

**BRIDGTON PLANNING BOARD
MEETING**

Bridgton Court Room

**April 10, 2007
7:00p.m.**

The Bridgton Planning Board was called to order at 7:00p.m. by Fred Packard, Chair. Those in attendance were: Fred Packard, Chair; Steve Collins, Vice Chair; Christopher McDaniel; Dee Miller, Alternate; David Lee, Alternate. Absent were: David Diller; Gordon Davis.

Fred appointed Dee Miller, Alternate, and David Diller, Alternate, to act in the capacity of absent regular members.

PUBLIC HEARING

Harrison Marina/David Randall

Route 117/Brickyard Hill Road; Map 19 Lot 43

Showroom, repair facility & parking

Represented by Tom Dubois, Main-Land Dev. Consultants

Mr. Dubois said the proposed project will access off Route 117 and the Maine Department of Transportation access is shown on the plan. The building will be a two story structure approximately 4,600sf. There will be a gravel driveway area, double parking spaces for boats and vehicles and parking for patrons. There will be screening of low shrubbery on the Route 117 side, trees are planned on the side to protect the abutter from a direct line of sight into the building itself, shrubbery along the lower end of the septic system along Brickyard Hill Road. For stormwater control we have planned a large grass filter strip which is basically a modified pond which is dry when it is not raining and fills up with approximately 18" of water during a storm event slowly draining out toward a culvert that comes across Brickyard Hill Road. We have designed the filter strip to control and contain a 10 year storm event coming off the entire project site. We have screened both the facility and grass filter strip with a fence 6' high wooden fence along basically the entire berm of the grass filter strip. The building, from Route 117, you will see three bays for the garage facility then the showroom, parts department and offices on the opposite side. The first floor will consist of the three bay facility, showroom, parts department and office and on the second story there will be a second story office.

Fred opened the Public Hearing for public comment at 7:10p.m.

Liz Marcella, Citizen, said how long is the berm and the fence in relation to the berm? Mr. Dubois said the fence is going to sit on top of the berm, the length of that will be approximately 200' long. Ms. Marcella said what provisions are being made for maintenance of the fence? Mr. Dubois said it is a commercial entity and the fence will be maintained as necessary.

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Robert Macdonald, Citizen, submitted a copy of a summary outlining reasons the project should be denied (copy attached). Mr. Macdonald reviewed his summary with the Planning Board.

Mr. Macdonald said a building permit was submitted to the Code Enforcement Officer to build a 70 foot dock with six 20 foot fingers to accommodate approximately 40 boats, this application is listed as residential and was denied as not credible.

Mr. Zaidman said is this project in shoreland zone? Fred said no. Mr. Zaidman said does the Town of Bridgton have zoning for residential or commercial? Fred said no. Mr. Macdonald said this comes under the Site Plan Review Ordinance. Mr. Dubois said under Site Plan Review Ordinance commercial activities are permitted. This is not a quiet residential area, this is Route 117. I believe Mr. Macdonald is basing this application on the assumption that something else is behind this. We have an application before the Planning Board for a legitimate business for maintenance, repair and sale of boats. We have provided landscaping around the facility, if this Board feels that the landscaping is not adequate let us know and we will address it further with the Board. Mr. Randall did clear an area that was larger than what was permitted. We have since filed and received approval for a permit by rule with DEP in response to that issue. I don't disagree that there are residents on Brickyard Hill Road but we have no access points on to Brickyard Hill Road.

Mr. Macdonald said as I mentioned in RD 5 to go down to the water to put in docks to use he is going to use the road. Fred said that has nothing to do with what is before us. Mr. Macdonald said if you think that this is not going to happen, it is.

Robert Staley, Citizen, said Mr. Randall applied to the Planning Board for a combined project and it was denied. This is a separate project.

Mr. Randall said there is a business for a boat repair facility on Hio Ridge Road which is in a residential area and there have been no complaints as a result of that business.

Mr. Dubois said we provided the Board with documentation of financial capacity. The Board has the right to ask for a performance guarantee.

Mr. Dubois said we are willing to further discuss the screening for landscaping on the Brickyard Hill Road side.

Ms. Marcella said what is your remediation for the lot according to DEP? Mr. Dubois said we need to revegetate. Ms. Marcella said what did you over cut? Mr. Dubois said we over cut the trees but all that is required it to revegetate with grass.

Fred closed the Public Hearing at 7:35p.m.

David L. said is the stormwater runoff going to the lake? Mr. Dubois said eventually. David L. said is it taking all the phosphorous out? Mr. Dubois said we have collected run off from the entire developed area to put through the grass filter strip to filter it before it leaves the site.

David L. said there are other commercial businesses in that area.

Dee said what are you planning for a buffer between the neighbor and this property? Mr. Dubois said evergreen trees planted along the edge of the parking area.

Dee said the grass filter strip is located inside the fence? Mr. Dubois said yes.

Dee said from Brickyard Hill Road the fence is going to be quite a bit higher? Mr. Dubois said 4' higher than the road. Dee said the top or the bottom? Mr. Dubois said the bottom. Dee said is it a stockade fence? Mr. Dubois said a solid wood fence. Dee said it will look the same on both sides? Mr. Dubois said yes.

Dee said what is the building made of? Mr. Dubois said it is a vinyl clapboard sided building with a reasonable pitch. We have tried to make the building as residential looking as possible.

Dee said are you going to do any fiberglass repairs? Mr. Randall said no.

Dee said is there any way to do some planting on the back side of the fence? Mr. Randall said I discussed some options with the Marcella's and I told them that I would be willing to work with them to come up with something that was agreeable.

Christopher said there is and has been commercial use on Route 117.

Steve said was the design of the filter strip part of the DEP's review of your stormwater management plan to get the permit by rule? Mr. Dubois said no. Our stormwater management plan dealt with the violation of over cutting the site only. This project is not large enough to require a stormwater management permit from the State.

Steve said I disagree with some of the arguments that Mr. Macdonald has set forth regarding the Site Plan Review Ordinance as a zoning document. I feel that the applicant has met the burden of proof.

Mr. Baker said will the fence be finished on both sides and will there be posts on one side? Mr. Dubois said it will be finished on both sides, the nice side will face Brickyard Hill Road.

Dee said is there going to be boat storage? Mr. Randall said no. I own a 5 acre parcel down the road from this facility and that is where storage will be.

The Board reviewed the Site Plan Review Ordinance Review Standards for compliance.

Fred said we need to have a written findings of fact before rendering a formal decision.

Steve motioned to grant a conditional approval of the application specifically conditioned on the applicants adherence to the oral representations made with respect to landscaping and this approval further subject to the review of the formalized Finding of Fact and Conclusion of Law. Plan approval is also conditioned upon compliance by the applicant with the plans and specifications which have been received by the Planning Board in connection with the development proposal as well as with any oral commitments regarding the project which were specifically made by the applicant to the Board in the course of its deliberations. David L. 2nd.

Dee said I would like to add to the motion, as represented by the applicant, that the buffer between the neighbor and the business include plantings of 4-5' trees, maintenance of the grass filter strip and landscaping on the Brickyard Hill side of the fence.

Steve said I will amend my motion to include those items.
David L. concurred. 5 Approve / 0 Oppose

Proposed Amendment(s) to the following Ordinance
Shoreland Zoning Ordinance

Section 14 "Table of Land Uses" Number 25 "Campgrounds"
"District LR" Change PB to No

Discussion ensued with the following comments.

Glen Zaidman, Citizen, said can you define what a campground is? Fred read the definition of campground from the Town of Bridgton Shoreland Zoning Ordinance. Mr. Zaidman said how does the Board view a campground such as Camp Wildwood? Fred said that is not a campground, that is considered a boys and girls camp. Mr. Zaidman said it needs clarification. Dee said we have discussed that and will come up with a definition for recreational seasonal camps.

Mr. Zaidman said how can you change an Ordinance that could possibly have an impact on the youth camps in this area?

David said if you own shorefront property and you have relatives that come in for the weekend and they pitch a few tents, is that considered a campground and against the Ordinance? Steve said there is a definition for Individual Private Campsites which covers that type of situation but I think we need to distinguish more clearly between youth camps and campgrounds.

David L. said this should be tabled until the Planning Board can discuss it further and specific language reviewed by the Town's Attorney before it is considered at Town Meeting.

Mr. Staley, Citizen, said if you don't have anything in writing yet how can you assume that at a later date you can make that change? This Board's intent is genuine but Board members change. Dee said if we agree with an interpretation and it is part of the record, until any new language is developed we would be bound by our policy. Georgiann Fleck, Secretary, said no, it needs to be in the Ordinance. Also, any new change must go before voters at the annual town meeting.

Mr. Randall said what if the Town wanted to expand Salmon Point? Fred said they would have a problem.

Dee motioned to not make the change. Steve 2nd.
5 Approve / 0 Oppose

Section 14 "Table of Land Uses" Number 29 "Marinas"
"District SP" Change PB to No
"District LR" Change PB to No

Mr. Macdonald said there are two issues to decide. Marinas as a commercial use and do you want to have marinas anywhere in Bridgton.

Mr. Zaidman said is there a definition of marina? Steve read for the record the definition of marina. Mr. Zaidman said I think you need to delay this until you determine how you are going to address residential campgrounds because we offer boats for hire so under that definition we would be considered a marina.

Mr. Turner said we have a common lake in both Harrison and Naples, they have commercial uses for Marinas but now all of sudden Bridgton has the power to restrict use through the Planning Board, and is that legal? Fred said yes, it is the land not the water. Mr. Baker said the Planning Board doesn't have the authority it has to go to the Legislative Body.

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Fred said commercial uses and marina has to correspond. Mr. Macdonald said if you are going to have commercial use you should not have a marina, it's as simple as that. You will never get a definition that is agreed upon by everyone. This Board needs to make a decision, do you want to have marinas in a section where you can not have a commercial entity or not.

Dee said I agree with Mr. Macdonald and his argument holds some validity.

David L. said I think that one person from each section of Town should be on a committee to get all the Ordinances reviewed and rewritten if necessary and reviewed by legal council and then sent to the Town Meeting for consideration.

Dee motioned to change Section 14 Number 29 District SP from "PB" to "No" and District LR from "PB" to "No". Steve 2nd.
2 Approve / 3 Oppose (Fred, Christopher and David L.)

Section 15 "Land Use Standards" Section "F" "Commercial and Industrial Uses" Item "j". Delete "except storage on same property as use occurs and except for storage and sales associated with marinas."

Fred said the question here is if someone has a 5 gallon can of gas stored on their property does that constitute storage? Steve said it refers to commercial only.

David said what about some of the businesses in Town that come under this section, including Reny's that sell antifreeze or gas stations? Mr. Macdonald said you are endorsing uses that will pollute the river. Fred said not a person on this Board is saying that. Mr. Macdonald said you are.

Dee said I think we should clarify the definition of marina and that will guide the rest of the Ordinance. Steve said what if we remove completely Marina in the Table of Land Uses Number 29. Ms. Fleck said I believe if an item is not addressed in an Ordinance then you have no regulation over it at all. Steve said if that happens I think you would be guided by the definition for commercial uses.

Steve motioned to change Section 15 "Land Use Standards" Section "F" Commercial and Industrial Uses" Item "j" and delete "except storage on same property as use occurs and except for storage and sales associated with marinas".

Dee said this would address the marina issue. Ms. Fleck said this clause is dealing with two separate issues, storage on same property as use occurs and marinas. Mr. Baker said I believe it is separate.

Fred called for a second and a vote. Dee 2nd. 0 Approve / 5 Oppose

**Section 17 "Definitions" Functionally water dependent uses
Delete "marinas"**

Fred said are we back to the same issue? Steve said I think we are.

Steve motioned to recommend deleting marinas. Dee 2nd.
0 Approve / 5 Oppose

**Proposed (New) Ordinance
Mooring Regulations Harbor Master Ordinance**

Fred read the proposed Ordinance for the record along with correspondence received from Robert Finocchiaro (copy attached) and Eric Bloomberg (copy attached).

Fred opened the Public Hearing for public comment at 9:05p.m.

Joe Gallinari, Citizen, said does a Harbor Master need to be scuba certified to go down and look at the moorings as required in VII - Mooring Standards?

Mr. Gallinari said according to Section VIII - Marinas the Town of Bridgton can own and lease but an owner can't sublease.

Mr. Gallinari said our family has owned property on Highland Lake for generations. Some of the cottages don't have shore frontage, therefore, I am concerned that if this Ordinance passes these cottages can not have a mooring out front as they have for the past 60 years. The Ordinance does not have provisions for grandfathering.

Bob Knowles, Citizen, said this Ordinance was supposedly created for "public safety involved with water based activities", however, with the exception of Section VII.9 I see nothing in this Ordinance that deals with safety in the operation of water craft, it only deals with moorings. Is this Ordinance being written to take care of an existing problem or concerned future problems? Bridgton has approximately 32 miles of water frontage. In my opinion, this Ordinance was created to deal with a problem surrounding 600' and I have a problem that with approximately 168,400' of shore frontage an Ordinance is created to resolve a 600' problem.

Mr. Knowles said moorings are controlled by access, if there is no public access, moorings are limited to shorefront property owners only.

Mr. Knowles said the Ordinance states rectilinear area which will lead to problems when moorings are put out, even for shorefront property owners, which The Harbor Master is going to have to deal with.

Mr. Knowles said a swimming platform and float plane are considered watercraft, therefore, the property owner needs to choose between a mooring or a swim platform or float plane but not both.

Mr. Knowles said it says if you have less than 50' the Harbor Master will determine where the location of the mooring will be. Also, a mooring can not swing over abutting mooring areas. There are properties that are only 12' wide because of how they have been divided in the past. There is no way a mooring put in such a small area will not impact neighboring properties and again the Harbor Master will need to resolve that, not the property owner, because that is what the Ordinance says you are going to do.

Mr. Knowles said all moorings shall be recorded and registered annually with name and address and number of a certain size to be put on the mooring or they are in violation of the Ordinance. The Harbor Master will have to enforce that on all water bodies in Town of Bridgton.

Mr. Knowles said who is going to pay for the Harbor Master? The Ordinance says that an administrative fee of \$25.00 per mooring will be collected to assist in expenses. This is going to be a full time job because all moorings will have to be checked and verified on a regular basis.

Mr. Knowles said the Ordinance says a mooring may be placed by a shorefront property owner or with the property owner's permission. When the Harbor Master checks on a mooring they need to know if it is the property owner or someone else's. That is the Harbor Master of the Town of Bridgton's responsibility to know.

Mr. Knowles said I think that boaters that come up and anchor close to shore, drink and drive in a dangerous manner and dump their sewerage overboard is unforgivable but this Ordinance does not address any of these issues.

Mr. Knowles said if I want to spend the night on my boat in a secluded area, something that I purchased, register and pay excise taxes on its o.k. if I go to Naples or Harrison but not Bridgton.

Mr. Knowles said the Harbor Master's authority is limited. A more effective way to deal with safety issues is to petition your representative to hire more Wardens. Wardens know what they are doing, they are knowledgeable of the laws and are respected. I don't

think the Town of Bridgton wants the liability of sending out a Harbor Master to deal with someone in the middle of the night because they have had their boat anchored longer than 18 hours.

Bob Staley, Citizen, said a Harbor Master has no authority or jurisdiction, they can't even issue summonses, even they have to contact a Game Warden.

Mr. Staley said if a mooring ball is put in after the Harbor Master does his inspection of a particular water body, that person has a mooring in until it is either picked up by the Harbor Master or a complaint is filed with the Harbor Master. There will not be enough time to patrol the lakes to make sure that all moorings are registered and the fee paid.

Mr. Staley said a person need only attend a class for 100 hours to become a Harbor Master.

Ray Turner, Citizen, said this Ordinance puts a tremendous burden on waterfront owners. I own approximately 200' of frontage. I don't see a current problem with moorings. There is a problem with OUI, high speed, underage operators and disorderly boats something a Harbor Master isn't trained or authorized to deal with.

Glen Zaidman, Citizen, said if this Ordinance passes the way it is between Camp Kingswood and Camp Wildwood, there is 7,000' of frontage on a single water body. We can give rights to people to put in moorings, you could potentially have 100 boats on a single property. There is no need for an Ordinance such as this.

Bob Vivian, Citizen, said I live in Highland Pines where there is an association. We are back lot owners with deeded access. This Ordinance would prohibit us from continuing to put our boat on the lake. The Association has a small dock and a few moorings and have had no problems with either. It is organized and monitored. There are a lot of associations on the lakes that this Ordinance will impact.

Maurice Parent, Citizen, said we have been on the lake for over 40 years and we are currently in compliance with the Shoreland Zoning Ordinance, one boat per 25' of shore frontage (boat and moorings). Under this Ordinance we go from one boat per 25' to one boat per 75'. There are no provisions that allow grandfathering.

Bob Macdonald, Citizen, said in North Bridgton there are 16 or so moorings out there and no one knows whose they are. In Harrison there are over 30. What I have tried to address in an Ordinance like this, in my opinion is, you have tremendous damage coming if you don't start

to take care of who is using our lake and how they are using it. There is a boat on Highland Lake and the occupant stays on it all summer. I am recommending the \$25.00 fee for a mooring because it is something. Harrison charges \$200.00 but they have a different set up. I am comfortable with the Ordinance the way it is written.

Mr. Turner, said on Lake Winnepesaukee if you are in violation of their Ordinance, there will be a boat with flashing lights to direct you to move immediately or you will be arrested or put in jail and your boat confiscated. If that is the type of control that we think we want to have then write an Ordinance that addresses that. This Ordinance does not. If we are going to have a problem then Naples, Harrison and Sebago are also going to have problems.

Mr. Macdonald said we aren't ready for a full time Harbor Master with a boat to patrol Long Lake but I am ready to control the number of moorings in front of some place that shouldn't have any.

Mr. Staley said to the Planning Board, are you going to vote with a recommendation? Fred said yes, to the Board of Selectmen. The Board of Selectmen can decide from there to either put it on the warrant or not.

Fred closed the Public Hearing at 9:50p.m. and opened it up for Board discussion.

Fred said I agree there is going to be a problem down the road but I don't think we should send something to the Board of Selectmen that does not treat waterfront owners fairly and has no provisions for grandfathering.

David said I think the Ordinance needs to be reviewed further.

Dee said there are a set of problems that are coming, or are here, in specific parts of the Town but I am not sure that it has been defined well enough in this Ordinance. I am uncomfortable with this Ordinance and I would like to see more clarification.

Christopher said I am concerned with Associations and the negative impact this Ordinance will have on their existing uses.

Steve said currently there are association beaches that would be in excess of what is allowed under this proposed Ordinance which are currently working fine with no problem. The draft that we have before us in places is too broad and in places not specific enough. It needs more work.

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Steve motioned that the Planning Board will not recommend the Mooring Regulations Harbor Master Ordinance. David L. 2nd.
5 Approve / 0 Oppose

Steve motioned to adjourn the meeting at 10:10p.m. Christopher 2nd.
5 Approve / 0 Oppose

Respectfully submitted,

Georgiann M. Fleck
Municipal Secretary