

**City and Borough of Sitka
PLANNING AND ZONING COMMISSION
Minutes of Meeting
July 19, 2007**

Present: Don Alexander, Brian McNitt, Richard Parmelee, Larry Crews, Jeremy Twaddle, Planning Director Wells Williams, Planner Sara Russell, and Secretary Maria Finkenbinder

Members of the Public: Jim Blades, Pete Jones, Craig Giammona (Sentinel)

The Chair called the meeting to order at 7:00 pm.

Consideration of Minutes from the July 3rd, 2007 meeting:

MOTION: M/S McNitt/Crews moved to approve the minutes from the July 3rd, 2007 meeting.

ACTION: Motion **PASSED unanimously** on a voice vote.

Before proceeding to the evening's business, Mr. Williams sought the opportunity to publicly thank Daily Sitka Sentinel reporter Andy Miller for covering the Planning and Zoning Commission meetings for the past several years. He said Mr. Miller is leaving the Sentinel to attend law school in Wisconsin and Craig Giammona is the new reporter who will be covering the Commission's meetings.

Requested by Mr. Williams to introduce himself to the Board, Mr. Giammona briefly spoke about his background and experience as a reporter for a weekly newspaper in Queens, NY.

The evening's business:

At the outset, Mr. Williams said that the following items will be taken up simultaneously but motions will be made separately for each item.

**CONDITIONAL USE PERMIT
OPERATION OF AN EXISTING LODGE
TO ACCOMMODATE 12 GUESTS
NORTHERN TIP OF MIDDLE ISLAND
JIM BLADES**

Public hearing and consideration of a conditional use permit filed by Jim Blades for operation of an existing lodge to accommodate 12 guests on his property at the northern tip of Middle Island. The property is also known as Lot 3 Block 1, Amended Plat of Middle Island Subdivision.

**CONDITIONAL USE PERMIT
FOR A COMMERCIAL DOCK
(EXISTING DOCK)
NORTHERN TIP OF MIDDLE ISLAND
JIM BLADES**

Public hearing and consideration of a conditional use permit for a commercial dock on Lot 3 Block 1, Amended Plat of Middle Island Subdivision. The application is filed by Jim Blades. The request is for an existing dock.

Mr. Williams briefly summarized what transpired during the June 19th, 2007 meeting when Mr. Blades left the meeting while the Board heard comments from the public regarding his application. He said the Planning Office has talked with Mr. Blades explaining to him that it is in his best interest to be in attendance at this evening's meeting for the discussion of his two requests.

Mr. Blades' testimony

Mr. Blades apologized for walking out during the June 19th meeting. He explained that he was overwhelmed by the unexpected testimonies from his neighbors.

About the dock, he told the Board that the dock issue was settled by the Planning and Zoning Commission 14 years ago. The City ruled in his favor and Mr. Jones' brother signed off in its present location. He added that no construction was done prior to receiving the dock permit. His permit is restricted to single family use.

He also argued that his property have not lowered the property values of the adjacent properties. He passed around pictures which he said would show what he has accomplished in the past 16 years.

Asked by Mr. McNitt how his application for a conditional use permit to accommodate 12 guests fit in his long-term plan for his property, Mr. Blades explained that they operated their lodge for 10 years accommodating a maximum of 6 persons but never made any profit from the business. He pointed out that the only way to realize profit is to increase capacity up to 12 persons. He said that high operating costs such as liability insurance, advertising, fuel, taxes, transportation, etc. keep them from earning profit at the current number of persons. He stressed that the lodge is a family business which he and his wife – who has experience in the dairy business – jointly operate. He also said that it is possible to keep it as a family business and they don't have to hire additional staff.

On Mr. Williams' question if Mr. Blades has an as-built survey that shows the property lines and utility easements, Mr. Blades replied in the negative. He insisted that the area is steep in front of his house that it would be hard to be wrong on his measurements. He said that his house is just behind the 50-foot line and added that there are no pins in front of the property, only in the corners. He also pointed out that he was told to measure from the 9-foot high tide line. Mr. Williams said that the aerial image shows that Mr. Blades's house sits within the 50-foot pedestrian and utility easement located on the waterfront side.

Asked by Mr. Williams if he has DEC permit for the sanitary outfall on his property and for how many people, Mr. Blades said that he could not find the permit to operate the septic tank but he is 90% certain that the permit to operate is with the State. He was told that DEC lost all records when they transferred their Sitka office to Juneau. He estimated that the septic tank's capacity is over 2,000 gallons.

On Mr. Williams' query if he as a commercial dock permit from the Corps of Engineers, Mr. Blades said that he is currently applying for it and admitted that over the years, the dock has been used by commercial charter vessels. He stressed that the present location of the dock is the only option. The topography on the other side of the property presents a lot of problems.

On the question about the generator on his property, Mr. Blades told the Board that it's a 14kw generator which he uses primarily for shop tools. He said that it is possible to bury the generator to deal with the noise issue.

Asked by Mr. McNitt if he has plans to sell the property and have it run as a lodge, Mr. Blades said that the property is for sale. He said that it is to the best interest of the owners if the property can be utilized as a lodge.

Regarding fish processing on the property, Mr. Blades said that a chest freezer and vacuum packer are adequate for his clients' needs.

On Mr. Twaddle's query if he is willing to remedy the generator noise, he replied in the affirmative, adding that it can be dealt with.

Mr. Jones' testimony

Mr. Pete Jones clarified that he didn't say that Mr. Blades' lodge will devalue his property. He said that if Mr. Blades' property becomes a lodge, then his own property becomes less valuable. He cited the likely scenario of having 12 guests plus staff on Mr. Blades' property – the noise, boat traffic, sewer outfall, fish odor, more generator time, freezer time, etc.

He also spoke about Mr. Blades' ramp and dock, saying that the dock blocks the only area that doesn't go dry in front of his property. He pointed out that his brother made the agreement with Mr. Blades' regarding the dock but he has since purchased the lot from his brother.

Mr. Jones likewise said it is one thing to apply for a conditional use permit for a lodge. It is not for Mr. Blades to get the permit to make his property sellable. He'd rather have the buyers come before the Commission and get their own permit for a B&B or a lodge.

He added that if Mr. Blades gets the permit for 12 guests, it will be passed on to the new owner. If it is passed on, it won't be a home-grown business anymore. It would likely become a commercial enterprise.

Additional Comments

Ms. Russell read a letter from Mr. Don Seesz, a neighboring property owner on Middle Island, who expressed opposition to Mr. Blades' application for a conditional use permit.

Mr. McNitt expressed concern about the scale of operations that Mr. Blades intend to do on his property. He stressed that Mr. Blades needs to show a plan for his business operations to include the number of rooms, number of guests, number of employees, number of employees living on-site, etc.

Asked by the members if the conditional use permit stays with the property or with the owner, Mr. Williams emphasized that it stays with the property. It is a grant to the property.

Mr. Williams told the Board that the burden of proof is on the applicant. He must prove that all the impacts of the project can be mitigated, such as:

- (1) If the applicant lowers the occupant load to six, for instance;
- (2) If the applicant can show documentation that the structure is not located on the pedestrian access easement;
- (3) If a structure is in place which will address noise issues from the generator; or
- (4) If the applicant can show an operational plan for seafood processing.

He pointed out that only when everything is in place that they can approve the lodge operation.

Regarding the application for commercial dock permit, Mr. Williams said that the dock currently has a single family use dock permit. Outside of the Board's recommendation, the applicant still has to get a Corps Permit, DEC permit, State tidelands lease.

Mr. McNitt remarked that it is the Board's responsibility to see what the operation looks like. He was not comfortable with the scale of operations that the applicant was proposing. He urged Mr. Blades to come back with scaled-down operations along with an operational plan. He stressed that the Board needs to consider and discuss detailed information from the applicant before making a good decision.

**CONDITIONAL USE PERMIT
OPERATION OF AN EXISTING LODGE
TO ACCOMMODATE 12 GUESTS
NORTHERN TIP OF MIDDLE ISLAND
JIM BLADES**

MOTION: **M/S McNitt/Crews** moved to recommend approval of a conditional use permit filed by Jim Blades for operation of an existing lodge to accommodate 12 guests on his property at the northern tip of Middle Island. The property is also known as Lot 3 Block 1, Amended Plat of Middle Island Subdivision.

ACTION: Motion **FAILED 0-5** on a voice vote.

MOTION: **M/S Crews/McNitt** moved to approve the following findings in support of the recommended denial of a conditional use permit filed by Jim Blades for operation of an existing lodge to accommodate 12 guests on his property at the northern tip of Middle Island:

- (1) There are concerns about the occupant load.
- (2) There is no evidence or there is doubt that the principal structure is located outside the pedestrian access easement.
- (3) There are concerns about the noise of the generator.
- (4) There are concerns about fish processing.
- (5) There is great concern that there is no detailed operational plan in place for the lodge.
- (6) There is potential negative impact on the surrounding property values.
- (7) The proposed scale of operations does not conform with the Code's goal to protect the residential character of larger subdivided islands.

DISCUSSION: Mr. Twaddle expressed uncertainty if there is indeed a negative effect on the surrounding property values.

ACTION: Motion **PASSED unanimously** on a voice vote.

**CONDITIONAL USE PERMIT
FOR A COMMERCIAL DOCK (EXISTING DOCK)
NORTHERN TIP OF MIDDLE ISLAND
JIM BLADES**

MOTION: **M/S Crews/McNitt** moved to recommend approval of a conditional use permit for a commercial dock on Lot 3 Block 1, Amended Plat of Middle Island Subdivision. The application is filed by Jim Blades. The request is for an existing dock.

DISCUSSION: On Mr. Twaddle's question if Mr. Blades still has to get State permits for the dock, Mr. Williams said that Mr. Blades still needs to get a Corps permit and State tidelands lease from DNR.

Both Mr. Crews and Mr. Twaddle argued in favor for approval, explaining that the commission has minimal authority over commercial docks. The overriding role lies with the Corps and the State DNR.

ACTION: Motion **PASSED 3-2** on a voice vote with McNitt and Alexander opposed.

MOTION: **M/S Twaddle/Crews** moved to approve the following finding in support of the recommended approval of a conditional use permit filed by Jim Blades for a commercial dock on Lot 3 Block 1, Amended Plat of Middle Island Subdivision: That the granting of the permit may facilitate a 6-person lodge conditional use permit request in the future.

ACTION: Motion **PASSED 3-2** on a voice vote with McNitt and Alexander opposed.

DISCUSSION OF ZONING CODE ENFORCEMENT CONCEPT

Mr. Williams introduced a code enforcement concept by way of a Power Point presentation that was prepared for a planning conference. The presentation was premised on the fact that code enforcement can be done if the community has the will to do it. He explained that over the years, there have been discussions on the need for a more aggressive stance on zoning code enforcement. This year alone, the Planning Office has received a number of complaints focusing on lodges and similar operations and staff is currently monitoring several properties for potential violations.

He outlined a general framework for the members to think about which includes: (1) major changes to the zoning code and, (2) the hiring of a part time or full time staff member. He suggested that the Commission set a work session with the Assembly to go over the types of violations where they want tighter enforcement, the specific duties of the enforcement officer, rules on inspection, required code changes, and the creation of a board to hear enforcement appeals. He stressed that there is value in having the rules in the books.

He requested the Board to give considerable thought to all these issues and bring back their ideas in fall when they revisit the issue of lodges in outlying areas and continue the discussions on aggressive code enforcement.

The criteria for bed and breakfasts and lodges were also discussed.

PLANNING DIRECTOR'S REPORT

Asked by Mr. McNitt why the North Benchlands property was not considered as a potential part of the affordable housing solution, Mr. Williams explained that the North Benchlands topography is very difficult to be considered for affordable housing. There are development constraints on the property which would only allow large lot development.

Mr. McNitt's Absence

The Board briefly discussed Mr. McNitt's absence in August and September, and individually expressed their availability to attend the meetings. They determined that there will be a quorum in the next four meetings.

PUBLIC BUSINESS FROM THE FLOOR - NONE

ADJOURNMENT

The meeting adjourned at 9:00 pm.

Chair, Don Alexander

Secretary, Maria Finkenbinder