

Kennebunkport Planning Board
May 16th, 2012 ~ 7:00 PM
Village Fire Station, 32 North Street

A regular meeting of the Planning Board was held on Wednesday, May 16th, 2012. The meeting convened at 7:00 p.m. in the North Street Fire Station.

Members Present: Mr. David Kling (Chair), Leo Famolare, Gordon Ayer, John Hathaway, Greg Reid, Peter Fellenz

Approval of Minutes: Mr. Fellenz made a motion to approve the minutes from the May 2nd, 2012 Planning Board meeting. Mr. Famolare seconded the motion and the vote was unanimous.

Items:

1) CDMK, LLC Properties/ Mitchell & Associates, Authorized Agent – Continued Public Hearing – for re approval of an original approval of Subdivision and Multiplex consisting of 2 multi family unit lots totaling 12 dwelling units and 34 duplex lots for a total of 80 dwelling units, located between North Street and School Street. There will be no changes to the original approval and the Applicant is only looking for an extension of the original approvals. [49 & 51 North Street, Tax Assessor's Map 12, Block 005, Lots 21, 21A & 22 in the Village Residential & Free Enterprise Zones] **Continued to June 6th at the request of the Applicant.**

2) 100401 Town of Kennebunkport / Government Wharf – Site Plan Review – **Public Hearing** – for approval to replace the existing bait house (1,136 square feet) and wharf (36'x36') with a new bait house (1,440 square feet) and new wharf (36'x40') [7 Josiah Curtis Lane, identified as Assessor's Tax Map 08, Block 001, Lot 08 in the Riverfront, Shoreland and Resource Protection Zones.]

Mr. Kling introduced the Agenda item stating the Planning Board voted the Application complete at the last meeting.

Mr. Larry Mead, Town Manager addressed the Board stating there have been no changes to the Application, adding the Town will repair the pilings, replacing a number of the pilings to the peer. Mr. Mead also stated the building will be torn down and replaced and will have the capacity to be refrigerated at a later date. The bait shed will be raised above the flood plain requirements, Mr. Mead added, and the Town will add new floats and some safety aspects to the wharf for the fishermen that use it.

Mr. Reid asked what material would be used for the floor. Mr. Mead replied the floor would be poured concrete.

Mr. Famolare asked if a bathroom was added to the design. Mr. Mead stated he requested some quotes on adding a restroom and found the cost would be a base price of \$40,000 to lay the pipework. The price would be higher if there were any ledge according to the Sewer Department and the Water District, Mr. Mead explained. Mr. Mead stated at this point he is disinclined to install a restroom at this time.

Mr. Kling opened the Public Hearing. There were no comments from the public. Mr. Kling closed the Public Hearing.

Mr. Ayer made a motion to approve the Application of the Town for the reconstruction of the Government Wharf as presented in the Application and the accompanied plans. Mr. Famolare seconded the motion and the vote was unanimous. Mr. Ayer was assigned as Case Manager to prepare the Findings of Fact to be read at the next meeting on June 6th, 2012.

3) 120401 Frank & Mary Strohm / Hazelwood Handyman, Authorized Agent – Site Plan Review – **Initial Review** – for approval to remove 2,174 square feet of pavement and replace with 608 square feet of new stepping stones and 449.9 square feet of permeable pavers; replace an existing patio with a new one and remove 58 yards of existing fill and install 57 yards of crushed stone. [86 Ocean Avenue, identified as Assessor's Tax Map 08, Block 002, Lot 03 in the Village Residential Zone.]

Mr. Kling introduced the Agenda item. Mr. Greg Phipps of Hazelwood Handyman addressed the Board representing Frank and Mary Strohm. Mr. Phipps gave a brief summary of the Application illustrating the proposed landscaping changes on a new site plan. Mr. Phipps stated with all of the new construction and adding the walkways, the result is a net gain of 1,000 sq. ft. of new permeable surface.

Mr. Kling commented on the following items that need to be addressed regarding the Application:

1. The amount of impervious area within the 75 ft. setback cannot be increased. Calculations need to be added to the Site Plan to show that is not the case.
2. The non-conformity of the property cannot be increased so a walkway cannot be added unless it qualifies as necessary access to the water.
3. Maine DEP approval may be necessary due to the fact that soil and materials will be moved with the 75 ft. area.

Mr. Brian Shaw, Code Enforcement Officer, agreed with Mr. Kling's statement that a DEP permit is required. Mr. Shaw offered his opinion that the DEP would look favorably on the proposed changes because of the reduction in impervious surfaces. Mr. Shaw added the major issues for the Applicant are (1) working without a DEP permit, and (2) working within the 75 ft. setback.

Mr. Kling asked the Applicant to indicate on the site plan where the 75 ft. setback is along with the revised calculations of impervious areas. Mr. Kling stated the Planning Board would continue this initial review to next meeting assuming the Applicant has obtained a DEP permit

and modified the site plans as discussed. Mr. Phipps stated he would contact the DEP immediately and was hoping to have all changes completed and submitted to the Code Enforcement Office by next week.

Other Business:

Brian & Patricia Davies, replanting & earthmoving activity review per DEP request. [164 Kings Highway, Map 33, Block 003, Lot 16 in the Goose Rocks Zone.]

Mr. Kling stated this is before the Planning Board at the request of the Code Enforcement Officer.

Ms. Sandra Guay, of Woodman Edmonds, addressed the Board along with Patricia Davies, Applicant and David Graham, Architect. Ms. Guay gave a brief summary of the work that has been done on the property and explained there is a DEP Permit-By-Rule for this property. Ms. Guay stated as the contractor was clearing the property to begin building, the clearing went into the Resource Protection Zone and the DEP and Code Enforcement Officer wanted that portion in the Resource Protection Zone replanted. There is soil that has been piled up to the side which will be put back into place, Ms. Guay explained.

Mr. Kling asked how long this work would take to complete. Mr. David Graham replied it could be done in 2 days.

Mr. Kling informed the Board and the public this requires Planning Board approval because the land remover is over 10 cu. yds.

Mr. Reid asked how the Applicant knows what the original grade was. Mr. Graham replied there was a survey done prior to the Davies purchasing the property that shows the elevations. Mr. Reid asked if they were going to change any water flows through adjacent properties. Mr. Graham replied No.

Mr. Hathaway asked how this kind of clearing could happen. Mr. Graham responded there was due diligence done prior to the pulling the building permit but there was no discussion about the back dune. Mr. Graham stated he has looked at work being done at Goose Rocks Beach and wonder if people are aware of work being done on the west side is in the back dune.

Mr. Kling asked if this would restore the planting and grade to at least as good as it was. Mr. Graham responded that the DEP comes back to the site after a year to check the growth of the replanting.

Mr. Ayer asked what the total area is. Mr. Graham replied the area that is in the Resource Protection zone is 3700 sq. ft. and the Permit-By-Rule allows 40% removal so that is why they are replanting 59 sq. ft. Mr. Shaw added this property had a very good survey done on the land which laid out the 75 ft. setback line and the Resource Protection zone and had flags on the end of the property. Mr. Shaw suggested the people doing the cutting and clearing of the property didn't understand what the flags meant.

Mr. Graham added the Davies have installed a water line from the water district so once the trees are planted there is an irrigation system to help the trees survive. Mr. Shaw stated he would also conduct a final inspection and that once this error was discovered; everyone involved has been pushing to get this taken care and resolved.

Mr. Reid made a motion to approve the DEP's recommendation for the replacement of the wooded area that was clear-cut. Mr. Ayer amended the motion to add a condition that no construction is to begin until the Code Enforcement Officer has approved the replanting. Mr. Famolare seconded the motion and the vote was unanimous.

Adjournment: A motion was made to adjourn, it was seconded and the vote was unanimous.

Submitted by: Patricia Saunders, Planning Board Recording Secretary