

Kennebunkport Planning Board
May 17th, 2017 ~ 7:00 PM
Kennebunkport Village Fire Station, 6 Elm Street

A regular meeting of the Planning Board was held on Wednesday, May 17th, 2017. The meeting convened at 7:00 p.m. in the Kennebunkport Village Fire Station.

Members Present: Mr. Peter Fellenz (Chair), Tom Boak, D. Scott Mahoney, Mark Messer, Nina Pearlmuter
Ms. Pearlmuter will have voting privileges for this meeting.

Approval of Minutes: Mr. Boak made a motion to approve the minutes from the May 3rd, 2017 Planning Board meeting. Mr. Mahoney seconded the motion and the vote was unanimous.

Items:

1. **170204 Arundel Lodge #76, AF&AM / Jeffrey Zdunczyk, Esquire Authorized Agent** – Remand Hearing – **Findings of Fact** – to re-address a previous decision by the Planning Board dated April 6, 2016. [10 North Street, identified as Assessor's Tax Map 11, Block 002 Lot 22 in the Village Residential Zone.

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

2. **140401 State of Maine Department of Environmental Protection** – Site Plan Review – **Public Hearing** – for approval to replace a 33-year-old aluminum air monitoring shelter with a new shelter. The property is located on Ocean Avenue, identified as Assessor's Tax Map 07, Block 001, Lot 08 in the Cape Arundel, Shoreland and Resource Protection Zones.

Mr. Fellenz introduced the Agenda item.

Mr. Andrew Johnson, Director of the Division of Air Quality for the Maine DEP, along with Mr. Marc Cone, Director of the Bureau of Air Quality addressed the Board. Mr. Johnson thanked the town for their collaboration and commented the Town's continued cooperation has been very beneficial to monitoring the air quality for the state for the past 30 years. Mr. Johnson gave the Board members a brief history of the air monitoring system in Maine. Mr. Johnson also noted they received an NRPA permit in December.

Mr. Fellenz asked the Board members if they had any questions for the Applicant.

Citing the deed from Mr. Parsons granting the land to the town, Mr. Messer questioned whether it was permissible to build a permanent structure on the property. Mr. Johnson responded he interpreted that deed restriction as no building shall be constructed and noted the monitoring station would be built on patio blocks not a permanent foundation. The building will be anchored to prevent it from floating away in the event of a storm surge, Mr. Johnson added.

Mr. Mahoney commented the property was a gift from a citizen to the town, adding this Application is not to construct a permanent building. Mr. Johnson agreed with Mr. Mahoney's statement adding they are sensitive to the importance the structure merge with the aesthetics of the area.

Ms. Pearlmuter asked the Applicant if they have consulted with anyone so that the shelter can withstand the winds during a storm. Mr. Johnson replied the new structure will be more robust so it is structurally reinforced to withstand storm damage.

Mr. Fellenz opened the Public Hearing.

Mr. Gilliam commented he has had several discussions with the Applicant regarding an emergency action plan should a storm event occur and the Applicant has adequately addressed any concerns the town had. Mr. Messer asked Mr. Gilliam to provide that specific information to the Case Manager assigned to prepare the Findings of Fact.

There were no comments or questions from the audience. Mr. Fellenz closed the Public Hearing

Mr. Messer made a motion to approve the Application. Mr. Boak seconded the motion and the vote was unanimous. Mr. Boak was assigned as Case Manager to prepare the Findings of Fact to be read at the next Planning Board meeting on June 7th, 2017.

3. **170402 Binnacle Hill Subdivision/Sebago Technics, Authorized Agent** –Final Subdivision Review – Initial Review – for approval of a 15 Lot cluster subdivision on New Biddeford Road, identified as Assessor's Tax Map 41, Block 002, Lots 8C & 8D in the Goose Rocks and partial Shoreland Zone.

Mr. Fellenz introduced the Agenda item.

Mr. Steve Doe of Sebago Technics, along with Geoff Bowley and Ralph Austin addressed the Board stating the Preliminary Subdivision Plan was approved on March 15th, 2017. Mr. Doe explained there have been no changes to the plan since its preliminary approval.

Utilizing enlarged site plans, Mr. Doe gave a brief summary of the project; some items mentioned are:

- The colored area on the site plan is the entire parcel with the light green area the meadow in the front of the property.
- The dark green areas are open space areas with the yellow areas representing the building envelopes for each of the 15 lots.
- The Applicant has applied for permits from the Maine DEP and the Army Corps of Engineers.
- There are 3 areas where retaining water basins will be installed as part of the stormwater management system.
- Public water will be extended to the site.
- All homes on the site will be connected to public sewer.

Mr. Doe concluded his presentation by stating the only change is 3 parking spaces in front of the meadow will be removed.

The Applicant's sewer extension application will be up for approval by a town vote in June, Mr. Doe added.

Mr. Doe also stated they have not received their DEP approval yet and are aware the Board would need receipt of that permit before approval could be granted. Mr. Fellenz suggested holding a Public Hearing and wait to vote approval until the DEP permit is received. Mr. Gilliam suggested the Board may want to continue the Public Hearing so that they could receive evidence if necessary. Mr. Doe agreed with Mr. Gilliam's suggestion as the DEP may have some comments regarding the permit that the public may want to respond to.

Referring to the Applicant's Homeowners Association documents, Mr. Boak asked if the language is in accordance with the town's roomer ordinance. Mr. Gilliam responded by stating the Homeowners Association documents are provided to the Board primarily to insure there is nothing in there that conflicts with the town's ordinances and cautioned the Board that it is not approving the Homeowners Association documents. It is not uncommon, Mr. Gilliam added, to see Homeowners documents modified after the fact in subsequent years, however, all properties will have to be in compliance with the ordinances in town of Kennebunkport.

Mr. Austin asked if there was something new in the town's ordinances that they should be aware of. Mr. Gilliam explained there is a new approved roomer ordinance that addresses the rental of individual rooms in a residence. Mr. Austin responded it is typical to have a clause in homeowner's documentation that a homeowner cannot rent less than the entire structure but will certainly add the appropriate language in accordance with the new ordinance.

Mr. Fellenz requested any changes to the Homeowners Association document be provided to the Planning Board. Mr. Austin agreed to supply the Board with the changes.

In reference to a letter received from Roger and Lisa Miller, Mr. Boak asked about the status of the Right of Way from the Dyer parcel. Mr. Doe replied the Applicant is retaining access to the Right of Way. Mr. Gilliam added the Subdivision Regulations requires an Applicant to provide for a future Right of Way in anticipation that adjacent properties may be developed which allows for greater flexibility with road connections and eliminate unnecessary dead-end roads.

There were no further questions from the Board members.

Mr. Messer made a motion the Application is complete pending receipt of the required permits. Mr. Mahoney seconded the motion and the vote was unanimous. A Public Hearing will be held at the next Planning Board meeting on June 7th, 2017.

4. 170403 Wahwa Family Limited Partnership / Prock Marine, Authorized Agent – Site Plan Review - Initial Review – for approval to remove the existing concrete dock and install a new timber dock with granite support pier, access landing and seasonal float. The property is located at 22 Agamenticus Avenue, identified as Assessor's Tax Map 30, Block 003 Lot 30 in the Cape Porpoise East, Shoreland and Resource Protection Zones.

Mr. Fellenz introduced the Agenda item.

Mr. Steve Durrell, Project Manager for Prock Marine addressed the Board stating the existing structure is 105 feet long and 11 feet wide at the top and 14 feet wide at the base. The existing dock consists of a combination of concrete, stones, and timber which will be removed in its entirety and replaced by a timber dock that is 60 feet long supported on the outer end by a trapezoid frame with a 35-foot aluminum ramp and a 10'x20' float at the outer end, Mr. Durrell added.

Mr. Mahoney commented there will be more beach exposed with the new dock. Mr. Durrell agreed with Mr. Mahoney's statement adding the outer end of the float will be roughly five feet shorter than the existing structure.

Mr. Durrell also noted the Maine DEP has issued a Permit By Rule and they have received approval from the Army Corps of Engineers as well.

Mr. Fellenz asked if this project has been reviewed by the Board of Selectmen. Mr. Durrell responded the Board of Selectmen have approved the Application.

Mr. Messer asked if the dock has been used over the years. Mr. Durrell replied the family has indicated it has been used every summer.

Ms. Pearlmuter commented that the proposed dock is a much better improvement than what currently exists on the property.

Mr. Messer explained the reason for his question about usage is that the property is in a Velocity Zone and docks are not allowed in the Velocity Zone unless it is a grandfathered use.

Mr. Fellenz asked the Applicant if they talked with any of the abutting neighbors. Mr. Durrell replied the Board of Selectmen did a site walk of the property and a number of the neighbors attended and they answered their questions.

Mr. Boak made a motion the Application is complete. Mr. Messer seconded the motion and the vote was unanimous. A Public Hearing will be held at the next Planning Board meeting on June 7th, 2017.

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

Submitted by: Patricia Saunders, Planning Board Recording Secretary