

Kennebunkport Planning Board
May 4th, 2022 @ 6:00 PM
Hybrid Meeting Via ZOOM and IN-PERSON
32 North Street, Village Fire Station Meeting Room

A hybrid meeting of the Planning Board was held on Wednesday, May 4th, 2022 via the ZOOM format. The meeting convened at 6:00 p.m.

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

Approval of Minutes: Prior to tonight's meeting, Mr. Simmons suggested a few minor changes to be made to the minutes from the April 20th, 2022 Planning Board meeting. Mr. Simmons made a motion to approve said amended minutes. Ms. Pearlmutter seconded the motion, and the vote was unanimous.

Items:

- 1. 220301 Brian Glasser and Michael Spenard / Brian Beaudette Authorized Agent – Site Plan Review Application – Public Hearing –** Demolish existing house and cottage and build a new single-family home (35 Langsford Road, Assessor's Tax Map 21, Lot 11, Block 22 in the Cape Porpoise West Zone). Case Manager: Ed Francis

Mr. Boak introduced the agenda item.

Mr. Brian Glasser was in attendance in person. Mr. Mike Spenard was promoted to panelist and participated remotely.

Mr. Boak asked if an erosion control plan was received as requested at the last meeting. Mr. Gilliam responded the Code Enforcement Office had not received anything new from the Applicant.

Mr. Glasser addressed the Board members stating they are planning on tearing down the existing structure which is a 120-year-old summer cottage and replace it with a modest 2,000 square foot home in a style fitting with the houses currently on Langsford Road.

Mr. Boak asked the Board members if they had any questions for the Applicant prior to opening the Public Hearing portion of the meeting.

In preparing a draft of the Findings of Fact for this Application, Mr. Francis asked for feedback on including the following condition: "Because this property is entirely within the Shoreland Zone the applicant has agreed to restrict the use of lawn fertilizer and chemicals. Fertilizer and/or chemicals may not be applied

within 25-feet of the normal high-water mark, and beyond 25-feet only low phosphate, slow-release nitrogen fertilizers can be applied.” Mr. Francis explained the language in this statement is taken from the New Hampshire Shoreland Water Quality Protection Act.

Ms. Pearlmutter offered her opinion that Mr. Francis’ suggestion was too specific and offered the Board should do what they’ve done in the past which is to ask the Applicant to restrain from using any fertilizers or pesticides.

The Board members had a detailed and lengthy conversation regarding Mr. Francis’ proposed wording on the use of pesticides and fertilizers and the Planning Board’s authority to put such conditions on an Applicant in relation to the Board’s jurisdiction as defined in the Land Use Ordinance’s Article 10 Guidelines for Decisions.

Mr. Gilliam cautioned the Board that as a practical matter any conditions placed on an Applicant have to be reasonably enforceable.

After much discussion, the Board members agreed to include some language as a finding and not as a condition of approval in the final Findings of Fact.

Mr. Gilliam suggested this topic is important and would perhaps be better understood and a consensus reached through the Planning Board holding a separate workshop on this and this type of proposed performance standard along with other topics that have been cause for discussion and debate, but perhaps not in the context of a specific Application.

Mr. Gilliam also noted the submitted plans in this Application do have erosion sedimentation notes provided.

Mr. Boak opened the Public Hearing.

Ms. Kathi Jordan, via Zoom, addressed the Board and asked if this property will be used primarily as a residence and will no longer be listed as a vacation home on VRBO. Mr. Glasser replied they plan to move permanently to Maine in 2-3 years when they retire. Ms. Jordan then asked if they will be using the property as a VRBO up until 3 years from now with more bedrooms and bathrooms and more people. Mr. Glasser responded they are going to restrict the renting of the property as it is now at a maximum of 4 people.

In reference to the Board’s previous discussion on the use pesticides and fertilizers affecting the wetlands, Ms. Jordan offered since the Applicant’s lot is directly in front of her property she would discuss with the Applicant and come to an agreement on restricting harmful substances from entering the wetlands.

There were no further questions from the viewing audience or the audience members in attendance. Mr. Boak closed the Public Hearing.

The Board members asked Mr. Gilliam if it were possible in the future the Board could be notified if an Applicant's property has a permit on file as a short-term rental with the town. Mr. Gilliam agreed to provide that information for future Applications.

Ms. Pearlmutter made a motion to approve the Application with the amendment asking them to cooperate with the use of pesticides and fertilizers. Mr. Simmons seconded the motion, and the vote was unanimous. The Findings of Fact will be read at the next Planning Board meeting.

2. 220302 Seashore Trolley Museum/Sebago Technics, Inc. – Site Plan Review Application – Public Hearing – Proposing to construct a 3,500sf building to house and display a large model rail for the public (195 Log Cabin Road, Assessor's Tax Map 3, Lot 1, Block 1 in the Farm and Forest Zone). Case Manager: Nina Pearlmutter

Mr. Boak introduced the agenda item.

Mr. Henry Hess of Sebago Technics address the Board stating this project is proposing a 3,500 square foot building on the campus on a section that is currently an open grass area across from the existing Welcome Center. The proposed building is a 1-1/2 story structure to house a model rail display for the public, Mr. Hess added. Mr. Hess continued stating a few other improvements, including sidewalk access, landscaping as well as improvements to the existing parking are and parking lot to accommodate for ADA compliant parking spaces, and allow proper drainage on the site.

Mr. Hess shared the site plans on the screen for the viewing audience and indicated the location of the proposed structure in relation to the current buildings on the site and explained water will come from the current existing public well. Bathrooms for the new building shall be serviced by a septic tank that will be pumped to an existing leach field.

From a request made at the last meeting, Mr. Hess added an agent authorization letter was submitted to be included in the Application.

Mr. Boak opened the Public Hearing. There were no comments or questions from the audience in attendance in person or on Zoom. Mr. Boak closed the Public Hearing.

Mr. Francis made a motion to approve the Application. Ms. Pearlmutter seconded the motion, and the vote was unanimous. The Findings of Fact will be read at the next Planning Board meeting.

3. 220303 Town of Kennebunkport/GEI Consults – Barney Baker, P.E. –
Site Plan Review Application – **Public Hearing** – proposed replacement of the existing bait shed, rehabilitation and expansion of the wharf float system to better serve existing use by commercial fishermen and recreational boaters (79-81 Pier Road, Assessor's Tax Map 29, Lot 2, Block 7 in the Cape Porpoise Square Zone). Case Manager: Charles "Larry" Simmons

Mr. Boak introduced the agenda item.

Mr. Barney Baker, Civil Engineer with GEI Consultants addressed the Board stating this project is a rehabilitation of the Cape Porpoise facility in working closely with the town officials and several fishermen.

As discussed at the last meeting, Mr. Baker read through several items provided as requested by the Board members which were:

- Information on type of windows to be used, some will be double hung with screens and others are fixed windows with awning units that will have UV sensitive decals that are translucent; both of which are designed to prevent bird strikes.
- Pier lighting will be to town standards for dark sky and limited coverage.
- Provided a letter from the Public Works Director stating there is sufficient capacity for the proposed restroom facility.
- Provided specific details on design life for the facility along with site exposure for wave action.

After a detailed discussion, Mr. Simmons requested the Applicant provide the following information:

1. Revised letter of authorization clarifying Town Manager Laurie Smith's role,
2. Correct typo changing Kennebunk to Kennebunkport,
3. Indicate on drawing B2 the various elevations, the original average ground level, the 30-foot maximum height, and the top of the proposed building,
4. Provide the storm study with accompanying data.

Mr. Baker agreed to provide that information to Mr. Gilliam before the next Planning Board meeting.

Referring to a previous discussion regarding the ADA ramp, Mr. Francis asked what provisions have been made for ADA parking. Mr. Baker replied their position is that they are not changing the use of the facility so the number of people using the facility will not change thus they have not generated a parking plan. Ms. Smith added there currently is handicapped parking at the parking lot as a public entity that has public parking, and they would continue to maintain the parking that is there now.

A brief discussion occurred on parking at the pier, and it was agreed that parking was not part of this Application.

Mr. Boak opened the Public Hearing.

Mr. Richard Perry of Stone Haven Drive addressed the Board in support of this project and asked about the proposed lighting. Mr. Baker explained the lighting will be the same as what was installed at Government Wharf and will be compliant with the town standard for dark sky and for lumen coverage.

Mr. Dave Perloff, an abutter, addressed the Board to ask about the parking and how that will be affected during construction with the addition of construction vehicles coming in/out. Mr. Baker responded parking and the construction phasing is an important issue which will be determined once they have obtained a contractor. Mr. Baker added this project will be constructed in the winter months when the facilities are used less than during the summer months. Mr. Baker also added the contractor will be required to coordinate their activities with the other operations on the pier.

In a letter previously submitted to the Board, Mr. Perloff suggested installing webcams throughout the pier for the Harbormaster and others.

Mr. Francis reminded Mr. Perloff webcams are not within the jurisdiction of this Board.

A brief conversation occurred with the Board members and Mr. Perloff on the advantages of webcams.

Ms. Pearlmutter asked if they were required to obtain any modification for underwater wires to their permits that are still pending with the Army Corps of Engineers and the Department of Inland Fisheries. Mr. Baker replied the modifications are known as a Section 8 and would be approved by the Navigation branch through the New England Division in Boston.

Mr. Peter Eaton, a fisherman, addressed the Board in support of the project and noted the fishermen who use the pier all get along and work together.

Mr. Ed Hutchins, Kennebunkport Selectman and 5th generation lobsterman, addressed the Board also in support of the Application and stated he does not believe this project will increase the activity in Cape Porpoise. Mr. Hutchins also commented that preservation and continuation of the commercial fishermen has always been important to the citizens of this town.

Mr. Allen Daggett, Kennebunkport Selectman addressed the Board also in support of this Application and stated there are over 100 people in town that rely on the pier to be functional and safe.

Mr. John Nunan, a 3rd generation lobsterman out of Cape Porpoise also addressed the Board in support of the Application adding the facility now is deteriorating and will not last for him to keep operating his business.

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

Mr. Boak closed the Public Hearing.

Mr. Simmons offered his opinion regarding Mr. Perloff's suggestion to add web cameras to the proposed new facility that it would be a change in scope and would require a separate Application.

Mr. Francis agreed with Mr. Simmons's comment regarding the webcams.

Mr. Francis made a motion to approve this Application pending completion of the four items Mr. Simmons listed. Mr. Mahoney seconded the motion, and the vote was unanimous. The Findings of Fact will be read at the next Planning Board meeting.

Mr. Lichte reminded the audience there is still a vacancy open on the Planning Board and encouraged all those interested to please submit their application to the town offices.

4. 2030 Comprehensive Plan Review / Eli Rubin, Community Planner and Werner Gilliam/Director of Planning and Development.

Ms. Pearlmutter stated she will submit her written statement to the Growth Planning Committee as Vice-Chair of the Planning Board as her opinion and inform the Growth Planning Committee that the Planning Board members have copies of her statement for consideration as well.

The Board members, Mr. Gilliam and Mr. Rubin had extensive conversations on sections of the Comprehensive Plan regarding Integrating Transportation and Land Use Planning, Hazard Mitigation, and Future Land Use.

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

Submitted By: Patricia Saunders, Planning Board Recording Secretary