

TO: FREEPORT PROJECT REVIEW BOARD
FROM: Caroline Pelletier, Assistant to the Town Planner
RE: Staff Report
Date: Wednesday, May 22, 2019

Reiche Residence – Bartol Island	
Property Location:	54 Bartol Island Road - Tax Assessor Map 20, Lot 89
Zoning Information:	Island District
Review Type(s):	Site Plan Amendment
Waivers Requested:	None

Background: The applicant is seeking approval of a Site Plan Amendment to remove a small portion of a previously approved dwelling that served as a connector between the main dwelling and an attached barn. Since the property is located in the Island District (*Freeport Zoning Ordinance, Section 426: Island District*), Site Plan Review is required for residential structures. The Site Plan approval for the original structure(s), which are currently under construction, was granted by the Project Review Board on May 11, 2016.

Zoning: Back in 2016 when the original approval was granted, the Freeport Zoning Ordinance had a limitation on the number of accessory structures on a parcel in the Island District. This requirement was recently removed and there is no limitation, which is why this request is before the Board. It is important to note, that although the Zoning Amendment was approved by the Town of Freeport, since portions of the District are in the Shoreland Area, the zoning amendments must also be reviewed and approved by the Maine Department of Environmental Protection (DEP). Until such time, the Ordinance is not official. A condition of approval is suggested, that if approved, this Board's approval would be subject to the applicable zoning regulation being approved by the DEP.

Site Changes: Only the connector portion of the dwelling will be removed. The location and remainder of the house and barn will remain unchanged. There will be no changes to the overall height of the structures or to setbacks. No other changes are proposed.

Proposed Findings of Fact: (Section 602.F. of the Freeport Zoning Ordinance)

a. Preservation of Landscape.

The landscape shall be developed in such a manner as to be in keeping with the character of the surrounding neighborhoods and in accordance with good development practice by minimizing tree and soil removal, retaining existing vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas. If a site includes a ridge or ridges above the surrounding areas and provides scenic vistas for surrounding areas, special attempts shall be made to preserve the natural environment of the skyline of the ridge. Existing vegetation and buffering landscape are potential methods of preserving the scenic vista.

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The applicant is seeking approval of a Site Plan Amendment to remove a small portion of a previously approved dwelling that served as a connector between the main dwelling and an attached barn. Only the connector portion of the dwelling will be removed. The location and remainder of the house and barn will remain unchanged. There will be no changes to the overall height of the structures or to setbacks. No other changes are proposed. Based upon this information, the Board finds that this standard has been met.

b. Relation of Proposed Buildings to the Environment.

The design and layout of the buildings and/or other development areas shall encourage safety, including fire protection. Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity which have a visual relationship to the proposed buildings. Visual compatibility, not uniformity with the surrounding area, shall be emphasized. Special attention shall be paid to the scale (mass), height and bulk, proportions of the proposed buildings, the nature of the open spaces (setbacks, landscaping) around the buildings, the design of the buildings (including roof style, façade openings, architectural style and details), building materials and signs.

If the structure is in the Design Review District, the Planning Board shall incorporate the findings of the Board of Review in its findings. If the structure is located in the Route One Corridor between the Yarmouth Town line and Desert Road, and the Planning Board determines that the structure may not be compatible with its surroundings, it may require that the Design Review Board conduct an advisory review before the Planning Board makes a final decision.

The applicant will meet the space and bulk standards for the Island District, as set forth in the Freeport Zoning Ordinance. No change to the remaining building locations are proposed. Based upon this information, the Board finds that this standard has been met.

c. Vehicular Access.

The proposed layout of access points shall be designed so as to avoid unnecessary adverse impacts on existing vehicular and pedestrian traffic patterns. Special consideration shall be given to the location, number and control of access points, adequacy of adjacent streets, traffic flow, sight distances, turning lanes, and existing or proposed traffic signalization and pedestrian-vehicular contacts.

Access to the site and buildings will remain unchanged and will be from the private section of Bartol Island Road. Based upon this information, the Board finds that this standard has been met.

d. Parking and Circulation.

The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas shall be safe and convenient and, insofar as

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practical, shall not detract from the proposed buildings and neighboring properties. General interior circulation, separation of pedestrian and vehicular traffic, service traffic, drive-up facilities, loading areas and the arrangement and use of parking areas shall be considered.

Access to the site is existing and no changes to parking or vehicular circulation are proposed. Based upon this information, the Board finds that this standard has been met.

e. Surface Water Drainage.

Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, down-stream conditions, or the public storm drainage system. The increase in rate of runoff in the post development condition shall be held to a zero or less percent of the predevelopment condition unless an engineering study has been performed as described in Section 529.2 above. On-site absorption shall be utilized to minimize discharges whenever possible. All drainage calculations shall be based on a two-year, ten-year and twenty-five year storm frequency. Emphasis shall be placed on the protection of floodplains, reservation of stream corridors; establishment of drainage rights-of-way and the adequacy of the existing system; and the need for improvements, both on-site and off-site, to adequately control the rate, volume and velocity of storm drainage and the quality of the stormwater leaving the site. Maintenance responsibilities shall be reviewed to determine their adequacy.

No changes to surface water drainage are proposed. Based upon this information, the Board finds that this standard has been met.

f. Utilities.

All utilities included in the site plan shall be reviewed for their adequacy, safety and impact on the property under review and surrounding properties. The site plan shall show what provisions are being proposed for water supply, wastewater, solid waste disposal and storm drainage. Whenever feasible, as determined by the Planning Board, all electric, telephone and other utility lines shall be installed underground. Any utility installations above ground shall be located so as to have a harmonious relationship with neighboring properties and the site.

No changes to utilities are proposed. Based upon this information, the Board finds that this standard has been met.

g. Advertising Features.

The size, location, texture and lighting of all exterior signs and outdoor advertising structures or features shall not detract from the layout of the property and the design of proposed buildings and structures and the surrounding properties, and shall not constitute hazards to vehicles and pedestrians.

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No new signs are proposed. Based upon this information, the Board finds that this standard has been met.

h. Special Features.

Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, similar accessory areas and structures, shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.

No changes to any special features are proposed. Based upon this information, the Board finds that this standard has been met.

i. Exterior Lighting.

All exterior lighting shall be designed to encourage energy efficiency, to ensure safe movement of people and vehicles, and to minimize adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hazards to people and vehicular traffic and potential damage to the value of adjacent properties. Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public.

No additional lighting is proposed at this time. Based upon this information, the Board finds that this standard has been met.

j. Emergency Vehicle Access.

Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.

Access to the site is from Bartol Island Road and no changes are proposed. All Public Safety Department Heads have reviewed the proposal. Based upon this information, the Board finds that this standard has been met.

k. Landscaping.

Landscaping shall be designed and installed to define, soften or screen the appearance of off-street parking areas from the public right(s)-of-way and abutting properties, to enhance the physical design of the building(s) and site, and to minimize the encroachment of the proposed use on neighboring land uses. Particular attention should be paid to the use of planting to break up parking areas. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, retaining existing vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas. Landscaping shall be provided as part of the overall site

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plan design and integrated into building arrangements, topography, parking and buffering requirements. Landscaping may include trees, bushes, shrubs, ground cover, perennials, annuals, plants, grading and the use of building and paving materials in an imaginative manner.

No additional landscaping is proposed and no additional clearing will be required for this change. Based upon this information, the Board finds that this standard has been met.

I. Environmental Consideration. A site plan shall not be approved unless it meets the following criteria:

- 1. The project will not result in water pollution, erosion or sedimentation to surface waters.**
- 2. The project will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;**
- 3. The project will conserve shoreland vegetation;**
- 4. The project will conserve points of public access to waters;**
- 5. The project will adequately provide for the disposal of all wastewater;**
- 6. The project will protect archaeological and historic resources;**
- 7. The project will not adversely affect existing commercial fishing or maritime activities in the Marine Waterfront District.**

The applicant should follow the DEP Best Management Practices for Erosion Control to minimize the impacts of erosion and sedimentation during construction. The parcel is not within the Marine Waterfront District. This approval is contingent on the recently adopted amendments to the Island District section of the Freeport Zoning Ordinance being approved by the Maine Department of Environmental Protection. If the specific language regarding the limitation on the number of accessory structures is not approved, this approval will be null and void and the original approval with the connector would still be applicable. Based upon this information, the Board finds that this standard has been met.

Conclusion: Based on these facts the Board finds that this project meets the criteria and standards of Section 602 Site Plan Review.

Proposed Motion:

Be it ordered that the Freeport Project Review Board move to approve the printed Findings of Fact, and the Site Plan Amendment for Bartol Island LLC, at 54 Bartol Island Road (Tax Assessor Map 20, Lot 89D), for the removal of a building connector for a residential structure, to be built substantially as proposed, finding that it meets the standards of the Freeport Zoning Ordinance, submission dated 04/07/2019, with the following conditions of approval:

- 1) This approval incorporates by reference all supporting plans submitted by the applicant and his/her representatives at Project Review Board meetings and hearings on the subject

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application to the extent that they are not in conflict with other stated conditions of approval.

- 2) The applicant amend any applicable building permits, as required by the Freeport Codes Enforcement Officer.
- 3) This approval is contingent on the recently adopted amendments to the Island District section of the Freeport Zoning Ordinance being approved by the Maine Department of Environmental Protection. If the specific language regarding the limitation on the number of accessory structures is not approved, this approval will be null and void and the original approval with the connector would still be applicable.

Freeport Veterinary Hospital – Parking Lot Expansion	
Property Location:	4 Post Road - Tax Assessor Map 21, Lot 42D.
Zoning Information:	Local Business
Review Type(s):	Site Plan Amendment
Waivers Requested:	None

Background: The applicant received approval from the Project Review Board on June 20, 2018 for a parking lot expansion and associated site improvements at their property at 4 Post Road. The applicant is now seeking approval to add dumpsters for solid waste disposal. The change would include the dumpsters, a concrete pad and fence enclosure. The previously approved site plan also included three full cut-off LED parking lot lights; the applicant is seeking approval to add three more to more evenly distribute illumination of the lot.

When viewing the previously approved site plan, the Board will notice that the previously approved parking area extends over the property line and into the easement area. During the review process, questions were raised about this and specifically regarding the right, title and interest the applicant may or may not have in this easement area. At that time, Philip Saucier, Town Attorney, informed the Board the applicant must have sufficient legal interest in the property (for example, deed) for the Board to be able to review the application. However, the Board does not have the authority to interpret or enforce any covenants in the deed. Since the issue of the easement within the deed was raised in the past, there was a condition added pertaining to this, and it is suggested that if this site plan amendment request is approved, the Board attach the same condition: "The applicant does not own all of the land in fee where the project will be located. The Project Review Board does not have jurisdiction to determine the rights of the parties to deeds or private contractual agreements, nor can this approval create or affect any such rights. Should it be determined by a final, non-appealable court judgment that the applicant does not have the legal right to use the land as proposed in the application, this approval shall no longer have any force or effect."

Landscaping requirement: The standards for the Local Business District do require landscaping in the front setback. Since the previously approved project crosses the property line and is in the right-of-way, a portion of the newly developed area is actually beyond the front setback. Therefore, technically the

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dumpster and enclosure are in the front setback. This is something that the Board will need to consider when they deliberate.

Lighting: In regards to the lighting, two of the fixtures will be within the easement area and the remainder will be on the applicant's property. A cut-sheet has been included in the submission.

Other site features: No additional changes are proposed.

Proposed Findings of Fact: (Section 602.F. of the Freeport Zoning Ordinance)

a. Preservation of Landscape.

The landscape shall be developed in such a manner as to be in keeping with the character of the surrounding neighborhoods and in accordance with good development practice by minimizing tree and soil removal, retaining existing vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas. If a site includes a ridge or ridges above the surrounding areas and provides scenic vistas for surrounding areas, special attempts shall be made to preserve the natural environment of the skyline of the ridge. Existing vegetation and buffering landscape are potential methods of preserving the scenic vista.

The site is already developed and the dumpsters and lighting will be located within the developed area of the previously approved parking lot. Based upon this information, the Board finds that this standard has been met.

b. Relation of Proposed Buildings to the Environment.

The design and layout of the buildings and/or other development areas shall encourage safety, including fire protection. Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity which have a visual relationship to the proposed buildings. Visual compatibility, not uniformity with the surrounding area, shall be emphasized. Special attention shall be paid to the scale (mass), height and bulk, proportions of the proposed buildings, the nature of the open spaces (setbacks, landscaping) around the buildings, the design of the buildings (including roof style, façade openings, architectural style and details), building materials and signs.

If the structure is in the Design Review District, the Planning Board shall incorporate the findings of the Board of Review in its findings. If the structure is located in the Route One Corridor between the Yarmouth Town line and Desert Road, and the Planning Board determines that the structure may not be compatible with its surroundings, it may require that the Design Review Board conduct an advisory review before the Planning Board makes a final decision.

No new buildings are proposed. Based upon this information, the Board finds that this standard has been met.

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c. Vehicular Access.

The proposed layout of access points shall be designed so as to avoid unnecessary adverse impacts on existing vehicular and pedestrian traffic patterns. Special consideration shall be given to the location, number and control of access points, adequacy of adjacent streets, traffic flow, sight distances, turning lanes, and existing or proposed traffic signalization and pedestrian-vehicular contacts.

Vehicular access to the site will not change. Based upon this information, the Board finds that this standard has been met.

d. Parking and Circulation.

The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas shall be safe and convenient and, insofar as practical, shall not detract from the proposed buildings and neighboring properties. General interior circulation, separation of pedestrian and vehicular traffic, service traffic, drive-up facilities, loading areas and the arrangement and use of parking areas shall be considered.

No changes to parking and circulation are proposed. Based upon this information, the Board finds that this standard has been met.

e. Surface Water Drainage.

Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, down-stream conditions, or the public storm drainage system. The increase in rate of runoff in the post development condition shall be held to a zero or less percent of the predevelopment condition unless an engineering study has been performed as described in Section 529.2 above. On-site absorption shall be utilized to minimize discharges whenever possible. All drainage calculations shall be based on a two-year, ten-year and twenty-five year storm frequency. Emphasis shall be placed on the protection of floodplains, reservation of stream corridors; establishment of drainage rights-of-way and the adequacy of the existing system; and the need for improvements, both on-site and off-site, to adequately control the rate, volume and velocity of storm drainage and the quality of the stormwater leaving the site. Maintenance responsibilities shall be reviewed to determine their adequacy.

No changes to surface water drainage are proposed. Based upon this information, the Board finds that this standard has been met.

f. Utilities.

All utilities included in the site plan shall be reviewed for their adequacy, safety and impact on the property under review and surrounding properties. The site plan shall show what

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provisions are being proposed for water supply, wastewater, solid waste disposal and storm drainage. Whenever feasible, as determined by the Planning Board, all electric, telephone and other utility lines shall be installed underground. Any utility installations above ground shall be located so as to have a harmonious relationship with neighboring properties and the site.

Utilities on the site are existing. The applicant proposing to add dumpsters for solid waste disposal. The change would include the dumpsters, a concrete pad and fence enclosure. Based upon this information, the Board finds that this standard has been met.

g. Advertising Features.

The size, location, texture and lighting of all exterior signs and outdoor advertising structures or features shall not detract from the layout of the property and the design of proposed buildings and structures and the surrounding properties, and shall not constitute hazards to vehicles and pedestrians.

No new signs are proposed. Based upon this information, the Board finds that this standard has been met.

h. Special Features.

Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, similar accessory areas and structures, shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.

The dumpster will be located on a concrete pad and be contained within a fenced area. Based upon this information, the Board finds that this standard has been met.

i. Exterior Lighting.

All exterior lighting shall be designed to encourage energy efficiency, to ensure safe movement of people and vehicles, and to minimize adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hazards to people and vehicular traffic and potential damage to the value of adjacent properties. Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public.

The previous site plan also include three full cut-off LED parking lot lights; the applicant is seeking approval to add three more to more evenly distribute illumination of the lot. Based upon this information, the Board finds that this standard has been met.

j. Emergency Vehicle Access.

TOWN OF FREEPORT, MAINE

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Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.

All Public Safety Department Heads have reviewed the plans. Based upon this information, the Board finds that this standard has been met.

k. Landscaping.

Landscaping shall be designed and installed to define, soften or screen the appearance of off-street parking areas from the public right(s)-of-way and abutting properties, to enhance the physical design of the building(s) and site, and to minimize the encroachment of the proposed use on neighboring land uses. Particular attention should be paid to the use of planting to break up parking areas. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, retaining existing vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas. Landscaping shall be provided as part of the overall site plan design and integrated into building arrangements, topography, parking and buffering requirements. Landscaping may include trees, bushes, shrubs, ground cover, perennials, annuals, plants, grading and the use of building and paving materials in an imaginative manner.

No additional landscaping is proposed. Based upon this information, the Board finds that this standard has been met.

l. Environmental Consideration. A site plan shall not be approved unless it meets the following criteria:

- 1. The project will not result in water pollution, erosion or sedimentation to surface waters.**
- 2. The project will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;**
- 3. The project will conserve shoreland vegetation;**
- 4. The project will conserve points of public access to waters;**
- 5. The project will adequately provide for the disposal of all wastewater;**
- 6. The project will protect archaeological and historic resources;**
- 7. The project will not adversely affect existing commercial fishing or maritime activities in the Marine Waterfront District.**

This parcel is not within the Marine Waterfront District or Shoreland Zone. This parcel is not within the Design Review District. There is an existing stormwater system on site. Based upon this information, the Board finds that this standard has been met.

Conclusion: Based on these facts the Board finds that this project meets the criteria and standards of Section 602 Site Plan Review.

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Proposed Motion: Be it ordered that the Freeport Project Review Board approve the printed Findings of Fact and Site Plan Amendment for the Freeport Veterinary Hospital for a Site Plan Amendment for a dumpster with enclosure and additional parking lot illumination at their property at 4 Post Road (Tax Assessor Map 21, Lot 42D), application dated 05/07/19, to be built substantially as proposed, finding that it meets the standards of Section 602 of the Freeport Zoning Ordinance, with the following Conditions of Approval:

- 1) This approval incorporates by reference all supporting plans that amend the previously approved plans submitted by the applicant and his/her representatives at Project Review Board meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions.
- 2) The conditions of the June 20, 2018 Project Review Board approval are still applicable.
- 3) The applicant does not own all of the land in fee where the project will be located. The Project Review Board does not have jurisdiction to determine the rights of the parties to deeds or private contractual agreements, nor can this approval create or affect any such rights. Should it be determined by a final, non-appealable court judgment that the applicant does not have the legal right to use the land as proposed in the application, this approval shall no longer have any force or effect.