners have interpreted the Ordinance correctly with
22 regard to the method used to determine the number of spaces that will be required. Mr. MacLean
23 agrees, but noted that changes to the lounge may affect changes to parking as well. Mr. Gartley
24 replied that he is aware of that. They don’t know the grandfathered capacity of the lounge for
25 sure, but he suggested that that area probably won’t change very much.
26

27 They had a question about the possibility of using the adjoining lot for parking as an
28 option to putting parking under the building. That lot is not under the same ownership, and
29 he wanted to make sure this would be allowed. Leasing the spaces from the owner, would, in the
30 opinion of the Code Officer, create a commercial parking operation unless there was no charge to
31 the Inn to use the lot. Mr. MacLean suggested there would have to be a written agreement
32 outlining between the two parties, and Mr. Wilson agreed there would have to be a non-monetary
33 agreement, and Mr. MacLean suggested there could also be a recorded easement granted. The
34 Applicants wondered if the properties should be brought under the same ownership because that
35 would make things easier.
36

37 Mr. Gartley then referenced the section in the Ordinance that prohibits parking in front of
38 a building with the Village District. (Article VIII Section 7 E: Space and Bulk Standards)
39 Maximum Ground Coverage: “None, provided that the area between the front property line and
40 the wall of the building or structure closest to the street and running the full width of the wall,
41 except the driveway, shall not be used for parking.” He wanted to make sure this provision
42 didn’t trip them up if they decide to use this lot: If they enter the driveway, which is in front of
43 the building, and turn immediately to the right to park in an area that is not in front of the
44 building, is this condition satisfied. Mr. Wilson suggested that one problem will be making room
45 for cars to turn around so they are not backing into the street.
46

1 Mr. Bernhard asked about the steep change in grade between the Inn and this parking
2 area that would have to be made safe for pedestrians to navigate. Mr. Gartley replied that,
3 logistically, to accomplish this is much less work than it would be to create and construct four
4 parking spaces under a building. The Inn already has valet parking so customers would not
5 necessarily be walking to this area, but they need to be able to plan accordingly so he wants to
6 hear the Board's concerns. Mr. Sargent suggested that if the lots were to be merged, the Inn
7 itself would become the building on the lot that is closest to the street and Raymond's house
8 wouldn't be involved in determining if this standard is met. Mr. Gartley replied that this is what
9 they want to do because the second lot is safer and more maneuverable than parking under the
10 building. Mr. Scholz agreed that the second lot was the safest option considering how tight that
11 area is with a blind spot to people or traffic coming down the drive, and that the idea of steps
12 connecting the two lots is a good solution to address the grade.

13
14 The Applicants will return to the Board once they have received ZBA approval for the
15 expansion of a non-conforming use.

16
17 **5. Agenda for December 12 Public Hearing: Fox Hill**

18

1 ATTACHMENT A: Article XII: Section 6: Site Plan Approval Criteria:

2 (1) *Preserve and Enhance the Landscape*

3 **MOTION by Mr. Sargent seconded by Mr. Householder that #1, Preserve and Enhance the**
4 **Landscape, is satisfied because the landscape will not be disturbed during construction**
5 **because the landing will be anchored to ledge.**

6 **VOTE: 5-0-0**

7
8 (2) *Erosion Control*

9 (a) preservation and protection of natural vegetation where possible.

10 (b) keeping duration of exposure of disturbed soils to as short a period as possible and
11 stabilizing the disturbed soils as quickly as practicable.

12 (c) use of temporary vegetation or mulching to protect exposed critical areas during
13 development.

14 (e) use of debris basins, sediment basins, silt traps or other acceptable methods to trap the
15 sediment from storm water runoff.

16 (f) no storage of fill materials within 50 feet of the banks of any stream, intermittent or
17 perennial, or water body.

18 (g) no removal of topsoil from any lot, except for that removed from areas to be occupied by
19 buildings, paving, or other surfaces that will not be re-vegetated.

20 **MOTION by Mr. Sargent seconded by Mr. Scholz that #2, Erosion Control, is not**
21 **applicable because there will be filling or excavation.**

22 **VOTE: 5-0-0**

23
24 (3) *Relationship of the Proposed Building to Environment and Neighboring Buildings*

25 **MOTION by Mr. Scholz seconded by Mr. Householder that Item 3 is satisfied because the**
26 **design fits harmoniously with the terrain and the height meets the Ordinance requirement**
27 **that piers do not exceed 6' in height over Mean High Water.**

28 **VOTE: 5-0-0**

29
30 (4) *Vehicular Access, Parking, and Circulation*

31 The proposed site layout shall provide for safe access to and egress from public and private
32 roads:

33 (a) any exit driveway shall be so designed as to provide [the following] minimum sight
34 distance measured in each direction, as measured from the point at which the driveway
35 meets the public or private right-of-way...

36 **MOTION by Mr. Sargent seconded by Mr. Scholz that #4 is not applicable because this**
37 **pier is intended for use by pedestrians only.**

38 **VOTE: 5-0-0**

39
40 (5) *Surface Water Drainage*

41 **MOTION by Mr. Scholz seconded by Mr. Householder that Item #5 is not applicable**
42 **because there is no impervious surface being created as part of this project.**

43 **VOTE: 5-0-0**

44

1 (6) *The development shall not impose an unreasonable burden on sewers and storm drains,*
2 *water lines or other public utilities. New utilities shall be sized and existing utilities*
3 *upgraded to adequately handle the demands of the development.*

4 **MOTION by Mr. Sargent seconded by Mr. Scholz that #6 is not applicable because there**
5 **are no public utilities involved in this project.**

6 **VOTE: 5-0-0**

7
8 (7) *Special Features of Development*

9 Exposed storage areas, exposed machinery installation, service areas, truck loading areas, utility
10 buildings and similar structures shall have setbacks and screening to provide a buffer to sight and
11 sound sufficient to minimize their adverse impact on other land uses within the development area
12 and on surrounding properties.

13 **MOTION by Mr. Householder seconded by Mr. Sargent that Item 7, Special Features of**
14 **Development, is not applicable because there are no storage areas, exposed machinery**
15 **installations, etc., that require setbacks.**

16 **VOTE: 5-0-0**

17
18 (8) *Exterior Lighting*

19 **MOTION by Mr. Bernhard seconded by Mr. Householder that Item 8, Exterior Lighting,**
20 **is not applicable because the Applicant has stated there will be no lighting.**

21 **VOTE: 5-0-0**

22
23 (9) *Emergency Vehicle Access*

24 **MOTION by Mr. Householder seconded by Mr. Scholz that Item 9, Emergency Vehicle**
25 **Access, is not applicable because there is no structure and no fire lane is required.**

26 **VOTE: 5-0-0**

27
28 (10) Special criteria for Piers, Wharves, Breakwaters, Municipal Boat Tamps, Municipal Piers,
29 Consolidated Piers and other mariner related uses requiring site plan approval under the terms of
30 the Ordinance. In addition to the above approval criteria, the site must be demonstrated to be
31 suitable for the proposed use according to the following specials criteria:

32 (a) The project must not cause undue erosion on or near the site.

33 (b) The proposed use must not cause degradation of marine life in or near the area. The
34 Board may ask for an examination and statement by a qualified marine biologist
35 regarding the impact of the project, and that statement shall show no significant
36 adverse impact on marine life.

37 **MOTION by Mr. Scholz seconded by Mr. Householder that Item 10 is approved based on**
38 **the criteria because there will be undue erosion and no degradation or alteration to marine**
39 **biology because there will be no dredging required; and there will be no excavation because**
40 **the pier will be sited on ledge.**

41 **VOTE: 5-0-0**

42 (11) Design standards for new construction, additions or exterior renovations in the B-1, B-TH
43 or B-TR Zoning Districts.

44 **MOTION by Mr. Sargent seconded by Mr. Householder that Item 11 does not apply to this**
45 **District.**

46 **VOTE: 5-0-0**