

Kennebunkport Planning Board
January 2nd, 2019 ~ 7:00 PM
Kennebunkport Village Fire Station, 32 North Street

A regular meeting of the Planning Board was held on Wednesday, January 2nd, 2019. The meeting convened at 7:00 p.m. in the Kennebunkport Village Fire Station.

Members Present: Mr. Tom Boak (Chair), Nina Pearlmutter, D. Scott Mahoney, Neil Higgins, Ed Francis, George Lichte, Larry Simmons

Approval of Minutes: Ms. Pearlmutter noted a change to be made to Item 3 of the minutes from the December 19th, 2018 Planning Board meeting. Mr. Simmons also had several changes to be made. The Board agreed to defer approval of the minutes until the next Planning Board meeting.

Items:

1. **181002 136 North Street, LLC / Shepard & Read, Authorized Agent** – Site Plan Review – **Continued Deliberations** – for approval to convert the previously existing trucking facility into a boatyard, to be used for boat repairs, storage and boat brokerage. (136 North Street, identified as Assessor's Tax Map 13, Block 1, Lot 1 in the Free Enterprise Zone.) *Nina Pearlmutter, Case Manager*

As agreed at the last Planning Board meeting, the Board members individually drove by the property to assess the questions raised regarding sight lines, traffic and parking. Ms. Pearlmutter acknowledged she did not receive any negative feedback from any of the Board members and went ahead with drafting the Findings of Fact for this Application.

Ms. Pearlmutter read the Findings of Fact into the record. Mr. Boak made a motion to approve said Findings as read. Mr. Higgins seconded the motion and the vote was unanimous.

2. **181101 Kennebunk River Club / Eco-Analysts, Inc., Authorized Agent** – Site Plan Review – **Findings of Fact** – for approval to dredge the North Basin to remove approximately 3,589 cubic yards of material as well as the South Basin to remove approximately 2,779 cubic yards of material (115 Ocean Avenue, identified as Assessor's Tax Map 8, Block 1, Lots 11 & 23 in the Riverfront Zone.) *Larry Simmons, Case Manager.*

Mr. Simmons read the Findings of Fact into the record. Ms. Pearlmutter made a motion to approve said Findings. Mr. Mahoney seconded the motion and the vote was unanimous.

3. **181102 Sandy Pines Campground / Sebago Technics** – Site Plan Review – **Findings of Fact** -- for approval to reconfigure some glam sites and RV sites, as well as reconfigure some driveways within 3 different areas. (277 Mills Road, identified as Assessor's Tax Map 32, Block 1, Lot 3 in the Goose Rocks Zone). *Ed Francis, Case Manager.*

Mr. Francis read the Findings of Fact into the record and corrected one typo on said Findings.

Ms. Pearlmutter raised her concern regarding the Findings, specifically in repeating the 12 conditions of approval mentioned in the previous Application from April of 2018 rather than simply stating the first set of conditions remain in effect. Ms. Pearlmutter cautioned the reason for not repeating those prior conditions is because it adds confusion and increases the risk of error.

Mr. Francis agreed with Ms. Pearlmutter's assessment that this Application stands alone and is not part of the approved April, 2018 Application. However, Mr. Francis continued, he felt it important to document what the Planning Board's findings and decision was by including those 12 conditions as they are the essence of what was allowed in a grandfathered non-conforming use in a very sensitive property in the Goose Rocks area. This Application required meeting those prior conditions in order for us as a Board to determine it is not an expansion of use, Mr. Francis concluded.

Mr. Francis and Ms. Pearlmutter continued their debate for a brief amount of time. Mr. Boak asked the other Board members for their opinions.

Mr. Boak offered his opinion that he did not see a need to reiterate the 12 conditions from the previous Application. Mr. Higgins agreed with Mr. Boak's statement.

Mr. Francis stated these Findings are what we reviewed as a Board; what we heard from the Applicant and decided on each of these 12 conditions specifically in our review of this Application. Mr. Boak acknowledged that yes; we did, as a Board, ask Mr. Doe for an update on these prior conditions. Mr. Francis added he believes as a Board, we would not have approved this Application if we had not been given that update.

Ms. Pearlmutter agreed that yes the Board asked for an update from the Applicant on whether those prior conditions are being met, but there is no reason to repeat them in these Findings but instead add a statement saying they remain in effect.

Mr. Simmons offered his opinion that each Application stands on its own and each Findings of Fact is its own stand-alone document.

The Board members continued their discussion on this matter at length.

Ms. Pearlmuter explained the risk of restating the previous conditions is that it over-emphasizes them and overshadows the importance of the Application being compliant with the Land Use Ordinance as the parameters for approval of any Application is based on the Land Use Ordinance not on a set of conditions.

After much discussion, the Board members came to an agreement to add the reference to the Land Use Ordinance as Ms. Pearlmuter suggested.

Mr. Higgins made a motion to approve said Findings. Mr. Boak seconded the motion and the vote was unanimous.

- 4. 181201 Aaron & Emily Cooper / Walsh Engineering, Authorized Agent – Site Plan Review – Intitial Review** – for approval to remove an existing stone seawall and replace with a new stone revetment. (165 Kings Highway, identified as Assessor's Tax Map 33, Block 1, Lot 3 in the Goose Rocks, Shoreland and Resource Protection Zones.)

Mr. Boak introduced the Agenda item.

Mr. Bill Walsh of Walsh Engineering addressed the Board and gave a brief summary of the Application using enlarged photos and site plans of the property. Mr. Walsh explained they will take the existing seawall apart in sections, put in larger stones along with some geotextile fabric and add some smaller stones to keep the fabric in place.

Mr. Francis asked how the equipment to move those large rocks would get to the waterfront. Mr. Walsh replied they have to use the private Rights of Way to get to the beach. Mr. Francis then asked if there would be damage to those Rights of Way. Mr. Walsh explained the paths are all sand so there is a possibility of tracking the sand out that would be minimal at best.

Ms. Pearlmuter commented the copy of the deed provided in the Application is not a recorded deed. Mr. Boak provided the Book and Page of the recordation to the Board. Mr. Gilliam commented the recording is referenced in the copy of the tax card included in the Application.

Mr. Higgins asked the Applicant if he could provide a copy of the previous deed referenced in the land description in order to determine the owner's rights to the low water mark.

Mr. Higgins also noted the deed references a boundary survey done in 2014. Mr. Walsh stated he has a copy of that survey and would be happy to provide copies to the Board members.

Mr. Lichte asked the Applicant if the work will affect the water patterns to the abutting properties. Mr. Walsh replied no, not in this case because there is a continuing wall across the other properties.

Mr. Simmons asked where the stones will be taken that are to be removed and not replaced. Mr. Walsh responded they will be taken off-site and most likely crushed.

Mr. Higgins noted the property is owned by the trustees of a trust but the authorization letter is given by the signer individually and asked if it were possible to get an authorization letter signed as the trustee. Mr. Walsh agreed to provide that to the Board members.

Mr. Higgins also asked if the existing steps or walkway down to the beach would be put back in the exact same location. Mr. Walsh replied yes it would be placed exactly where it is now.

Ms. Pearlmuter made a motion to find the Application complete subject to receipt of the additional deed and a copy of the survey. Mr. Higgins seconded the motion and the vote was unanimous.

Mr. Higgins was assigned as Case Manager for this Application.

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

Submitted by: Patricia Saunders, Planning Board Recording Secretary