

Calais Development Review Board Hearing
Minutes September 3, 2020; 7 PM (via Zoom video call)

Present: Anne Winchester (Member), Art Edelstein (Member), Denise Wheeler (Member), Stephanie Kaplan (Member), Jan Ohlsson (Ohlsson), Margaret "Peg" Bowen, Ryan Edwards, Bob Martin (Zoning Administrator), Barbara Butler, Chris Chocran, Clif Emmons, John McCullough, Brian Clark, Mary Elder Jacobsen, Rowan Jacobsen, Tammy Leno, John Brabant

Call to Order: The meeting was called to order by acting Chair Anne Winchester at 7:10 PM.

She announced that the hearing is about the renovation and expansion of the North Calais Memorial Hall, in the shore zone (application number 2020-024). The application is for the addition of a porch, handicapped access ramp, and two ADA accessible parking spaces next to the Hall.

It will be reviewed under several criteria:

- 2.4, Shoreland district standards
- 3.8B, Non-complying structure
- 3.10 Parking standards
- 3.12 A5, protection of natural resources within shoreland district
- 5.3 D1 Conditional Use

Stephanie Kaplan suggested adding 3.14 A1, Surface water protection. Jan Ohlsson suggested adding 1.5, Exception for handicapped ramps under 6 feet in height.

Administrative Items: Ex-parte contact or conflict of interest were defined and members of the Board were asked to identify any such activity; there was none. Peg Bowen (adjoining property owner) and Ryan Edwards (architect on the project) are not sitting on this matter. Members of the meeting who want to receive meeting follow-up communication were invited to email calaiszoning@gmail.com. Anyone who wants to speak was sworn in. There was no additional written information to put into the case.

Applicant Overview of Project: Ryan Edwards, project architect, shared photo images and site plan and a brief project overview. The North Calais Memorial Hall Association (NCMHA) is working to rehab the structure to allow it to once again be used by the community. The entire replacement of the first-floor framing and east retaining wall, and handicap accessibility, are end goals of the project.

Three items that are specifically relevant to this hearing are the historically replicated two-story porch, the ADA ramp, and the parking. The character-defining porch that used to exist was removed in the 1980s due to rot. It is within the impervious surface areas (defined by the State) of the building. Both east entrances must be handicap accessible. All rainfall off the east side of the roof will be captured and result in less runoff than currently exists on the site.

The proposed ADA wood ramp is located entirely within the impervious surface area of the site. The ramp location has been designed to meet all state and federal standards for the treatment of historic

sites, allow for disability access by drop-off from a car, and to detract as little as possible from the historic character of the building.

The proposed ADA parking area includes grass/gravel pavers for maintaining natural and existing grass cover and minimizing minor grading and excavation (there would be no pavement or marked lines). The parking area is adjacent to the road and the entrance ramp. The contour lines of the map were examined to show where a steeper slope would make a ramp larger.

Clarifying Questions: Questions were posed. Where is the building access for people who are not disabled? One of the primary goals of providing an access ramp and parking is to maintain the historic aspects of the building as much as possible. So entrances for all people are the doors at the two ends of the east side (they have steps to walk up in addition to the ramp on one side). What would prevent someone from driving into a parking space and hitting the ramp? This would be addressed by the folks who maintain use of the Hall. ANR considers the pavers impermeable, but in fact they allow permeability. Why would the ramp and porch not be considered increasing the impervious surface? The entire area in front of the building which contains the porch and the ramp is already considered by the State to be impervious due to the compacted ground from years of use.

Criteria: The Board is required to make an affirmative finding under each criterion.

- **1.5:** the ramp is less than six feet tall and a 1:12 slope.
- **2.4: Shoreland district standards.** The architect shared maps of the ANR shoreland site plans and the architectural site plans with setbacks based on the Calais zoning regulations. The building itself is already within the 150 foot setback of the mean water level, therefore the proposed work is as well, which requires DRB approval. The impervious surface will not be approaching 10% (the project is at 4% with the proposed parking). Driveway standards are indicated as n/a, but the district standards (#3) state that the development will not result in pollution of ground or surface waters, nor undue erosion. The architect explained that the bid documents will specify construction erosion control standards that will be reviewed with the general contractor. The architect agreed to email a document that outlines construction erosion prevention standards for inclusion in the record. The project specifies proposed drywells that would reduce total runoff from what it is currently, catching the rain from the porch as well as the existing Hall roof and diverting it to the wells. The ZA inquired about the minutes per inch perc data on the dry well. Chris Chocran noted that the dry well improves the stormwater retention on site and improves the water quality better than existing conditions; they are sized for the porch and the existing roof. Stephanie Kaplan asked about an erosion control plan to use for judging whether such efforts were followed during and after construction. The architect said that the erosion control efforts are to mitigate any erosion due to the construction project but there is no civil engineer erosion plan document. Brian Clark added that any contractor will be contractually obligated to abide by the State's erosion control plan. Jan Ohlsson noted that the State has a new requirement that any development that disturbs more than one acre of land requires a state permit and that in construction design, it is typical to show what will happen during construction for erosion control. The architect referred the group to the Shoreland Protection Individual Permit includes a "standard condition" that describes "erosion control and bank stability management" details. The site is not being manipulated in any way from how it

currently exists (no contour modification, extensive excavation, etc.). John McCullough commented that the collection of water from the roof is a substantial erosion control measure in itself and a best management practice; the water that causes the erosion is captured and effectively prevented from causing erosion.

- **3.8B, Non-complying structure.** The Hall does not comply with the current standards of the shoreland district, so it is considered a “non-complying structure” and is grandfathered. However, its non-compliance is increased by building a porch. It can only be allowed if it is found to meet the purposes of the shoreland district, which the Chair read aloud. Brian Clark said the traditional use of the building as a village anchor for a variety of purposes would be the basis to expect that this conditional use, adding ADA accessibility, only increases the area population’s ability to enjoy the space as a recreation and gathering spot (and impervious surface area is not increased). Mary Elder Jacobsen emphasized that accessibility for all is paramount. Stephanie Kaplan commented that protecting the ecology of the lake is the purpose of the section. The inclusion of ADA bathrooms in the Hall may be an increased protection by removing the need for portajohns. The Group considered whether the structure is even “increasing in non-compliance” because the porch that is proposed to be added back on was part of the building for the majority of its historic existence.
- **3.10 Parking standards.** The standards describe required parking distances and off-street maneuvering room. The total number of proposed spaces is two, both of which are handicap accessible. The group discussed a nineteenth century deed that refers to a particular cedar tree that is used to describe the road’s path and requires it never be cut. This deed does not refer to any currently existing cedar hedge. ANR advised that the cedars at the Hall are not native vegetation and ANR had no problem with the potential removal of the few needed for the handicap accessible parking spaces. The spaces are sized on ADA standards at 18 foot length, not 22 feet as required by the Town zoning standards. The architect noted this is because they are directly off GAR Road and adjacent to the ramp. John McCullough noted that the DRB could waive this and Calais’s standards are longer than Montpelier’s. Jan Ohlsson considered that 3.10 was more for a parking lot, but this is rather space for just 2 cars. Clif Emmons commented that a similar discussion for the Town Hall determined that this length could be waived due to larger requirements that were at play. John McCullough noted that 22 feet length would add more than one hundred square feet of impervious surface. They are designed for handicapped parking, but they are not lined spaces but rather areas of ADA accessible parking. Parked in a different direction, rotated 90 degrees, the spaces do in fact meet the Town zoning criteria of 22 feet in length.
- **3.12 A5, protection of natural resources within a shoreland district.** Within a shoreland district existing physical and visual access to the water shall be preserved where feasible. Brian Clark confirmed nothing is being done between the existing building to the shoreland at the east, and no trees will be taken down.

- **3.14, Surface Water Protection.** A fifty-foot natural vegetative buffer must be maintained. Stephanie Kaplan inquired if there is one, and if it would be maintained. Brian Clark commented that nothing existing is being changed.
- **5.3 D1 Conditional Use.** Is the development creating additional impact on existing community facilities? The architect explained the building will be used in the same way that it always had, including capacity. Tammy Leno commented that when the building is rented and there is both rented and community use that results in parking along the road, some kind of system will need to be put into place to avoid cars parked illegally and to permit emergency services to pass through the road. Rowan Jacobsen agreed that there will need to be a community-wide discussion about how to address this, but it doesn't pertain to the hearing topics. Anne Winchester clarified that the question is whether the build of the porch would affect parking.

Character of the neighborhood: The architect said there would not be a change.

Traffic on road and travel of the vicinity: Will there be an increase in traffic due to the project (building of the porch)? Rowan Jacobsen commented that neither the porch nor ramp will change the amount of traffic.

Bylaws in effect: Is a curbcut needed for this? The applicant explained that the succession of deeds is clear and gives no reason to believe anything has changed, and therefore the road remains a private road (property of the Hall). Their title attorney has indicated it is clear that the Hall still owns that road and nothing has changed. (Curbcuts are not regulated on Calais private roads.) John Brabant noted that the Town had some legal review done prior to transfer of ownership. There was a set of reasons that included the Town's maintenance of the road that resulted in an opinion that the Town owns the right of way. John Brabant suggested getting the curbcut in the event that it is found the Hall does not own the Road, and ownership issue can be resolved after the fact. Rowan Jacobsen said the applicant hasn't seen that opinion and would be happy to pursue a curbcut. A new access point curbcut usually takes a few weeks (John Brabant explained the Selectboard's process). Jan Ohlsson asked if cedar trees would be removed where handicapped parking is; the architect replied that it would, and that is the curbcut location in question.

Renewable energy resources: n/a

Testimony from Public: None.

The Chair asked the Board if they have enough information at this time to make a decision and if a site visit is needed. Jan Ohlsson made a motion to close the meeting. Stephanie Kaplan noted that a curbcut permit is still needed. Denise Wheeler pointed out that the Selectboard may require more cedars be removed for appropriate sight distance at the curbcut. The group discussed the implications of closing the hearing as well as of a curbcut permit application timeline. The Board has forty five days to write the decision once a hearing is closed.

The applicant noted they are very close to going out to bid on the project, and the sooner the timing the better. This body doesn't know what the curbcut permit conditions may entail and how it may affect this project and site. Jan Ohlsson again made a motion to close the hearing and Denise Wheeler seconded. The applicant thanked the Board for meeting and making the video chat efforts.

Stephanie Kaplan reiterated that it is not guaranteed that a curbcut will work with the existing plan, and she doesn't want to put us in the position of issuing a permit because changes may have to be made. If the meeting is not closed, a new meeting would need to be convened to then close it. Stephanie Kaplan asked if a permit curbcut is applied for and changes to the project need to be made, could it happen within 45 days.

Rowan Jacobsen commented that if the road had initially been private, and the Town wants to assert a right of way, it would have to include a formal process and compensation; without a status change to it being a private road, perhaps a Town curbcut isn't even necessary at this point in time. John Brabant reiterated there are two competing legal opinions; the last conversation was that the Town's opinion was that it is a Town road. The applicant pointed out that the most recent deed with title search by attorney was in July 2019 and found it to be a private road. The Chair stated that the DRB may not make a decision about whether this is a private road or not and needs to hear from the Selectboard whether a curbcut is needed. Jan Ohlsson and John McCullough researched all the deeds in their capacity as zoning administrators and concur that it is a private road. Tammy Leno and Peg Bowen commented that the road is clearly private.

The motion on the table was called to a roll call vote and it passed 4-0 (Stephanie Kaplan abstained). The hearing was closed and the Board will issue a decision within 45 days. The meeting adjourned at 9:10 pm.

Respectfully Submitted, Katie Lane-Karnas, 9/10/2020