

Kennebunkport Planning Board
January 4th, 2023 @ 6:00 PM
Hybrid Meeting Via ZOOM and In-Person
32 North Street, Kennebunkport

A meeting of the Planning Board was held on Wednesday, January 4, 2023 in-person and via the ZOOM format. The meeting convened at 6:00 p.m.

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

Approval of Minutes: Mr. Simmons made a motion to approve the minutes of the December 7th, 2022 Planning Board meeting. Mr. Francis seconded the motion, and the motion passed with a vote of 4-0. Ms. Pearlmutter abstained from voting.

Items:

1. **221101 Ocean Sound Subdivision – Robert Metcalf – Mitchell & Associates/Agent** – Minor Revision to Previously Approved Subdivision – **Public Hearing** – This application for minor revision to a previously approved subdivision has been submitted with the intent to alter Ocean Sound Subdivision’s plan. The applicant is seeking a revision to wetland delineation for lot 1c. The existing plan displays a wetland “finger” along the cul de sac, being the primary focus of this application (Assessor’s Tax Map 20, Block 4, Lot 1C in the Cape Arundel Zone). *Case Manager: Charles “Larry” Simmons.*

Mr. Boak introduced the agenda item.

Mr. Bob Metcalf of Mitchell & Associates representing Phil and Lisa Vickers, addressed the Board stating this Application is essentially a map correction to remove a wetland delineation. Mr. Metcalf explained after hiring Longview Partners to assess the site, they concluded the area in question does not meet the criteria for a wetland. Mr. Metcalf concluded his summary by stating the plan submitted at the last meeting has not changed and there is a note added to the plan stating where the wetland area was and how it does not meet the criteria for a wetland.

Mr. Simmons asked the Applicant to confirm the parcel lot was 1.39 acres. Mr. Metcalf agreed with Mr. Simmons’ statement.

There were no further questions from the board members.

Mr. Boak opened the Public Hearing. Mr. Dave Powell confirmed there are 4 attendees via Zoom.

There were no questions from the audience in attendance or on Zoom.

Mr. Boak closed the Public Hearing.

Mr. Simmons made a motion to approve the Application. Mr. Mahoney seconded the motion, and the vote was unanimous.

The Findings of Fact will be read at the end of tonight's meeting.

- 2. 221102 Turbats Creek Preserve – Robert Metcalf – Mitchell & Associates/Agent** – Minor Revision to a Previously Approved Subdivision – **Public Hearing** – This application for minor revision to a previously approved subdivision has been submitted with the intent to alter Turbats Creek Preserve's plan. The applicant requests to "add" an existing lot from outside of Turbats Creek Preserve Condominium, to be included as part of the subdivision. The lot in question, 7 Timber Ledge Lane (21-9-52A), is proposed to be Unit #8 of Turbats Creek Preserve. This lot is located between Ebs Cove Subdivision and Turbats Creek Preserve Condominium. It is accessed via a private deeded right of way that travels over Nehoc Lane and Timber Ledge Lane (Assessor's Tax Map 21, Block 3, Lot 2A in the Village Residential Zone). *Case Manager: Nina Pearlmutter.*

Mr. Boak introduced the agenda item.

Mr. Bob Metcalf representing Keenan Sahin addressed the Board stating this is another minor amendment to a previously approved subdivision. Mr. Metcalf explained when Mr. Sahin purchased the lot he was granted with the purchase the rights to enter his lot into the Condominium Association for Turbats Creek Preserve. Mr. Metcalf further explained this lot is located between the Ebs Cove Subdivision and the Turbats Creek Preserve Condominiums and is accessed via a deeded Right of Way that travels over Nehoc Lane and Timber Ledge Lane and would like to incorporate that lot into the Preserve.

Ms. Pearlmutter read a statement she prepared on the question raised about the authority of the Planning Board and whether this Application is a major or minor revision. Ms. Pearlmutter argued this is a major revision because it is adding a new lot to the subdivision.

Mr. Gilliam noted the lot is already developed with a house on it. Mrs. Pearlmutter added she didn't think the Applicant needs to write up a new Application but it should be reviewed as a major amendment.

Mr. Metcalf commented there are no site improvements needed and the lot is on septic and well. Ms. Pearlmutter added the Board can simply acknowledge there are no site improvements to be made.

Attorney Bruce Read representing Mr. Sahin, addressed the Board stating Mr. Sahin has always had the right to request to petition to become part of the subdivision. Attorney Read added the house has been there for 20 years, is shown on the original plan, and his client simply wants it shown as a member of the Preserve Association.

Mr. Boak questioned why the Planning Board needs to be involved since it states in the 1999 Agreement that the Applicant is a member of the Homeowner's Association. Attorney Read replied because it needs to be added to the subdivision plans to amend it to get the condominium documents recorded stating Mr. Sahin's lot is now part of the subdivision plan.

A lengthy discussion among the Board members, Mr. Metcalf, Attorney Read, and Mr. Gilliam occurred on the mechanics of changing this Application from a minor amendment to a subdivision to a major revision to a subdivision.

Mr. Gilliam reminded the Board that the scope of this review is a review of the lines of the plan and the only aspect the Planning Board can exercise their procedural discretion is the Board can choose whether or not to hold a second Public Hearing during the Final Review Phase of a Subdivision Site Plan Review process.

Mr. Boak opened the Public Hearing. It was confirmed there were 5 attendees on Zoom.

There were no comments or questions from the audience in attendance or via Zoom.

Mr. Boak closed the Public Hearing.

After some discussion, the Board members and Applicant agreed this Application should be re-classified as a Major Amendment to a previously approved Subdivision. Mr. Metcalf asked when the Board members would like the new Application submitted by. The Board agreed to put this on the agenda for the first meeting in February.

Mr. Francis clarified the Planning Board is asking for a written notification stating the Homeowners Association agrees with this plan.

Mr. Metcalf stated he has had discussions with every member of the Homeowners Association who have been notified and have expressed no objections to this plan.

Mr. Simmons made a motion to approve this preliminary plan. Ms. Pearlmutter seconded the motion, and the vote was unanimous.

Ms. Pearlmutter agreed to draft a letter citing this approval and the new submission for a major revision.

- 3. 221003 K.J. Trudo Properties, LLC/The Glen at Goose Rocks Subdivision – Jason Vafiades/Agent – Initial Review** – The Applicant proposes a 9 lot residential subdivision. The project will be served by private wells and septic. Access to the site will be from Goose rocks Road via a single road that splits into two segments each with a cul-de-sac. (Assessor's Tax map 15, Block 1, Lot 1B in the Farm and Forest Zone).

Mr. Boak introduced the agenda item.

Mr. Lucien Langlois addressed the Board stating this application is for a 9-lot subdivision in the Farm and Forest Zone and is partially in the Shoreland Zone due to a wetland across the street. Mr. Langlois explained they received comments from their meeting with the Code Enforcement Office and will include their response to those comments with the next submission. Mr. Gilliam added the Code Enforcement Office provided some initial comments in their meeting with the Applicant and recognizes the Planning Board would also have some feedback on the design and layout as is the purpose of this preliminary meeting.

Mr. Langlois explained the subdivision layout includes 2 segments of road; one is 1,200 linear feet and will require a waiver. There is also a network of wetlands, 2 streams, and a vernal pool habitat that is identified, Mr. Langlois continued, and they have submitted an application with the Maine DEP. Mr. Langlois also noted all lots will have private wells and septic systems.

As Mr. Langlois continued his presentation, the Board members, Applicant, and Mr. Gilliam had a detailed discussion on FEMA flood maps, elevations, the proposed Right of Way areas, driveway easements, stormwater easements, Homeowners Association documentation, road design, and soil test pit locations for acceptable septic locations.

Regarding the road design, Ms. Pearlmutter asked if the Fire Chief was consulted on the proposed design and length. Mr. Gilliam responded that he had a conversation with the Fire Chief and expects to have a letter from the Chief soon; adding Chief Everett did not have any issue with the length of the proposed roads or with the homes being protected with sprinkler systems. Mr. Gilliam offered to follow-up with Chief Everett to obtain that memo for the Board.

Mr. Gilliam asked the Board if they would like to have a peer review performed for the stormwater management plan on this Application. Mr. Boak and the other Board members agreed a peer review should be conducted.

The Board members, Mr. Gilliam, and Applicant continued their discussion on details of the proposed subdivision such as the proposed open space area, the

tree survey, construction schedule in coordination with DEP permits, and setbacks.

Mr. Simmons made a motion this Preliminary Application is complete. Ms. Pearlmutter seconded the motion, and the vote was unanimous. A Public Hearing will be held at the February 1st, 2023 Planning Board meeting.

Mr. Simmons volunteered as Case Manager for this Application.

Other Business:

Mr. Simmons read the Findings of Fact for Case #221101 Ocean Sound Subdivision into the record. Mr. Simmons made a motion to approve said Findings. Mr. Boak seconded the motion, and the vote was unanimous.

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

Submitted By: Patricia Saunders, Planning Board Recording Secretary