

Kennebunkport Planning Board
May 3rd, 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, May 3rd, 2023 in-person and via the ZOOM format. The meeting convened at 6:00 p.m.

Members Present: Ms. Nina Pearlmutter (Vice Chair), D. Scott Mahoney, Ed Francis, Larry Simmons
Mr. Tom Boak participated via Zoom.

Approval of Minutes: Mr. Simmons made a motion to approve the minutes of the April 5th, 2023 Planning Board meeting. Mr. Francis seconded the motion, and the vote was unanimous.

Items:

1. **230402 232 Arundel Road Joseph and Heidi Maynard / James Logan, Longview Partners, LLC/Agent – Site Plan Review** – This application is seeking review for a driveway crossing wetlands located in the Shoreland Zone. (Assessor's Tax Map 15, Block 2, Lot 20 in the Farm and Forest Zone).

Ms. Pearlmutter introduced the agenda item.

Mr. James Logan addressed the Board stating he is here tonight to get some feedback from the Board members and explain the need for this Site Plan Review which is limited to just the driveway or access to a conforming and buildable piece of the Maynard's property. Mr. Logan explained the proposed driveway will be approximately 1,350 feet long with a portion of it falling within the 250-foot Shoreland Zone the town has established in an emergent wetland. There is no waterbody, Mr. Logan continued, and there is a manmade pond, but this marsh area that is non-forested is the type of wetland the Maine Department of Environmental Protection often wants included for an added level of protection. Mr. Logan also added there are several locations where a culvert will need to be placed and they have calculated there will be about 4,000 square feet of wetland impact. Mr. Logan continued his presentation by explaining some of the DEP exemptions regarding forested wetlands and indicated on an enlarged aerial photo of the property where the boundary line and overlay zone is located along with providing a detailed explanation of the topography of the property including the manmade pond, pond berm and outlet.

Mr. Logan again stated his purpose in appearing before the Board is to gauge whether they will allow a portion of the Shoreland Zone to be impacted, roughly 1/10th of an acre of wetlands, which will require a DEP permit. Mr. Logan added there is no other access to this 5+ acre area of upland that is in the westerly corner of the Maynard's property.

Mr. Logan then provided a more detailed explanation of the proposed road design in relation to the property's topography and boundaries.

Mr. Francis commented that the Applicant is relying on a definition of upland edge and referring to emergent wetlands which is not in the Land Use Ordinance. Mr. Francis then asked if these emergent wetlands are classified as freshwater wetlands from the town's perspective. Mr. Gilliam responded that whenever one sees descriptions like emergent those are typically consistent with what you'll see as freshwater wetlands. Mr. Logan added all the wetlands on this property are freshwater, and the emergent ones are wet enough to not have any tree canopy over them and are consistent for the beginning point of measurement for the Shoreland Zone.

Mr. Francis also stated the freshwater wetland in the Ordinance is written where the upland edge of that is where the Shoreland Zone begins and extends in 250 feet and begins where the setback would be measured from the 75-foot or the 50-foot minimum: noting the Planning Board has some discretion in determining if the driveway setback should 75-feet or 50-feet if argued no reasonable alternatives exist.

Mr. Gilliam pointed out to the Board that the wetland is what creates the Shoreland Zone and for the Applicant to be less than 50-feet from the setback would require a variance from the Zoning Board.

The Board members, Mr. Gilliam, and Mr. Logan had a detailed discussion on the boundary lines on the site plans, definitions in the Land Use Ordinance, mapping for planning purposes, and field reconnaissance.

Mr. Logan offered to return to the site to determine if a 50-foot setback would be possible for the proposed driveway. A discussion with the Board members and Mr. Logan occurred on the mapping of wetlands with multiple other sources and what measurements or maps take precedence.

Ms. Pearlmutter asked if the Fire Chief would need to approve the road design due to its length. Mr. Gilliam replied No. Mr. Logan added there will be a turnaround at the end of the road that would accommodate a fire truck or other emergency vehicles.

Mr. Simmons asked about the manmade pond, what direction it drains, and if it would be drained to reduce the impact of the emergent wetlands. Mr. Logan responded there is no real channel but the pond drains towards the berm and they have no desire to change the hydrology of any of this wetland system other than to install a couple of 3-foot culverts.

Mr. Logan offered to provide the Board members with new maps of the property with enhanced labeling of the boundary lines so that the tree line is more evident.

Mr. Gilliam suggested it would also be helpful to have the actual boundary survey as well as the new maps. Mr. Logan agreed to provide that information.

The Board members agreed unanimously to continue this Initial Review to another meeting.

For agenda purposes, Mr. Gilliam suggested this review not be placed on the agenda until the Applicant has submitted the information requested this evening. The Board members and Applicant agreed with Mr. Gilliam's suggestion.

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

Submitted By: Patricia Saunders, Planning Board Recording Secretary