

**Kennebunkport Planning Board**  
**May 15, 2019 ~ 7:00 PM**  
**Kennebunkport Village Fire Station, 32 North Street**

A regular meeting of the Planning Board was held on Wednesday, May 15, 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, Ed Francis, George Lichte, Larry Simmons  
Neil Higgins is absent from this meeting but will watch the video recording. Mr. Simmons will have voting privileges for Agenda items #1 and #3. Mr. Lichte will have voting privileges for Agenda item #2.

Approval of Minutes: Ms. Pearlmutter made a motion to approve the minutes from the March 20<sup>th</sup>, 2019 Planning Board meeting. Mr. Simmons seconded the motion and the vote was unanimous. Ms. Pearlmutter made a motion to approve the minutes from the April 3<sup>rd</sup>, 2019 Planning Board meeting. Mr. Simmons seconded the motion and the vote was unanimous.

Items:

- 1. 190101 Lord & Harrington, The Sanctuary / Sebago Technics, Authorized Agent** – Site Plan Review – **Continued Deliberations** – for approval to do a one-time upward expansion on an existing single family dwelling. (250 Ocean Avenue, identified as Assessor's Tax Map 7, Block 13, Lot 8 in the Cape Arundel, Shoreland and Resource Protection Zones.)

Mr. Boak introduced the Agenda item and acknowledged receipt of a letter from the Town Attorney Amy Tchao.

Ms. Pearlmutter commented the letter from the Town Attorney didn't satisfy her question regarding the non-conformity in the Resource Protection Zone as it is still ambiguous in the Land Use Ordinance, however, because the Board does have a letter that gives an opinion on which the Board can base their decision; she has no issue with going ahead with this Application.

Ms. Pearlmutter made a motion to approve the Application. Mr. Simmons seconded the motion and the vote was unanimous.

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

- 2. 190401 Henry Family Trust / Ambit Engineering, Authorized Agent** – Site Plan Review – Initial Review – for approval to install a new 4' x 150' elevated walkway, a 4' x 60' fixed pier, a 3' x 35' gangway and a 10' x 20' float located by two helical moorings. (22 Ebs Cove Lane, identified as Assessor's Tax Map 21, Block 9, Lot 52B in the Village Residential East, Shoreland and Resource Protection Zones.)

Mr. Boak introduced the Agenda item.

Mr. Steven Riker, Wetland Scientist, addressed the Board on behalf of the Henry Family Trust and gave a detailed and lengthy presentation of the Application to construct a tidal docking structure. Some of the items mentioned in Mr. Riker's presentation were:

- A property survey, boundary survey and topographic survey were performed on the lot that includes the flood hazard line as well as the tidal wetland area on the lot.
- The HAT (Highest Annual Tide) line is also noted on the site plan which is set by the Maine DEP.
- The HAT line is at elevation 11.8.
- The Mean High Water line is at elevation 9.18.
- The Application includes a copy of the Maine DEP application which has been submitted and accepted.
- The Army Corps of Engineers' approval is also included with the Application materials submitted.
- The float size is designed for the Applicant to be able to dock their 18 foot center console boat.
- The docking structure extends 52 feet past the Mean High Water mark.
- The 150 foot elevated walkway is essentially a boardwalk to provide safe foot access to the pier.
- The fixed pier will be supported by 10 piles.
- The elevated walkway will be supported by 18 helical supports spaced every 15 feet.

Mr. Riker read into the record four emails he received from the following abutters and his prepared response to each email:

1. Robert & Karen Grey of 9 Vaughn Island Blvd, Kennebunkport, dated May 10, 2019
2. Eagle Glassheim of 81 Turbats' Creek Road, Kennebunkport, dated May 13, 2019
3. Molly Ruggles of 74 Turbats' Creek Road, Kennebunkport, dated May 14, 2019
4. Sarah Lown, 80 Turbats' Creek Road, Kennebunkport, dated May 14, 2019.

Ms. Pearlmutter asked if there was an authorization letter included with the Application. Mr. Riker replied yes it is in the front part of the Application and is dated April 23<sup>rd</sup>, 2019.

Mr. Boak reminded the audience members in attendance that this evening's review is not a Public Hearing.

Mr. Boak asked Mr. Riker to provide a checklist similar to ones done in the past for other dock Applications. Mr. Riker agreed to provide a checklist before a Public Hearing.

Ms. Pearlmuter asked if this property is also in the Resource Protection Zone as well as the Shoreland Zone. Mr. Gilliam confirmed the property is identified as being in the Resource Protection Zone. Mr. Boak asked Mr. Riker to note that designation in the Application.

Ms. Pearlmuter asked if the barge is coming in at high tide or low tide to drive the piles in. Mr. Riker responded the barge will come in at high tide, anchor up and when the tide recedes they'll do their work. The Army Corps of Engineers has restrictions when you can drive piles in and those restrictions have been noted on sheet D1 in the Application, Mr. Riker added.

Mr. Lichte asked for clarification on Article 5.15 of the Land Use Ordinance which states *"Any accessory residential pier, walkway, doc or wharf, including ramps and floats, shall be no longer than a total length of one hundred (100) feet nor extend more than one fifth (1/5) of the way across a body of water."* Mr. Boak commented this proposed dock is a lot longer than 100 feet. Mr. Riker responded the elevated walkway is not part of the dock and should not be included in 100 foot restriction.

After some discussion the Planning Board members concluded neither the walkway nor the 105 foot pier meets the requirements of the Land Use Ordinance and asked Mr. Riker to submit a revised Application. Mr. Gilliam added he would provide Mr. Riker with a sample checklist to include with the revised site plans.

Ms. Pearlmuter made a motion to continue the Initial Review of this Application until the next Planning Board meeting. Mr. Mahoney seconded the motion and the vote was unanimous.

Mr. Higgins has been assigned as Case Manager for this Application and agreed to watch the video recording of this meeting prior to the next Planning Board meeting.

**3. 190402 Panama, LLC – Site Plan Review – Initial Review** – for approval to create outdoor seating on a proposed wood deck and patio. (62 Mills Road, identified as Assessor's Tax Map 23, Block 2 Lot 2 in the Free Enterprise and Cape Porpoise East Zones.)

Mr. Boak introduced the Agenda item.

Mr. German Lucarelli, chef and owner of Lost Fire Restaurant addressed the Board stating he is proposing to construct a deck to provide seasonal outdoor seating. The deck will be 6 inches tall and there will be roofing to provide shade and protection to the additional 24 dining seats. Mr. Lucarelli also noted in 1995 the property was approved for 130 seats and currently only has 95 seats inside the restaurant.

In response to an email received from Petr and Debbie Eaton regarding noise from the outdoor seating and the potential of car headlights shining into their home, Mr. Lucarelli stated he would install a 6-foot tall fence with soundproof panels if necessary. Mr. Lucarelli also added the restaurant summer serving hours are until 9:30pm and end at 8:30pm in the off-season.

Ms. Pearlmuter questioned if the current septic system and well has sufficient capacity to accommodate the additional seating. Mr. Lucarelli replied the property is on town water and sewer so yes it can handle the additional customers.

Mr. Francis asked the Applicant if he could provide a sketch of the proposed fence. Mr. Lucarelli agreed to provide that information prior to the next Planning Board meeting.

Mr. Gilliam suggested it would be helpful to see if there has been an agreement drafted between the Applicant and the Nunan's. Mr. Lucarelli replied yes there is an agreement and will ask his Attorney to provide a copy of that agreement to the Town Offices.

Per the Planning Board's request, Mr. Lucarelli agreed to provide a copy of his agreement with the Nunan's, a revised plan showing the fence and the light fixtures cut sheet prior to the next meeting.

Ms. Pearlmuter made a motion the Application is complete. Mr. Francis seconded the motion and the vote was unanimous. A Public Hearing will be held at the next Planning Board meeting on June 5, 2019. Mr. Mahoney was assigned as Case Manager for this Application.

### **Other Business:**

Mr. Gilliam informed the Board members the town has put together a committee for the Village Parcel for determining what the town wants to do with land and has started having stakeholder interviews. The Planning Board has been designed as one of the stakeholders, Mr. Gilliam continued, and asked for 1 or 2 Board members to attend a stakeholder meeting on May 21<sup>st</sup>, 2019 at 5:00p.m.

Ms. Pearlmuter and Mr. Simmons agreed to attend the meeting. Mr. Gilliam provided copies of the discussion questions to each of the Board members.

Ms. Pearlmuter and Mr. Simmons asked each of the Board members to review the questions and provide any input prior to the May 21<sup>st</sup> meeting.

Mr. Boak announced he and his neighbors are in the process of creating a Homeowners Association agreement for their road and have hired Attorney Ralph Austin to draft the documents. Mr. Boak asked if any of the Board members had an issue with this transaction or felt it was a conflict of interest with the responsibilities of being a Planning Board member. All of the other Board members present agreed there was no conflict of interest.

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

**Submitted by:** Patricia Saunders, Planning Board Recording Secretary