

**Kennebunkport Planning Board
April 16th, 2014 ~ 7:00 PM
Village Fire Station, 32 North Street**

A regular meeting of the Planning Board was held on Wednesday, April 16th, 2014. The meeting convened at 7:00 p.m. in the North Street Fire Station.

Members Present: Mr. David Kling (Chair), Greg Reid, Leo Famolare, Gordon Ayer, John Hathaway, Peter Fellenz, Helen Conaty
Ms. Conaty will have voting privileges for this meeting.

Approval of Minutes: The minutes from the April 2nd, 2014 Planning Board meeting will be approved at the next meeting.

Items:

1) 140301 The Boathouse at Kennebunkport, LLC / Sebago Technics, Authorized Agent – Site Plan Review – Continued Public Hearing – for approval to install a 6' x 60' pre-engineered pedestrian bridge across a tidal channel between the two properties, modify pavement and add walkways at both ends of bridge. [21 Ocean Avenue & 28 Dock Square, identified as Assessor's Tax Map 11, Block 001, Lots 08 and 22 in the Dock Square Zone.]

Mr. Kling introduced the Agenda item noting this is a continued Public Hearing.

Mr. Ralph Austin addressed the Board and explained that under the Maine Torts Claims Act they would not have any liability for any injuries by approving this bridge but to ensure there is no doubt as to the town's liability he drafted an agreement and incorporated language from the Maine Torts Claims Act. Mr. Austin further explained in the agreement any liability for injury on the bridge would be solely the liability of the Applicants and would indemnify the Town. Mr. Austin also stated he sent the drafted agreement to the Town's Counsel Amy Tchao who reviewed it and requested several additions which were made and had the Code Enforcement Office and the Town Manager's office review it as well. Although Laurie Smith, the Town Manager did not have any issues with the agreement as amended, she believed it should be reviewed and approved by the Board of Selectmen which will be discussed at their April 24th meeting.

Mr. Doe showed the Board members a color sample of the proposed bridge color. Mr. Doe also informed the Board they received a verbal approval from the Maine Department of Environmental Protection and was awaiting the written report.

Mr. Kling asked Mr. Ayer if he had a chance to review the indemnity agreement Mr. Austin drafted. Mr. Ayer replied he did review it and it answered all of his questions.

Mr. Hathaway expressed his opinion that whether the town does or doesn't have any liability he still believes this bridge is an attractive nuisance and creates a potentially dangerous situation.

Mr. Kling stated he appreciates Mr. Hathaway's opinion but believes the proposed bridge would improve pedestrian circulation.

Mr. Kling closed the Public Hearing. Mr. Kling listed the following conditions the Board discussed and agreed upon for approval of this Application:

- Public Access and Indemnification Agreement would be approved and signed by the Board of Selectmen
- Aluminum bridge would be painted the dark color as shown to the Board by the Applicant
- Owner would retain responsibility for removing the bridge to allow any construction barges
- Receipt of formal DEP approval

Mr. Ayer made a motion to approve the Application subject to the conditions as stated by the Chair and with approval from the Board of Selectmen. Mr. Famolare seconded the motion. A majority of the Board voted in favor of the motion. Mr. Hathaway opposed the motion. The motion passed. Mr. Kling was assigned as Case Manager to prepare the Findings of Fact to be read at the next Planning Board meeting on May 7th, 2014

Other Business

Mr. Gilliam and the Board discussed briefly a potential Application and decided it should be reviewed within the Site Plan Review guidelines and will be placed on the Agenda for the next Planning Board meeting. Mr. Gilliam explained he will not be able to attend the May 7th, 2014 meeting but will draft a memo for the Board to be included in that Application.

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

Submitted by: Patricia Saunders, Planning Board Recording Secretary