

Memorable Properties, LLC - 9 lot subdivision
Decision on an application for a Subdivision Permit under the Subdivision Ordinance for
the Town of Starks

Findings of Fact, Conclusions of Law, and Decision
Planning Board, Town of Starks, Maine

Date: June 7, 2023

1. Name of Proposed Project: Memorable Properties, LLC - 9 lot subdivision

Applicant: Joe Petta

Contact Person: Joe Petta

Address: 6 Hideaway Ln. Falmouth, ME 04105

Cell Phone: (207) 331-6966 Email: memorableproperties@gmail.com

Property Owner information: Same as applicant.

Proof of Right, Title and Interest has been provided (Warranty Deed attached pg.23)

Type of Business: LLC

2. Is the proposed subdivision within shoreland zone? floodplain?

The Subdivision is neither within a Shoreland Zone or a floodplain

3. Description of Project:

Location (Town Tax Maps): Map R-7 Lot 8

Street Address: East side of Sawyers Mills Rd.

Size of Parcel: Currently a 43.3 acre lot

Existing Use: Forest

Proposed Use: 9 lot residential subdivision

Structures: Lots are designed to support residential uses. Currently no existing structures

Size of Impervious areas: None, at this time.

4. Summary of Submissions:

Application (pgs. 1-29)

Application Fee: \$75

Attachments:

sketch plan detailing proposed lot (pg.7)

transfer tax declaration (pg.22)

warranty deed recorded in the Somerset Registry of Deeds Book 579, pg. 53 & Book 3727 pg. 269 (pg.23)

Tax map Town of Starks (pg.8)

U.S.G.S. topographic map (pg.25)

aerial soil survey map. Map indicates that the land is relatively flat with well-drained soils (LyB, LyC, & PdB) (pg.25)

list of landowners within 1500' of property (pgs. 10,11)

preliminary soil investigation reports for 9 sites (pg.25)

letter from Burns Well Drilling indicating availability of water (pg.24)

affidavit confirming compliance with timber harvesting rule 12 M.R.S.S. 8869 (14) (pg. 26)

letter indicating that permits for driveways are not required until driveway locations are identified by lot owners, per road commissioner (pg. 27)

estimate of traffic rates per day (pg. 28)

Deposit – none required

Requests for waivers:

Refer to the pre-application sketch plan review held on May 3, 2023 for a list of approved waivers

5. Process:

Date of preapplication /sketch plan review: May 3, 2023

The application was determined to be a “major” development.

Date Board conducted a site visit: June 7, 2023

Date Board determined the application to be complete for processing: June 7, 2023

List of any waivers of application requirements (findings and conclusions for each)

Date Board held a public hearing: June 7, 2023

Date Board made a decision:

6. Public Comments. A brief description of the substantive materials and testimony received at the public hearing or otherwise (in writing).

Earl Sterry, community member and local contractor, felt that many of the requirements outlined in the Ordinance were too stringent placing undue hardship on both seller and buyer. Gwen noted that many of the criteria were in compliance with State statutes and standards.

7. Findings of Fact and Conclusions on Law: Section 7 Approval Standards and Criteria (section numbers are listed below)

Background: The subdivision lots will be sold as undeveloped lots without any infrastructure (septic, water, driveways).

7.1 *Sufficient Water Supply*

7.1.1 Criterion: The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision.

7.1.2 Criterion: The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used.

Findings and Conclusions: The subdivision will be served by individual wells to be installed by the purchasers of the lots. The area likely has sufficient water available for the reasonably foreseeable needs of the subdivision based on information from Burns Well Drilling.

Upon a motion and a second, motion carried that the subdivision meets the criteria.

7.2 *Impact on Groundwater Quality and Quantity*

7.2.1 Criterion: The subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.

Findings and Conclusions: The subdivision will not pose an unreasonable risk that a discharge of pollutants to groundwater will occur, or that groundwater withdrawals will lower the water table beyond the boundaries of the subdivision. Given that this is a 9-lot residential subdivision in a forested area, and the size of the lots, a hydrogeologic assessment was deemed not necessary. The soil survey did not suggest any potential problems.

Upon a motion and a second, motion carried that the subdivision meets the criteria.

7.3 *Soil Erosion, Sedimentation, and Impact on Water Bodies*

- 7.3.1 Criterion: The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
- 7.3.2 Findings and Conclusions: The subdivision is located on fairly level and forested land, and not near any waterbodies which suggests that soil erosion and sedimentation would be limited. A soil erosion and sedimentation control plan is not necessary at this time because the lots will be sold undeveloped.

Upon a motion and a second, motion carried that the subdivision meets the criteria.

7.4 Traffic Conditions

- 7.4.1 Criterion: The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section.

Findings and Conclusions: The lot purchasers will be responsible for building the driveways. Sawyers Mills Road is a local road, so a MDOT permit is not necessary. It is unlikely that the 9-lot subdivision will create any unreasonable traffic issues. The Sawyers Mills Road is fairly level and straight so sight distances for driveways should be adequate.

Upon a motion and a second, motion carried the subdivision meets the criteria.

7.5 Sewage Disposal

- 7.5.1 Criterion: The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.

Findings and Conclusions: The applicant has submitted evidence of site suitability for subsurface sewage disposal for each lot prepared by Robert Vile, a Maine licensed site evaluator. The subdivision purchasers shall be responsible for installing on-site septic systems.

Upon a motion and a second, motion carried that the subdivision meets the criteria.

7.6 Solid Waste

- 7.6.1 Criterion: The proposed subdivision will not cause an unreasonable burden on the Town's ability to dispose of solid waste, if municipal services are to be utilized.

Findings and Conclusions: The home builders/owners will provide solid waste disposal and demolition disposal.

Upon a motion and a second, motion carried that the subdivision meets the criteria.

7.7 *Aesthetic, Cultural and Natural Values*

- 7.7.1 Criterion: The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

Findings And Conclusions: The 9-lot subdivision is in a wooded area not near any waterbodies, with no known historic resources or special habitat areas, or farmland. The subdivision should not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat. Given the size of the subdivision and its location, no open space areas are necessary.

Upon a motion and a second, motion carried the subdivision meets the criteria.

7.8 *Farmland*

- 7.8.1 Criterion: All farmland within the proposed subdivision shall be identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district.

Findings and Conclusions: The proposed parcel does not include any farmland

Upon a motion and a second, motion carried that 7.8 is not applicable.

7.9 *Conformance with Local Ordinances and Plans*

- 7.9.1 Criterion: The proposed subdivision is in conformance with the duly adopted plans and ordinances for the Town of Starks. In making this determination, the Planning Board may interpret these ordinances and plans.

Findings and Conclusions: The other applicable ordinances are the Road and Utility Structures Ordinance, Building Ordinance, and the Comprehensive Plan. The builder/future lot owners will be responsible for complying with these ordinances.

Upon a motion and a second, motion carried that the subdivision meets the criteria.

7.10 *Financial and Technical Capacity*

- 7.10.1 Criterion: The developer has adequate financial and technical capacity to meet the standards of this Ordinance.

Findings and Conclusions: The applicant has demonstrated the financial and technical capacity to develop this subdivision having met the requirements of application for approval, with the assistance of consultant Troy Sterry, a professional land surveyor – Sackett and Brake, a well driller, a soil scientist, and a forester.

Upon a motion and a second, motion carried that the subdivision meets the criteria

7.11 Floodplain Management

7.11.1 Criterion: The subdivision shall be evaluated based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. ...

Findings and Conclusions: No floodplains involved, therefore this is not applicable.

Upon a motion and a second, motion carried that Section 7.11 is not applicable.

7.12 Freshwater Wetlands, Rivers, Streams and Brooks

7.12.1 Criterion: All freshwater wetlands within the proposed subdivision shall be identified on any maps submitted as part of the application, regardless of the size of these wetlands.

7.12.2 Criterion: Any river, stream or brook within or abutting the proposed subdivision shall be identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38 § 480-B, sub§9.

Findings and Conclusions: There are no mapped wetlands, rivers, streams, brooks, or other waterbodies on the tract.

Upon a motion and a second, motion carried that Section 7.12 is not applicable.

7.13 Stormwater Management

7.13.1 Criterion: The proposed subdivision will provide for adequate stormwater management.

Findings and Conclusions: A stormwater management plan is not necessary because the developer is not proposing any development. Future property owners will be responsible for managing stormwater generated by any home, driveway, etc., such that stormwater runoff will not create adverse impacts on public roads or on abutting or downstream properties.

Upon a motion and a second, motion carried that Section 7.13 is not applicable.

7.14 Spaghetti Lots Prohibited (Shoreland Zoning Areas)

7.14.1 Criterion: If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in 38 M.R.S. § 480-B, none of the lots created within the

subdivision will have a lot depth to shore frontage ratio greater than 5 to 1, unless other provisions of this Ordinance are more restrictive.

Findings and Conclusions: No part of the subdivision is in a shoreland zone.

Upon a motion and a second, motion carried that Section 7.14 is not applicable.

7.15 *Surface Waters and Outstanding River Segments (e.g., Sandy River)*

7.15.1 Criterion: Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

Findings and Conclusions: The subdivision is not near any rivers or other waterbodies such that it would affect the water quality of those waterbodies.

Upon a motion and a second, motion carried that Section 7.15 is not applicable.

7.16 *Impact on Adjoining Municipality*

7.16.1 Criterion: For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

Findings and Conclusions: The proposed subdivision is not near a municipal boundary.

Upon a motion and a second, motion carried that Section 7.16 is not applicable.

7.17 *Lands Subject to Liquidation Harvesting*

7.17.1 Criterion: Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to 12 M.R.S. § 8869, sub-§14, adopted by the Maine Forest Service to substantially eliminate liquidation harvesting.

Findings and Conclusions: The forested parcel does not show any evidence of timber harvesting within the last 5 years, as confirmed by a letter from a Maine Forest Service licensed forester.

Upon a motion and a second, motion carried that the subdivision meets the criteria.

7.18 *Pollution*

7.18.1 Criterion: The proposed subdivision will not result in undue water or air pollution. In making this determination, the Planning Board shall at least consider: 1) the elevation of the land above sea

level and its relation to the floodplains; 2) the nature of soils and subsoils and their ability to adequately support waste disposal; 3) the slope of the land and its effect on effluents; and 4) The applicable state and local health and water resource rules and regulations.

Findings and Conclusions: The subdivision is not located on a floodplain, has soils suitable for subsurface wastewater disposal (soil test pit data), is forested and fairly level which will control runoff, and will meet any applicable air pollution regulations of the Maine Department of Environmental Protection, given that the region does not have any air quality problems.

Upon a motion and a second, motion carried that the subdivision meets the criteria.

7.19 Lot Size, Dimensional and Setback Requirements, and Monumentation

Findings and Conclusions:

All lots are at least one acre in size. The ratio of lot length to lot width is not more than three to one. Iron pin and rebar monuments have been installed.

Upon a motion and a second, motion carried that the subdivision meets the criteria.

7.20 Access to Direct Sunlight

7.20.1 Criterion: Encourage the protection of access to direct sunlight for solar energy systems.

Findings and Conclusions: This is a small subdivision in a forested area, with a lot configuration based on the required dimensions and lot orientation where there may not be an opportunity for providing solar access.

Upon a motion and a second, motion carried that Section 7.20 is not applicable.

7.21 Multifamily Developments

7.21.1 Criterion: All multifamily developments shall comply with the applicable provisions of the Site Plan Review Ordinance for the Town of Starks.

Findings and Conclusions: Not applicable

Upon a motion and a second, motion carried that Section 7.21 is not applicable.

DECISION

Because the Planning Board concludes that the application conforms to the Town's Subdivision Ordinance, the Board grants the Subdivision Permit to Memorable Properties LLC with the conditions as outlined herein.

Any expansion, significant modification or changes to the original plan will require further Planning Board approval.

Upon a motion and second to approve the application and grant a permit, the motion carried.

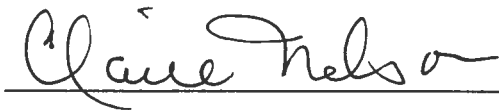
Approved: Town of Starks Planning Board


Gwen Hilton

Date 6/13/2023


Ken Lust

Date 13 June 2023


Claire Nelson

Date June 13, 2023


Joe Hartigan

Date 6.13.23


Tiffany Bellefleur

Date 6-13-23