

Kennebunkport Planning Board

August 19th, 2020 ~ 6:00 PM

Virtual Meeting (Via Zoom)

A meeting of the Planning Board was held on Wednesday, August 19th, 2020. The virtual meeting convened at 6:00 p.m. via Zoom.

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

Approval of Minutes: Ms. Pearlmutter made a motion to approve the minutes from the August 5th, 2020 Planning Board meeting. Mr. Francis seconded the motion and the vote was unanimous.

Items:

1. **200502 Carol & Kevin Regan / Graham Architects, Authorized Agent** – Site Plan Review – **Findings of Fact** – for approval to demolish the existing residence and rebuild in a different location to the greatest possible extent within the property line setbacks. 9 Sunset Lane, Assessor's Tax Map 33, Lot 16 in the Goose Rocks Zone. *George Lichte, Case Manager*

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

2. **200601 Michael Spenard & Brian Glaser / Kennebunk River Architects, Authorized Agent** – Site Plan Review – **Continued Public Hearing** – for approval to demolish the existing residence and rebuild in a different location to the greatest possible extent within the property line setbacks. 35 Langsford Road, Assessor's Tax Map 21, Block 11, Lot 22 in the Cape Porpoise West Zone. *Nina Pearlmutter, Case Manager*

Mr. Boak introduced the Agenda item and asked the Board members if they had any questions for the Applicant. The other Board members had no questions.

Mr. Boak re-opened the Public Hearing. There were no comments or questions from the public. Mr. Boak closed the Public Hearing.

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

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

3. **200701 Tidemark Corporation (Chicks Marina) / Eco-Analysts, Inc., Authorized Agent** — Site Plan Review — **Public Hearing** — for approval to do a maintenance dredge to remove approximately 1,800 cubic yards of sediment to restore adequate access depths at the marina. The dredge was previously approved by the Planning Board on March 15, 2017, but was never done. 75 Ocean Avenue, identified as Assessor's Tax Map 08, Block 001, Lot 22 in the Riverfront Zone. *Scott Mahoney, Case Manager*

Mr. Boak introduced the Agenda item noting Mr. Bud Brown of Eco-Analysts was unable to attend tonight's meeting and acknowledged receipt of 2 emails. The first email message was regarding the 2017 permits which are still in effect for the next couple of years and the second email provided authorization for Eco-Analysts to represent Chicks Marina, Mr. Boak noted.

Mr. Boak opened the Public Hearing and stated if anyone had questions regarding the Applicant the Board would forward them to Mr. Brown for him to respond at the next Planning Board meeting.

There were no questions from the Board members or the public.

Mr. Simmons made a motion to continue the Public Hearing to the next Planning Board meeting on September 2nd, 2020. Mr. Boak seconded the motion and the vote was unanimous.

4. **200702 Aaron & Emily Cooper / Walsh Engineering, Authorized Agent** — Site Plan Review — **Public Hearing** — for approval to remove the existing stone seawall and replace it with a new stone seawall using 5' diameter boulders on the eastern property line. This work was previously approved by the Planning Board on February 6, 2019, but was never done. 165 Kings Highway, identified as Assessor's Tax Map 33, Block 1, Lot 3 in the Goose Rocks, Shoreland and Resource Protection Zones. *Larry Simmons, Case Manager*

Mr. Boak introduced the Agenda item and asked the Applicant to provide a summary of the project.

Mr. Bill Walsh of Walsh Engineering addressed the Board and shared his site plans on the screen for the Board and the viewing public. Mr. Walsh stated he is representing the Coopers whose home is at 165 Kings Highway on Goose Rocks Beach which is halfway between Dyke Road and the Batson River located in the Goose Rocks, Shoreland and Resource Protection Zones. This Application was approved back in February of 2019, Mr. Walsh added, when the owners decided to not go through with the project but after witnessing the damage from the past seasons' storms they determined it would be best to rebuild the seawall. Mr. Walsh explained they have determined the stone sizes there presently just cannot handle the force of the waves. The wall will be disassembled carefully in pieces, a geotextile fabric will be installed at the bottom and the wall will be reassembled using some of the smaller stones from the wall, adding new larger stones and interlocking them to be able to withstand the storm events, Mr. Walsh concluded.

Mr. Simmons asked the Applicant if he could provide copies of the DEP's Permit By Rule and the letter of authorization that was referenced in the Findings of Fact from the February 6, 2019 Planning Board approval. Mr. Walsh agreed to provide both of those items.

Mr. Simmons suggested perhaps both Aaron and Emily Cooper sign a new authorization letter since both are listed as trustees on the Warranty Deed. Mr. Walsh agreed to provide an updated letter.

Mr. Simmons also asked if the Applicant could provide some information on the soil types found that could impact the use of a geotextile lining.

Mr. Simmons then asked what parameters are used in designing the wall and how does that translate to a performance guarantee for the owners and for the town. Mr. Simmons suggested possibly including in the documentation the median stone weight, unit mass of the stone, the design wave height, and the revetment slope as well as some comments about run-up. Lastly, Mr. Simmons commented the slope of the wall seems steep and suggested making the wall shallower as that may increase the length of performance of the wall. Mr. Walsh responded by stating he uses the Army Corps of Engineers methodology and his stamp is his guarantee, along with insurance, that the project is based on sound engineering principles and design. As for the slope, Mr. Walsh stated it cannot be pushed further seaward.

Mr. Francis asked how the proposed wall will compare aesthetically to the neighbors. Mr. Walsh replied it will be very similar with a mix of medium size stones and larger ones so they will lock the others together.

Ms. Pearlmuter asked how will they interlock the stone wall with the neighbors' walls if they do not have easements with the neighbors. Mr. Walsh explained they've shown proposed easements on the plan as that has been a condition of approval and if the easements are not obtained then the work will have to stop 8 or 10 feet from the property lines.

Ms. Pearlmuter questioned if the rocks will move more during storms if they can't be interlocked with the neighbors' walls. Mr. Walsh explained they have to interlock the stones at some point, it is just a matter of where they can do it.

For clarification, Mr. Mahoney asked the Applicant if they have an easement on either side of the property. Mr. Walsh replied they do not but the Coopers have spoken to their neighbors and they are willing to provide them with easements before construction. Mr. Boak added this was a condition of approval in the February 6, 2019 approval.

There were no further questions from the Board members. Mr. Boak opened the Public Hearing.

Ms. Kathleen O'Shea, owner of 168 Kings Highway asked if the neighbors do not grant easements will the water go behind the rocks on either side and possibly erode their walls because they don't have the lining underneath. Mr. Walsh responded he believes the neighbors' walls will continue to function as they do today regardless of the fabric being laid underneath the Coopers' wall. Mr. Gilliam explained if the easements are not obtained then the scope of the project would be reduced as the intent of the easement is to allow the Coopers to get the connectivity between the existing walls on either side. The Code Enforcement Office, Mr. Gilliam added, is looking for a temporary construction easement that would allow for that interlock. Mr. Gilliam suggested to the Board members that if the Applicant could not obtain easements from their neighbors, then the area of disturbance would have to be reduced by a specific number of feet on both sides. Mr. Walsh added he believes that was the condition on that last approval that stated if no construction easement was obtained the Applicant must work within the boundary lines of the property owned by the Applicant. The problem is that the rocks cross the property line, Mr. Walsh added, so the work would be drawn in on either side.

Ms. O'Shea then asked how the Applicant was going to get the large equipment down to the beach and what are the repercussions with that equipment on the beach with the water coming up to the rocks. Mr. Walsh responded there are a couple of options, one is to come through the Cooper's property and the other is to utilize a Right of Way that would get the equipment to the beach. Mr. Walsh explained they would obviously have to work with the tides as it is a very timed operation where they only take apart what they can put back within the time.

There were no further questions from the public.

Mr. Boak made a motion to continue the Public Hearing to the next Planning Board meeting on September 2, 2020. Ms. Pearlmuter seconded the motion and the vote was unanimous.

5. **200201 Seaside Hotel Associates d/b/a The Nonantum Resort — Site Plan Review — Public Hearing** (continued from March 18th) — for approval to add a new roof over an existing deck to include stairs to an open air deck near the existing inground pool as well as add a concrete apron to the existing apron at one end of the pool. 95 Ocean Avenue, Assessor's Tax Map 8, Block 1, Lot 13 in the Riverfront Zone. *George Lichte, Case Manager*

Mr. Boak introduced the Agenda item.

Ms. Tina Hewitt-Gordon, General Manager of the Nonantum Resort addressed the Board stating Mr. John Einseidler is also available for questions. Ms. Hewitt-Gordon gave a brief summary of the Application stating currently their pool area does not meet their needs and asked to the expand the pool and install a deck over the existing platform as the need for outside dining has increased considerably due to the current COVID guidelines. By removing the shuffleboard courts and replacing it with a concrete apron and some grassy area around the pool, Ms. Hewitt-Gordon continued, it will expand the apron of the pool and the deck would be covering the area adjacent to the Portside area which is approximately 51' x 16'.

Mr. Einseidler shared the site plans on the screen for the viewing public and ran through the calculations of the existing and proposed concrete and grass areas with a net decrease in lot coverage.

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

Ms. Pearlmutter asked if there will be a roof over the proposed deck. Ms. Hewitt-Gordon replied the roof is the deck and there would be a staircase on the side of the deck with fencing over the deck itself.

Mr. Mahoney asked the Applicant if they plan to put seating under the deck. Ms. Hewitt-Gordon responded they are not planning to as the pool area is small, and they need to control the number of people who can be at the pool at one time.

For clarification, Mr. Simmons asked if the Applicant is going to convert an existing roof as a deck or build a roof as a deck. Mr. Hewitt-Gordon replied they are asking to build a roof as a deck.

Mr. Francis asked if there is only one egress to the roof deck. Ms. Hewitt-Gordon replied yes and that has been approved by the Fire Marshall.

Mr. Boak opened the Public Hearing. There were no questions or comments from the public at this time.

Mr. Francis made a motion to continue the Public Hearing to the next Planning Board meeting. Ms. Pearlmutter seconded the motion and the vote was unanimous.

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

Submitted by: Patricia Saunders, Planning Board Recording Secretary