

**Effingham Planning Board
Meeting Minutes
August 3, 2023**

Members Present: George Bull (chair); Elaine Chick; Nate Williams; Gary Jewell; Paul Potter; Grace Fuller; Chris Seamans (Selectmen’s Representative); Linda Edwards (alternate); Michael Cahalane (alternate)

Members Not present: Bridget Perry (alternate)

Others Present: Mark Galloway, Applicant; Mark McConkey, Applicant’s Agent; Abutters, Ken and Pamela McGovern; two members of the public.

Meeting called to order at 6:32 pm. Quorum present.

Chair Bull advised those present of the agenda for this meeting:
Major Site Plan Review application for Contractor’s Storage Yard.
Applicant name: Lake Front Landing Marina LLC, Mark Galloway. **Map # 404 Lot # 46**

1. Review of application for completeness.

- a. Copies of plat received.
- b. Checks received.
 - i. Filing fee
 - ii. Advertisement and abutter notification
- c. Notifications were sent.
 - i. One notice returned, not picked up by abutter.
- d. Submission requirements
 - i. Waiver requests to be discussed during Public Hearing
 - ii. Soil Survey data not on plat to be added.

Motion by George Bull to accept the application as complete. Seconded by Grace Fuller
All in favor. None opposed.

2. 6:45 PM Opened Public Hearing

Chair Bull stated since there are several waiver requests with this application that any conditions that are not required should not be waived but rather a statement that the condition is not applicable, in the final Notice of Decision.

- Ms. Fuller asked if we were beginning with the waiver requests.
- Ms. Chick asked if we needed to vote on each waiver separately.

Chair Bull replied, the Board could address each waiver as we review the Major Submission Requirements and not vote on each waiver individually but encompass those items with the vote at the end of the review. There were no objections to this process.

a. 6.2 B Plat Submission Items

- 50 i. Items: 1-3 have been met.
- 55 ii. Item 4: All Abutting landowners...
1. The Applicant requested a waiver for one abutter not on the submitted plat.
2. *The Board decision to have the missing abutter added to the plat and this condition will be met.* Agent McConkey concurred.
- iii. Item 5: Boundary lines... has been met.
- 60 iv. Item 6: The shape, size, height, location ...
1. The Applicant has requested a waiver for this condition.
2. *The Board decision to have the missing structures be added to the final plat as a condition of approval.*
- 65 v. Item 7: Show location, name, and widths of any existing and proposed roads...
1. The Applicant has requested a waiver for this condition.
2. Board decision: Not applicable for this use.
- 70 vi. Item 8: Show location of existing and proposed sidewalks and driveways, with indication of direction...
1. The Applicant has requested a waiver for this condition.
2. *The Board decision to have the direction of access in and out of the driveway be added to the final plat.*
- 75 vii. Item 9: Show identification of access to site, sight distance at the access point(s)...
1. Driveway site distance not on plat.
2. DOT permit states due to lack of 400ft safe-sight-distance and they are not going to be liable.
3. ZEO also provided a driveway permit.
4. The Board decision: not to require sight distance on the plat.
- 80 viii. Item 10: Location and total number of parking spaces...
1. Spaces are delineated on the plat.
• Mr. Williams raised a question regarding the notation on the plat.
○ ‘Area in-between the intermittent rock wall and the zoning envelope to be used for boat storage.’ Which side of the intermittent rock wall is considered the storage space, the zoning envelop encompasses both sides? It is not clearly stated on the plate.
• *Mr. Bull asked the applicant to add the westerly side to that statement on the plat to clarify the intent.*
2. *This condition will be met with the additional notation to the plat.*
- 85 ix. Item 11: A landscape plan, describing the number, location, types...
Ms. Chick suggested holding off on item 11 until later in the review.
90 Landscaping has a specific requirement in the Zoning ordinance Section 1011.
Further discussion to follow later in the process.
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- x. Item 12: The location... exterior lighting.
 - 1. The Applicant has requested a waiver for this condition. No lighting to be added.
 - 2. Board decision: Not applicable for this use.
 - xi. Item 13: Show natural features....
 - 1. The Applicant has requested a waiver for the wetland and steep slope of this condition.
 - 2. Elevations are depicted on the plat.
 - 3. Board decision: Not applicable for this use.
 - Mr. McConkey asked, other than not having a surveyor’s stamp on plat #2 why is that not considered a plat and could it be page 2?
 - Mr. Bull did not think that the Registry of Deeds would take two pages as the final Mylar Plat.
 - Mr. McConkey would reach out to the Registry of Deeds
 - xii. Item 14: Existing and proposed grades
 - 1. Condition has been met.
 - xiii. Item 15: The size and location of all existing and proposed water mains, sewers...
 - 1. The Applicant has requested a waiver.
 - 2. Board decision: Waiver not necessary. Not applicable for this use.
 - xiv. Item 16: Copy of certificate by a licensed septic designer
 - 1. The Applicant has requested a waiver.
 - 2. Board decision: Not applicable for this use
 - xv. Item 17: Location and type of proposed waste disposal system...
 - 1. The Applicant has requested a waiver.
 - 2. Board decision: Not applicable for this use
 - xvi. Item 18: Location of existing and proposed on-site well...
 - 1. The Applicant has requested a waiver.
 - 2. Board decision: Not applicable for this use
 - xvii. Item 19: Soil Survey from the Carroll County Soil Survey...
 - 1. Board decision: to have the Soil Survey data added to the final plat.
 - xviii. Item 20: Location of any existing or proposed easements...
 - 1. The Applicant has requested a waiver.
 - 2. Board decision: Not applicable for this use

b. Conditions of approval identified in Sections 6.2 B

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- i. The Board asked for the missing abutter to be added to the plat.
 - ii. The Board asked for the missing structures to be added to the final plat as a condition of approval.
 - iii. The Board asked for the direction of access in and out of the driveway to be added to the final plat.
 - iv. The Board asked for the “westerly side” of the Intermittent Rock wall to be added to the plat to clarify the intent.
 - v. The Board asked for the to be Soil Survey data added to the final plat.

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c. Section 6.4 B General Standards

A. Design of development should fit the existing natural and manmade ...

1. Site Prep with minimal disturbance...
2. Landscape treatment...
3. Grading and filling...

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a. The Applicant has requested a waiver for standard A.

- Ms. Chick referenced the Landscaping requirement of Effingham Zoning Ordinance Section 1011. Stating solid fencing (minimum of 6 feet in height) and or vegetative buffer... Although there is vegetation visible now, come winter when the leaves are gone the stored boats will be clearly visible to the abutting properties. The placement of the buffer needs to be located at the level of the Intermittent Rock wall to provide the maximum shielding for the abutters.
- Mr. Cahalane interjected that the applicant was made aware of the fencing/vegetative buffer requirement when he came before the board with a request for a minor site plan in April of 2022. In his opinion, Mr. Cahalane feels a fence would be the most appropriate.
- Mr. McGovern shared a photo from his property, Map 404 Lot 43, showing the 4 boats stored on this site last winter. The boats and blue coverings are clearly visible through the trees while standing in his backyard. Ms. McGovern added they can be seen from inside their home as well.
- Mr. Bull stated the visual buffer is an issue. In addition, Mr. Bull commented when filing for an intent to cut along a state roadway, the state requires a 150-foot buffer with 50% basal area maintained. The only time you don't need to meet that requirement is when you intend to convert the land. Now it has all been stumped out, there needs to be more for screening in the front and more along the rest of the storage area.
- Mr. McGovern stated a fence would be the least desired option for a buffer.
- Ms. Chick added the need for the plantings in the buffer to be dense and not be trees such as the white pines that over time will grow too tall to be an effective buffer.
- Ms. Fuller added; there is a good definition of Vegetative buffer in the ordinance, which would provide guidance on what makes a good buffer.
- Mr. McConkey requested a copy of the photo Mr. McGovern shared and a copy of the definition from the ordinance.
- Ms. Fuller restated that Ordinance Section 1011 specifies all the way around the perimeter. It does need to be specifically identified all the way around.
- Mr. Bull stated that a Landscaping plan would be needed.
- Mr. Cahalane clarified the lot to the right is not currently developed

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and a buffer should be considered on that border as well. He also raised the possibility that as a Contractor's storage yard, what might be stored here in the future could be more intrusive to the neighbors. Having plantings pre-established would be less impactful.

- Mr. Bull summarized that there should be a Landscape plan that shows the visual buffer from all sides. The abutters would prefer not to have a fence. But that is up to the Applicant if they decide to install a fence.
 - b. The Board decision is not to waive this standard. *The Landscape plan would be a condition precedent.*

B. Illumination

1. Outdoor lighting shall...
2. Signs advertising...
3. Outdoor lighting is restricted...
 - a. The Applicant has requested a waiver for standard B1 thru B3. No outdoor lighting, no signage to be added.
 - b. The Board decision is not to waive B. Not Applicable for this use.

C. Pedestrian safety

1. Sidewalks shall...
 - a. The Applicant has requested a waiver for standard C. No sidewalks to be added.
 - b. The Board decision is not to waive C. Not Applicable for this use.

D. Off-Street Parking

1. Sufficient Off-street parking...
2. Access, Parking and Loading...
3. Permeable pavement...
 - a. The Applicant has requested a waiver for standard D. No off-street parking, no customer access
 - b. The Board decision D1 and D2 are deemed Not Applicable for this use. *D3 is met as long as the storage area remains unpaved. Add as a Condition in Notice of Decision or notated on the plat.*
 - c. Clarification in the Notice of Decision. No other storage except Boats and Boat trailers

Ms. Chick raised the State requirement of 15-foot paving from the edge of the highway onto the site. To be added to the plat

E. Screening:

1. Buffer strips...
2. Storage areas must be fenced...
3. Litter (Garbage) collection...
4. Use of fencing or hedges...
 - a. The Applicant has requested a waiver for standard E.
 - b. The Board decision is not to waive this standard. *The Landscape plan is a condition precedent.*

F. Street Access/Traffic Pattern

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- 240 1. Unimpeded access...
- a. The Applicant has requested a waiver for standard F.
 - b. The Board decision this standard has been met.
- G. Water Supply and Sewage Disposal
- 245 1. Must be sized adequately...
 - a. The Applicant has requested a waiver for standard G. No water or sewage disposal to be added.
 - b. The Board decision is not to waive G. Not Applicable for this use.
- H. Underground or above ground Fuel Storage Tanks
- 250 a. The Applicant has requested a waiver for standard H. No Tanks
 - b. The Board decision is not to waive H. Not Applicable for this use.
- I. Stormwater Drainage
- 255 1. No increase in peak flow...
 - a. The Applicant has requested a waiver for standard I.
 - b. The Board decision is not to waive I. *Boat storage area remains a permeable unpaved surface, to be notated on the plat.*
- J. Pollution Control
- 260 1. Avoid undesirable and preventable...
 - a. The Applicant has requested a waiver for standard J.
 - b. The Board decision is not to waive J. Not Applicable for this use.
- K. Where required by law Handicapped access...
- 265 a. The Applicant has requested a waiver for standard K.
 - b. The Board decision is not to waive K. Not Applicable for this use.
- L. Unsuitable Land:
- 270 1. Land of such character...
 - a. The Applicant has requested a waiver for standard L. Use restricted to the area marked within the Intermittent Rock Wall
 - b. The Board decision is not to waive L. Not Applicable for this use.
- M. The site plan shall provide for the safe...
- a. The Applicant has requested a waiver for standard M.
 - b. The Board decision is not to waive M. Has been met.
- N. The site plan shall be developed in a manner consistent with ...
- 275 a. The Applicant has requested a waiver for standard N.
 - b. The property was granted a Special Exception by the ZBA. This has been met.

- 280 • Mr. Potter raised the fact that this application does not meet our definition of a Contractor's Storage Yard.
- Mr. Cahalane responded that the ZBA selected this definition as the best fit based on the proposed use. The alternative would have been to deny the applicant the right to use their land. Standards were reasoned out by the ZBA.
- 285 • Mr. Bull stated. The approval the applicant received from the ZBA was a Special Exception for this type of project, and the Planning Board is treating this Boat Storage application as a Contractor's Storage Yard.
- Ms. Fuller interjected that as a board we still had to vet this application through

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the standards for a Major Site Plan, regardless of what we call it.

O. The Site Plan shall show open spaces...

- a. The Applicant has requested a waiver for standard O.
- b. The Board decision is not to waive O. Not Applicable for this use.

Public input was requested:

- Mr. McGovern commented that he did feel that stormwater run-off was not negatively impacted by the clearing of the land. He does feel if the area was paved it would definitely impact his property.
- Mr. Bull added that *the Permeable surface requirement would be added to the Plat or in the Conditions.*
- Mr. Bull suggested continuing the hearing to the next meeting. The Applicant's Agent felt 30days would be sufficient.
- Mr. McConkey confirmed his understanding of the vegetation requirements needing to adhere to the ordinance. As well as the other conditions that were raised.

Motion Made by Grace Fuller to continue the Public Hearing to September 7, 2023. No earlier than 6:30 at the Effingham Municipal offices. Seconded by Elaine Chick. All in favor, none opposed.

Mr. Bull announced the board was going into a Non-public meeting to review the information received from Attorney Serge.

8:20 PM Motion made by Gary Jewell to go into a Non-Public meeting per 91: A Legal. Seconded by Nate Williams. All in favor.

Chairman Bull provided copies of the legal correspondence from the Town's Attorney to the Board members. Board member discussion regarding the correspondence ensued and a course of action to be taken was determined.

Motion made by Gary Jewell to come out of the Non-Public meeting and resume the regular meeting. Seconded by Chirs Seamans.

Roll call vote: Chris Seamans, aye; Grace Fuller, aye; Paul Potter, aye; George Bull, aye; Elaine Chick, aye; Nate Williams, aye; and Gary Jewell, aye.

As decided by the Board, Chairman Bull will supply the applicant with a copy of the Attorney's correspondence.

MOTION made by Grace Fuller to Adjourn. Seconded by Nate Williams. All in favor.

Meeting adjourned at 9:00 PM

Minutes prepared by Elaine Chick