

EDGECOMB PLANNING BOARD
PUBLIC HEARING, APRIL 7, 2008

1. Call to Order

Chairman Katharine Braid called the public hearing to order at 6:34 p.m.

2. Roll Call

Members present were David Boucher, Katharine Braid, Bruce Cameron, Barry Hathorne and alternate Jarryl Larson. Anne Peaslee and alternate April Lawrence were absent.

3. Sheepscot Village Assisted Living (Normand Associates Architects, Inc. and SYTDesign, on behalf of Joe Bettey, JDK Properties, LLC) Site Plan Review application for a 54-unit assisted living facility on Davis Island

Chairman Katharine Braid outlined the chronology of the site plan review and subdivision applications pertaining to this application, leading up to the public hearing. She described the procedure that would be followed for the evening's public hearing, allowing the developer to present his plan followed by questions from the Board and the public with follow-up questions by the Board and final comments from the developer.

Present for the developer were Joe Bettey and Todd Bettey, JDK Properties; Steve Normand, Normand Associates; Peter Biegel and Tom Saucier SYTDesign; and Steve Panette, hydrogeologist. Jason House, hydrogeologist, who performed the peer review on behalf of the Town of Edgecomb was also present.

Steve Normand, architect, described the project, 54-units of well-elderly housing, 50 one-bedroom units, two two-bedroom units and two efficiency units. The building footprint is 22,560 sq. ft.; total building area of all floors is 56,934 sq. ft.

Peter Biegel, landscape architect, gave an overview of the 5.7-acre site. It is in the Edgecomb Gateway District and Marine I District, and a small area is in the Shoreland Limited Residential District. He reviewed the issues that had been discussed with the Board during the review process as follows:

The MDOT has issued a traffic entrance permit. A stormwater permit from the DEP has been received. Parking has been calculated at one space per unit, or 54 spaces. The access drive will be 24 feet wide with a five-foot sidewalk to connect to the CHOM sidewalk as requested by the Board.

A tree survey has been done listing caliper and type of tree for a buffer primarily for the White's property. The topography of the entire subdivision site was mapped.

A meeting was held with the fire chief and a connection of walkways and fire hydrants were added at his request. Buffering was requested and has been added.

A peer review of the hydrogeologic study was done on the quality and quantity of water. The easements were researched and the easements deeds were submitted as part of the application. The easements are not used and can be crossed.

Steve Panette, hydrogeologist, said there had been concern over any possible impact on the quality and quantity of water by the project. He explained the watersheds and in which direction both surface and ground water would flow before and after development, to the ponds or to Cod Cove. His study indicated no change in runoff between the pre- and post-development. As a result of runoff from the roof and asphalt, runoff to the north pond would increase by 26%; however, the groundwater recharge as a result of the development would decrease to 80% of the pre-development level. With regard to water quality analysis, he said that he had tried to survey 13 wells, but only 10 owners had cooperated. He said the water quality in the wells was good, although he had encountered elevated sodium levels indicating evidence of salt water intrusion as well as coliform bacteria and manganese.

Gretchen Burleigh-Johnson, a resident of Ft. Road, asked how the proposal would comply with Goal A of the comprehensive plan: how does a 56,000 sq. ft. building on highly erodable soil being blasted down 13 feet maintain the character of the town. Andrew Abello contended that the Planning Board, not the applicant, should respond. The Chairman said the public hearing was an opportunity for the applicant to answer questions; the Planning Board has not yet ruled on the application.

Peter Biegel said that while the building is on top of the hill, it is only two stories high and is surrounded by trees. The building is set back from the road; the architecture was designed to fit into the site and to be least intrusive. The erosion and sedimentation control plan has been approved by the DEP.

John Trainor, Eddy Road, asked whether blasting 13 feet of rock would set up fractures, ruining and contaminating wells in the area. Peter Biegel said that water quality tests would be conducted before, during and after blasting. Steve Normand added that although damage is possible, reputable blasters would be used and that they carry liability insurance for just this purpose. Katharine Braid reminded Mr. Trainor that the Town does have a Blasting Ordinance.

Roy Potter, Cochran Road, said blasting without a permit had damaged his house and asked if there was a penalty clause in the Blasting Ordinance. Katharine Braid replied that the Selectmen administer the Blasting Ordinance, a copy of which is on the website.

Gretchen Burleigh-Johnson said that twice blasting had occurred which caused heavy erosion requiring the rebuilding of bankings.

Bobbie Carleton said after reading Article IV, Section 3.1.1, she determined that the proposed building was commercial, not institutional or industrial, but a service business. She read Article V, Section 4.14, which limits the size of retail uses to a floor area of 35,000 sq. ft. She said there is a definition of congregate housing but nowhere is it mentioned in the ordinance. The definition of retail includes sale of services and she concluded that the proposed building would be classified as retail. She also cited Article IV, Section 1.4.8, the general requirements dealing with density appropriate for the location, which would not include building on highly erodable soil. With regard to Article IV, Section 3.5.9 that requires the building to not be visible from Routes 1 and 27 and

Eddy Road, she said the topography is so steep that the trees could not hide the building. She asked if the Board was considering granting a variance.

Chris Lefevre asked how many employees were projected, what skill sets would be needed and what the pay scale would be. Todd Bettey said that the State has employee guidelines that are dictated by the number of residents. Employees will include an administrator, director of nursing, assistant director of nursing, nurses, dietary supervisor, assistant dietary supervisor, dietary staff, housekeeping supervisor and staff and groundskeeper. Salaries will be competitive.

Donald Hutchins asked if the DEP was sensitive to what impact the draining of the ponds, which could be caused by the construction, would have on the blue heron that is coming back to the area. Blasting could also bother the roots of the trees. Peter Biegel said that the DEP had reviewed the plans including the ponds and the removal of trees where the building will be sited. Steve Normand said the cliff area on Eddy Road is being retained and the marsh area would not be disturbed. In response to an earlier question, he said that the building would not be seen from Eddy Road, only from the White's driveway and was designed to fit into the environment.

Amanda Russell, Middle Road, asked if a wildlife inventory had been made. Peter Biegel said Wiscasset Ecoanalyst had made a survey and through field studies and research had found nothing that would be disturbed. Asked about a vernal pool inventory, Biegel said there were no vernal pools. Asked the distance from the north pond, Biegel said it was 220 feet to the edge of the parking area.

Samantha McGow asked what consideration was being given to this significant environmental habitat for tidal fowl and wading birds. Tom Saucier said that the DEP requires that the stormwater runoff be treated and the project has planned a filter system to filter out salt and contaminants. Stormwater draining into the north pond will also be filtered.

In response to Chris Riser's question on the size of the tanks, Tom Soucier said that there was a chamber under the parking lot similar to a septic leach field. Riser said that one inch of rain would equal 160,000 gallons of water; five inches would result in 800,000 gallons, which would be too much for the filters to handle. Saucier said the system is designed to handle 5-1/2 inches of rain and that the first one inch of rain contains the contaminants that are treated. The rain is then released slowly from the filters. Peter Biegel said that the pre- and post-development would result in the same runoff.

Ted Sasala said that according to the ordinance the number of parking spaces required is one for every 180 sq. ft. plus one per employee. At that rate a proposed facility of 18,000 sq. ft. would need 100 parking spaces; for 54,000 sq. ft., 300 parking spaces. Katharine Braid said interpretation of the ordinances is the Board's job and it was her personal understanding that those parking space requirements were for retail and services being offered to the public.

Ron Carey asked how the building was classified. Katharine Braid said that the Board had received a subdivision application to divide a parcel of land into three lots and a site plan application to build an assisted living facility. In response to Carey's question as to its classification, and how it would be considered, Braid said that in her opinion it did not

have to fall into a specific classification; it was somewhere between an inn and an apartment building with some health care offered. She added that the town's attorney had opined on another application that the list of uses was not exclusive and exhaustive. Asked by Carey if the applicant had to submit an application under a specific code, the chairman said it did not; asked whether the applicant had asked for a variance, the chairman said he had not and in any case, variances would have to be heard by the Board of Appeal. Steve Normand said that the developer does not plan to ask for variances. He added that data from other communities had been used in computing the number of parking spaces, which in this case had been based on one space per bed. Typically, not more than 30% of the residents have vehicles.

Ron Carey asked how the applicant addressed the 56,000 square foot building when the ordinance puts a 35,000 sq. ft. limit on retail. Steve Normand replied that the ground floor square footage is 22,000 sq. ft. Carey then asked about reuse of the building if the assisted living facility went out of business. Katharine Braid replied that a change of use would require Planning Board approval, and Steve Normand said that this specific use will not go out of business; there are more older citizens in Lincoln County than elsewhere in Maine and the facility fulfills a need.

Ruth Sasala asked whether the staff would run an ambulance service for the 54 elderly people, or if the town would have to provide ambulance service, where would the money come from. Todd Bettey said that the facility is not a nursing home and ambulances coming and going would not be a daily or even monthly affair. Ambulance service from nearby towns could be used although Northeast Transportation is commonly used because families prefer private ambulances. Stuart Smith added that ambulance service from Wiscasset is provided without cost to the town.

Catherine Pendleton from the Credit Union asked how the staff would leave the property. Steve Normand said that they would use the road shared with Community Housing of Maine (CHOM). The MDOT had determined that entering and exiting Route 1 was safer than using Eddy Road.

Bobbie Carleton quoted the chairman as saying the Board can only go by the ordinances. The proposed facility has been referred to as service-based business and the only thing in the ordinances that refers to a service based use is a retail business. Now, she said, the Planning Board wants the people of the town to rely on the ordinances of the surrounding towns to determine the number of parking spaces. Edgecomb voters have not voted on Bath or Brunswick ordinances and even though Edgecomb's ordinances are not perfect, she asked why the Board did not follow them. Edgecomb has a definition of congregate housing but the term is not mentioned in the ordinance. She asked if a use is defined, is it allowed. There are ordinances for service-based businesses and although the argument was made that the facility is not open to the public, it is open to the ultimate consumer.

Katharine Braid responded that the ordinances do not specify congregate care use. Parking space allocation for service and retail businesses are based on services and retail being provided to the general public, i.e. people coming and going for service or purchases. The Board has to determine whether this is a business providing service to the public. A retail or service business has a need for parking much different from an assisted living facility.

Stott Carleton asked whether the Board would require a bond to protect against irresponsible development by an out-of-state company. Steve Normand responded that the company is a Maine corporation and if the Planning Board requires a bond, it will so advise.

Jack Sarmanian asked what the procedure was in the future and whether a town vote would be sought. Katharine Braid said that a town vote is not required; the Planning Board will make a decision on two applications, the subdivision and site plan applications, pursuant to the ordinance. If there is opposition to the Planning Board's decision, an appeal may be made. She added that the Comprehensive Plan, ordinances and amendments are approved at Town Meeting, but she was unaware of the Planning Board's authority to send this application to Town Meeting. Bruce Cameron said that in addition to Planning Board approval, the application would go to the CEO for a building permit and to the Selectmen for a Blasting Permit and approval of the sewer.

Norville Hutchins asked whether this project would require another sewer. Steve Normand said this development would tie into the sewer line to the CHOM development. Out of the total capacity of 55,000 gallons reserved for Edgecomb, the Bintliff development will use 7,000, CHOM will use 6,000 or 7,000 and the assisted living facility will use 7,000 gallons, less than 50% of the amount reserved.

Samantha McGow asked whether the DMR had been contacted, as that agency said it never saw the Bintliff or CHOM applications. Tom Saucier said that the IF&W had been contacted, but that the DMR would not normally see applications of this type.

Amanda Russell asked whether there would be nursing, housekeeping, administrative, director of activities, dietician and groundskeeping services provided. The answer to all questions was that those services would be provided.

John Johnson said he was frustrated because the ordinances, which would be used, do not cover everything and have to be interpreted. He said he had called MMA regarding the parking lot. He had asked whether because the Edgecomb ordinances do not specify the number of spaces required, the town could use the numbers provided in the Bath ordinance and was told it could not because it had not voted on them. Referring to a recently circulated petition requesting a moratorium until the ordinances were rewritten, he said that the application should not be approved until the town can determine what the project is.

With regard to the meeting with the fire chief, Johnson said that there were safety concerns, i.e. that a fire truck could get to the back of the building but the 90-foot ladder couldn't reach the upper floor, that people would not be able to get out in the event of a fire, that elevators could not be used, that it might take 20 or 30 minutes for a fire truck to reach the property, and if the residents were to be evacuated by school bus, where would the development get buses if they were transporting school children. He said he was not against the development but thought there would be a better location in town in an area where taxes would be realized and the town would not have to wait 20 years for taxes as in the TIF district.

Katharine Braid said that the fire chief had advised the Board that he was satisfied with the changes made by the developer. Peter Biegel said that the decks and windows in the rear of the building were only ten feet from the ground and could be reached by a

ladder or ladder truck. Steve Normand added that the buildings would be sprinklered and each unit would be self-contained and fireproofed. The fire chief had made thirteen suggestions and all had been incorporated into the plan.

The Board was asked for additional comments or questions. Jarryl Larson said the town would not incur any expense for ambulance service to the project because the patient is billed for that expense. With regard to research on vernal pools, she confirmed with the development team that a permit was not necessary because there are no vernal pools on the property. Commenting on surveys, which had been mentioned, regarding the statistics on fires in nursing homes, Larson said that the surveys also cover those sites where safety procedures were not followed. Todd Bettey said that the State Fire Marshal inspects the facility every year to make sure it is up to code and that evacuation and fire drill plans are in place. Steve Normand added that the local fire chief is integral to the plan.

Bruce Cameron asked whether there were any studies showing what the runoff would do to the intertidal zone. Tom Saucier said that the DEP looks at the quality of runoff and in this case, the runoff is filtered.

Katharine Braid asked whether the facility would provide day care service for elderly persons not living in the facility. Todd Bettey said they would not be providing that service and in answer to additional questions regarding the beauty salon, exercise room or any other service provided to the residents, he said none would be available to the general public.

Tom Saucier, speaking on what he interpreted as misconceptions, said the proposed facility was not a big box; it was a needed facility. It will hire Maine employees and has been designed to fit into the environment. It has fulfilled the requirements in the ordinance. As far as runoff is concerned, it is only from 22,000 sq. ft., not 55,000 sq. ft. He said using figures from ordinances of other towns was not adopting their laws, just using precedents.

David Boucher asked John Johnson if the town would have any responsibility to start an ambulance service if petitioned by the facility to do so. Johnson responded that if the Wiscasset Ambulance stopped service to Edgecomb, it might be necessary to create a town ambulance service as other towns have done. David Boucher said that the Board should consider a performance bond by the developer.

Barry Hathorne asked Steve Panette how much time had gone into his hydrogeologic study. Panette said that he had made three site visits totaling four or five hours and 20 times that in academic work. Hathorne then asked if he had any idea what would happen to the bedrock as a result of blasting, and Panette said a million hours of study would not give that information. Peter Biegel said that a water balance approach had been used in the study comparing the surface and ground water pre-and post-development, which could be done without a protracted study of the bedrock. The ordinance requires that pre- and post-blasting monitoring be done and that only contaminant-free blasting agents be used.

In response to Jarryl Larson's question on the size of the building, Steve Normand said that the footprint of the building is 22,000 sq. ft.; the total area of two living floors and the lower level is 57,000 sq. ft.

In a summary statement, Steve Normand said that the development is not a big box; it is a two-story residential-character building which is not going to be seen from the surrounding roads. He said they had tried to answer every question from the board. He said he considered the use to be institutional, which is linked to commercial in the ordinance. The use is not retail but residential and designed to blend in with the overall look of the town. In response to Barry Hathorne's question, he said that the building had 54 beds, not 54 residential units.

Katharine Braid thanked all who had participated and adjourned the public hearing at 8:45 p.m.