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Meredith marina expansion stalled because of objections to moving a right of way

BY ROBERTA BAKER, THE LACONIA DAILY SUN

Nov 19, 2021



A proposed expansion at Goodhue Boat Company in Meredith has been stopped in its tracks. (Jon Decker/The Laconia Daily Sun photo)

MEREDITH — A proposal to expand Shep Brown’s Boat Basin, a longstanding marina on Meredith Neck, has been stalled indefinitely. The Zoning Board of Adjustment voted Thursday to dismiss the developer’s requests for zoning variances until rights to an easement that serves the adjacent Tall Pines community are resolved in court, or an agreement is reached with the homeowners.

“We dismissed the cases without prejudice,” said Zoning Board Chair Bruce Reichlen, after the board voted 4 to 1 against ruling on the variances at this time. “Once the easement issue is cleared up they can bring it back if Tall Pines agrees or changes are made to accommodate them. The parties need to reach an agreement,” Reichlen said, before the board entertains requests for increased lot coverage, reduced setbacks from the water’s edge, and a showroom that would be built in the current Tall Pines right of way.

Thursday's round of requests from Goodhue Meredith Real Property, LLC, owners and developers of Shep Brown's Boat Basin, calls for allowing 45% of the marina's lot to be covered, where a maximum of 30% is allowed by zoning codes. Also sought are waterfront setbacks of 15 feet for a showroom and 34 feet for a pergola or archway, where a minimum of 65 feet is required.

Tall Pines is an association of 13 single family and seasonal homes next to the privately owned marina, which also surrounds town-owned public parking and docks. The boat basin's proposed site plan calls for moving the access road to Tall Pines to the boundary between the marina and the homeowner's association, along the rear property line of several Tall Pines homes. Whether the boat basin has the authority to move right of way without Tall Pines permission is in dispute.

"There is reason for the board to conclude that the applicant doesn't have sufficient legal rights to the property to undertake the project because it doesn't have permission from the holders of easement rights across the right of way for access to Tall Pines," Reichlen read aloud at the meeting. The boat basin's proposal calls for constructing a new showroom 15 feet from the water on top of land in Tall Pines' easement – which makes the board's decision more weighty, Reichlen said.

Bette Higley is a longtime Bear Island homeowner and a spokesperson for MerNIA, the Meredith Neck and Island Association, which represents neighbors, abutters and the interests of roughly 330 island homes affected by changes at Shep's. She agrees that it's important to resolve legal issues before the ZBA decides the merits of the variances.

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“I agree with the motion as proposed,” said Tom Hannah, lawyer for BCM Environmental, which represents MerNIA. “There may be an issue raised as to which language in the deed gives the developer carte blanche to move the right of way. We think that would violate property rights. When a right of way has been established for decades and memorialized in a site plan, the landowner loses the rights to move it around.”

Chris Boldt, the lawyer representing the marina, declined to comment on the board’s decision, but said there is definite legal precedent for Shep’s to move the right of way to another spot on the property.

Reichlen said the easement’s location is not specified in a deed, but is recorded on a site plan from 2002. If the developers and affected homeowners can’t agree, a resolution in court could take several months, he said.

Opponents of changes to the Shep Brown’s Boat Basin and some land and water experts they hired came to Thursday’s ZBA hearing, prepared to argue against granting the variances for reasons including increased boat traffic and erosion, decreased water quality, a potential drop in property values, and loss of neighbors’ peace and privacy. Those worried say the project will ratchet up noise and traffic in an area that is congested during summer. They maintain that the proposed expansion significantly violates shoreline protection standards adopted by Meredith in 1971.

The variances currently sought are extreme, and they set a perilous precedent for future waterfront development, according to Higley and others opposed to the marina’s plans.

The board's decision on Thursday, a continuance of a hearing last month, surprised neighbors and island residents, including Jean Blanco, an abutter who bought a home on Meredith Neck Road last year.

Blanco is concerned about the amount of traffic on a relocated right of way that will be a paved road, and about the proposed parking lot and a tall storage building that would be built within clear view of her back deck and kitchen window.

She said she agrees with the board's decision to dismiss the variance requests, which will require the developer, Goodhue Meredith Real Property, to come back with a new application. But Blanco said she is disappointed that the variances weren't reviewed and advanced toward a ruling that would put the issues to rest. "This just sends it down the road," she said. "If we actually heard those variances, we'd have more clarity on whether they'd be voted up or down."

"We don't know what will really happen now," but the zoning board believed it was premature to act when land use rights are in dispute, Reichlen said. "We don't like cases when it's not clear. And this is not clear."

Zoning Board of Adjustment members Ray Moritz, Dave Thorpe and Tom Girard voted with Reichlen. Rob Jutton, substituting for Frank Marino, who recused himself, voted against the board's decision, citing concerns about voting on matters related to property rights, which are technically outside the board's jurisdiction.

"This has been vetted by our legal counsel, who felt it was a proper thing to do, given the extent of this project," Reichlen said. Disputes over land rights have "to be resolved before the planning board can hear it."

