

**Kennebunkport Planning Board  
December 7th, 2016 ~ 7:00 PM  
Kennebunkport Village Fire Station, 6 Elm Street**

A regular meeting of the Planning Board was held on Wednesday, December 7th, 2016. The meeting convened at 7:00 p.m. in the Kennebunkport Village Fire Station.

Members Present: Mr. David Kling (Chair), Peter Fellenz, Tom Boak, Russ Grady, D. Scott Mahoney, Nina Pearlmutter

Approval of Minutes: Mr. Boak made a motion to approve the minutes from the November 16th, 2016 Planning Board meeting. Mr. Grady seconded the motion and the vote was unanimous.

Items:

1. **161001 Melissa Winstanley / Sandra Guay, Authorized Agent** – Site Plan Review – **Findings of Fact** – for re-approval to do a maintenance dredge to remove approximately 310 cubic yards of silt and sand to restore adequate mooring and access depths at an existing recreational pier. [85 Ocean Avenue, identified as Assessor's Tax Map 08, Block 001, Lot 18 in the Village Residential, Shoreland and Resource Protection Zones.] *Peter Fellenz, Case Manager*

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

2. **161101 Sandpiper Capital Management II, LLC (Ebs Cove Subdivision) / Sebago Technics, Authorized Agent** – Minor Revision to previously approved subdivision – **Initial Review** – for approval to make lighting changes and to eliminate condition of Approval #5 of previous Planning Board Approval stating "changes to Ebs Cove Declaration of Covenant must receive Planning Board Approval". [Ebs Cove Lane, Assessor's Tax Map 21, Block 009, Lot 52 (portion) in the Village Residential Zone.]

Mr. Kling introduced the Agenda item explaining that minor changes to a previously approved subdivision are assessed as a Final Site Plan Review without requiring the typical Preliminary Site Plan Review process as a new subdivision would require.

Mr. Steve Doe of Sebago Technics addressed the Board along with Geoff Bowley stating they are seeking approval for two items. The first item they are seeking approval for, Mr. Doe stated, is they would like to install low level streetlights on 12 foot poles along Ebs Cove Lane. They would also replace the existing lights on the stone piers at the entrance to the subdivision to match the new streetlights, Mr. Doe added. A copy of their lighting plan has been submitted to the Kennebunkport Lighting Committee, Mr. Doe said, but he has not received any approval or comments yet.

Mr. Doe stated the second item they are seeking approval for is to change a condition of approval requiring any changes to the Ebs Cove Declaration of Covenants would necessitate Planning Board Approval. The Applicant feels this requirement would be too restrictive to the homeowners, Mr. Doe added. Mr. Fellenz commented this requirement seems quite onerous on the homeowners.

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

Mr. Fellenz asked what the purpose of the lighting was. Mr. Doe replied it is to improve the look of the property, adding the lighting will be similar to that on the Wallace Woods Subdivision.

Mr. Kling stated the Board would need confirmation from the Lighting Committee before approval.

Mr. Fellenz made a motion the Application is complete. Mr. Grady seconded the motion and the vote was unanimous. A Public Hearing will be held at the next Planning Board meeting on December 21<sup>st</sup>, 2016.

3. **161102 Binnacle Hill, LLC / Sebago Technics, Authorized Agent – Sketch Plan** – for review of a 15-lot cluster subdivision. [New Biddeford Road, Assessor's Tax Map 41, Block 002, Lots 8C & 8D in the Goose Rocks Zone.]

Mr. Kling introduced the Agenda item and explained each phase of the Site Plan approval process for Subdivisions noting the Sketch Plan is the first phase and is an informal segment where the Applicant seeks input from the Board.

Mr. Steve Doe of Sebago Technics addressed the Board and introduced Mr. Geoff Bowley and Attorney Ralph Austin. Mr. Doe explained this is a Sketch Plan to build a 15-lot single family clustered subdivision on a parcel that is comprised of 2 pieces each owned by Charles Ritchie and Cheryl Ritchie. The property is comprised of 43.4 acres with a 1,000-foot-long road beginning at New Biddeford Road and ending in a cul-de-sac, Mr. Doe added.

Utilizing an enlarged Site Plan, Mr. Doe indicated all of the green areas are designated open space areas which totals approximately 23 acres or 53% of the total property.

Mr. Kling asked how much of the 53% of open space is upland. Mr. Doe replied the wetlands make up 11 acres of the total area. Mr. Doe also indicated the meadow in the front of the property along New Biddeford Road is mostly wet and they intend to keep that area as it is to maintain the same view as you drive down New Biddeford Road.

Mr. Doe also noted that all of the lots will be connected to public water, public sewer and will have underground power. The lots range in size from 28,000 sq. ft. to 100,000 sq. ft. Mr. Doe added.

Mr. Doe explained they have tried to limit the wetland impacts to mostly road crossings and driveway crossings where some of the lots have shared driveways. Some of the proposed shared driveways are fairly long, Mr. Doe stated, so they have met with Fire Chief Allan Moir who suggested widening portions of those driveways to allow 2 vehicles to pass for emergency vehicular access. Mr. Kling suggested perhaps adding a hammerhead at the end of those driveways in order for fire trucks to turn around to exit.

Mr. Kling also informed the Applicant it is required to have a letter of examination and approval from the Fire Chief. Mr. Doe replied he would have that for the formal Application.

Mr. Doe also noted they are required to obtain a Tier 1 wetland permit and have already met with the Maine DEP and Army Corps of Engineers, both of whom indicated it would not be an issue.

Mr. Grady noted the plan states a net residential area of 25.5 acres and asked if a half acre is what would be impacted for access to buildings and lots? Mr. Doe answered that is correct.

As far as road design, Mr. Doe stated the road would be built to town standards which is 20 feet of pavement with a 3-foot gravel shoulder on one side and are considering doing a 5-foot wide paved shoulder on the other side or an actual sidewalk. This property is not in a growth zone, Mr. Doe added, so it is not required to provide a sidewalk.

Mr. Kling asked Mr. Doe if they could provide the dimensions of the driveways in their Preliminary Application. Mr. Doe replied he would show those on the actual site plan and where the widened sections would be.

Mr. Doe also indicated where a water hydrant is currently located and have already spoken with the KKW Water District and will provide a letter from them on adequacy of a water supply.

On the enlarged site map, Mr. Doe indicated where the sewer stops were and where they would be connecting to the sewer lines adding they would install a force main to go under the stream to the sewer. Mr. Kling asked if any sewer line issues would be resolved prior to submitting a Preliminary Application. Mr. Doe responded he would ask the Sewer Superintendent to provide a letter about their connection options.

The Board members and Mr. Doe had a brief discussion on the 50 foot Right of Way on the proposed subdivision and the sewer connections.

Mr. Doe also indicated there is an endangered rare plant identified by the Maine Natural Areas program and have contacted them who recommended that the field in the front of the property be kept as it is today. There is also a spotted turtle habitat in the back of the property and have spoken with Inland Fisheries and Wildlife who have asked for a protective radius of 1/8<sup>th</sup> mile around the habitat. A non-significant vernal pool has also been identified on the property, Mr. Doe added, and have spoken with the Maine DEP and the Army Corps of Engineers about their requirements for protection of the area.

Mr. Kling asked if there were any storm water management issues. Mr. Doe responded they have created a storm water basin at the entrance to the property for drainage.

Mr. Kling asked what size houses are they considering? Mr. Doe replied the building footprints will range from 2,500-4,000 square feet.

Because of the high tourism in the area, Ms. Pearlmuter recommended the Applicant make the driveways wide enough for 2 cars to pass given the potential for several visitors parking along the driveways of those homes. Mr. Doe commented that is part of the Fire Chief's concern as well and their proposal will reflect that.

Mr. Kling suggested that some subdivisions have put in restrictions regarding rentals and asked if they might consider doing the same. Mr. Doe replied he would speak to his clients about that.

Ms. Pearlmuter also asked who is in control of the proposed common driveways in regards to plowing. Mr. Doe responded he did not know the answer to that but would find out before submitting his Preliminary Application.

Because of the high walking traffic along New Biddeford Road in the summer, Ms. Pearlmuter also urged the Applicant to consider installing a sidewalk instead of a paved shoulder.

Ms. Pearlmuter also expressed her concern on the use of chemicals in the maintenance and care of the lawns. Mr. Kling informed the Applicant there is a requirement in the Subdivision Regulations to follow the Best Practices Guidelines with respect to Herbicides and Fertilizers. Ms. Pearlmuter also suggested planting trees in the front of the property to aid with water runoff. Mr. Kling asked the

Applicant to perhaps consider an alternative way to reach the storm water requirements while maintaining the desired visual affect from New Biddeford Road. Mr. Doe agreed to do some research on that.

Mr. Grady asked if they plan to have just one fire hydrant in the area. Mr. Doe replied Mr. Moir agreed one hydrant at the end of the cul-de-sac would be sufficient.

Mr. Kling thanked the Applicant for his presentation.

Mr. Doe asked the Board if they would like to schedule a site walk? The Board members agreed it would be difficult to schedule a site this time of year and would prefer to wait until a Preliminary Site Plan was submitted in January or February.

4. **161103 Barbara Muller / Richard Roy, Authorized Agent** - Site Plan Review - **Initial Review** - for approval to replace failing foundation with a new poured and concrete block foundation. [34 New Biddeford Road, Assessor's Tax Map 41, Block 001, Lot 09 in the Shoreland and Goose Rocks Zone.]

Mr. Kling introduced the Agenda item. Mr. Gilliam explained the reason this Application is before the Board is because there is an issue with the structure not meeting the 75-foot coastal wetland setback according to the preliminary flood maps.

Mr. Richard Roy addressed the Board on behalf of the Applicant and provided pictures for the Board members to review. Mr. Roy explained they will need to prop up the house on risers, pour a new 10-inch concrete foundation and set the house back onto the new foundation.

Mr. Fellenz asked if there was a requirement to raise the building because of the new flood plain. Mr. Roy responded that requirement was met in 1970 and the structure is actually 3 feet above the flood plain.

Referring to the submitted site plan in the Application, Mr. Gilliam explained the property is located on New Biddeford Road and indicated where it does not meet the 75-foot setback. It is the Board's task to determine if there is a hardship with moving the building out of the setback or leaving it in its place, Mr. Gilliam added.

Mr. Kling commented that the financial burden of relocating the foundation and possibly the septic system would be substantial.

There were no further questions from the Board.

Mr. Fellenz made a motion the Application was complete as presented. Mr. Mahoney seconded the motion and the vote was unanimous. A Public Hearing will be held at the next Planning Board meeting on December 21<sup>st</sup>, 2016.

**Other Business:** Letter from Ralph Austin requesting the Planning Board's opinion on whether subdivision regulations had been violated as a result of conveyances within the rocky Pasture Properties. [36 Rocky Pasture Lane, Assessor's Tax Map 8, Block 3, Lots 18, 26, 27 & 27E.]

Attorney Ralph Austin addressed the Board, representing John Mills who is the sole owner of the properties collectively known as the John Roberts Estate and is in the process of selling the entire estate as one property. Mr. Austin explained the potential buyer believes there may have been some technical violations in prior conveyances and want some reassurances from the town there are no subdivision violations for which the town would take enforcement actions on his client.

The Board members and Mr. Gilliam had a brief conversation about the history of this property and concluded it was out of the scope of responsibility for the Planning Board to provide such assurances. Mr. Gilliam offered to ask for a legal opinion from Town Counsel and discuss with Mr. Austin at a future date.

Mr. Kling also asked if the Board members could review the section on the open space requirement of the Subdivision Regulations and come to the next meeting with suggestions on possible language to tighten the circumstances of this requirement. Mr. Gilliam offered to also share some examples of how other communities handle this same situation.

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

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