

**Kennebunkport Planning Board
September 6th, 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, September 6th, 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, Charles “Larry” Simmons, Mike West

Mr. West will have voting privileges for tonight’s meeting.

Approval of Minutes: Mr. Simmons made a motion to approve the amended minutes of the August 16th, 2023 Planning Board meeting. Ms. Pearlmutter seconded the motion, and the motion passed.

Items:

- 1. 230702 Richard and Mary Steiger** – 11 Wildwood Ave – Site Plan Review Application – **Public Hearing** – Replacement of an existing non-conforming 2 story, 2 family house (Assessor’s Tax Map 35, Block 23, Lot 10 in Goose Rocks Zone). Case manager: Mike West

Mr. Boak introduced the agenda item.

Ms. Amy Nunan, Trustee, representing Richard and Mary Steiger addressed the Board stating they are looking to have the existing 2-story structure removed and build a new 2-story property that is accessible for her father’s wheelchair.

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

Mr. Simmons expressed his concern that the elevation of the first floor is 11 feet, but the property is in an AE13 Flood Zone which means it should be at 15 feet according to the 2017 FEMA flood maps. Mr. Simmons further explained the implication of this is in the Land Use Ordinance Article 10.10 Guidelines for Decisions the Board would have to answer Yes on item A.11 that *“Adequate provision has not been made to handle stormwater runoff or other drainage problems on the site”*.

Mr. West offered his opinion that he was looking at this Application in its nonconformances in 3-dimensions so as long as the new structure was not becoming more nonconforming it is ok.

The Board members and Applicant had a detailed discussion on whether the Application should conform with the 2017 FEMA flood maps.

After some discussion, the Board members agreed this Application does not make the new structure any more nonconforming than what already exists.

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

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

Mr. Boak explained the Findings of Fact will be read at the next Planning Board meeting.

2. 230703 63 Pier Road – Flycatcher, LLC/Lisa Vickers/Agent – Site Plan Review Application – Continued Initial Review – Applicant seeks to reconstruct a new dock to replace the original dock destroyed in October of 2022 (Assessor's Tax Map 29, Block 2, Lot 6 in Cape Porpoise East Zone). Case manager: George Litche

Mr. Boak introduced the agenda item.

Mr. Tim Forrester of Flycatcher, LLC addressed the Board stating the existing structure was damaged during a recent winter storm and is asking to replace it in kind. Based on comments from the last meeting, Mr. Forrester explained they are proposing to keep the new structure in the same footprint by raising the elevation of the pier and by adding a set of stairs to start the dock at the original location. Mr. Forrester also explained they added a cross-sectional view in the plans showing the existing and proposed structures overlaid on one another, demonstrating the float lands in the exact same spot as it did before.

Mr. Forrester shared his slideshow presentation on the screen for the viewing audience.

Mr. West questioned the total length of the new dock may exceed what was originally there. After some discussion, Mr. Forrester responded that the total length of the dock is 107 feet.

Ms. Pearlmutter commented it would be best if the Applicant could have ½-inch spacing between the planks to allow more light through to the vegetation below. Mr. Forrester agreed ½-inch spacing would not be a problem.

Mr. Boak expressed his objection to the proposed 6-foot width of the dock. Mr. Forrester responded the property owners were adamant about keeping the width the same as what was there before.

Mr. Simmons asked if they were going to remove the existing posts or columns. Mr. Forrester replied the existing pier is completely gone so there is nothing to remove. Mr. Simmons then asked if they need to get Maine DEP approval on this and if they plan to reuse the existing bore holes for the new posts. Mr.

Forrester responded Yes, they do need DEP approval as this is a new application for both the Army Corps of Engineers and the State because they have made changes from the original design. Mr. Forrester also stated they will not use the existing bore holes for the new posts.

Mr. Simmons made a motion that the Application is complete. Ms. Pearlmutter seconded the motion, and the vote was unanimous.

A Public Hearing will be held at the next Planning Board meeting.

3. 230704 22 Agamenticus Avenue – Atlantic Environmental/Lisa Vickers/Agent – Site Plan Review Application – Public Hearing – Applicant seeks to stabilize the existing stone retaining wall that is failing and in need of repair (Assessor's Tax Map 30, Block 3, Lot 30 in Cape Porpoise East Zone). Case manager: Larry Simmons

Mr. Boak introduced the agenda item.

Mr. Tim Forrester of Atlantic Environmental addressed the Board stating the property owners have been maintaining the existing retaining wall over the summer and have finally reached a point where the wall has deteriorated and is failing. Mr. Forrester explained they are proposing to add riprap in front of the wall to a 1:1 slope with 4–6-foot diameter quarry blasted boulders.

Mr. Forrester showed a brief video of the wave action on the wall during a storm this past December as part of his slideshow presentation.

Mr. Simmons asked the Applicant to consider the 2017 FEMA flood maps and how that would affect this proposal and questioned whether it would be necessary to pin the granite beams to a failing wall. Mr. Forrester explained the idea behind the granite cap is it establishes a finished elevation and by raising it up it would hold that consistent elevation throughout the length of the project.

Mr. Simmons and the Applicant had a detailed discussion on storm surge, wave action, and wall deterioration.

Mr. Simmons asked if the Applicant could revise the drawings to show what might change if using the 2017 proposed base level. Mr. Forrester agreed to provide that information.

Mr. Simmons also asked if the Applicant could verify if this property was on private or town sewer. Mr. Forrester agreed to update the plans to show where the leach field is located on the property.

Mr. Boak opened the Public Hearing.

Mr. Simmons also questioned if the property is in the Cape Porpoise Square Zone and not the Cape Porpoise East Zone as indicated on the Application.

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

To confirm, Mr. Forrester listed the following items the Board would like prior to the next meeting: 2017 flood elevations shown on the plans and cross sections and what ramifications that may have, indicate the location of the leach field, and whether or not the property is in the Cape Porpoise East or Cape Porpoise Square Zone.

4. 230801 Seaside Hotel Associates dba: Nonantum Resort/Tina Gordon AP/Agent – Site Plan Review Application – Initial Review – The Applicant seeks to repair the back lawn of the resort by adding approximately 540 cubic yards of material in the shoreland (Assessor's Tax Map 8, Block 1, Lot 13 in Cape Arundel Zone).

Mr. Boak introduced the agenda item.

Ms. Tina Hewitt-Gordon addressed the Board stating they had submitted for DEP approval back in April and expect to have an answer by the end of October to work on the integrity of the back lot that has been flooding with rising storm water. Ms. Gordon explained they have been working with some civil engineers who have determined a considerable amount of fill needs to be brought in so the drainage can be angled to the river instead of towards the central part of the lawn where it currently pools.

Ms. Pearlmutter commented there were a few errors or inconsistencies on the Application including adding the Book and Page of the deed. Ms. Gordon agreed to correct those errors for the next meeting.

Ms. Gordon explained that despite having an underground stormwater concrete chamber system, the area has become compacted over the years so at high tide the water comes in but can't drain back out.

Mr. Simmons commented that the drawing refers to the old flood maps, but the property is in an AE12 zone and asked how would this proposal change when considering the 2017 FEMA flood maps.

Ms. Gordon and the Board members had a brief discussion on the water flow on the property and if that would affect their seawall.

Ms. Gordon explained they have been working with a civil engineer who will be available at the next meeting to answer the Board's questions.

Ms. Pearlmutter asked if the Applicant could provide a larger diagram that shows the elevations and provide more information on how the work will be done.

Ms. Pearlmutter made a motion to continue the Initial Review. Mr. Mahoney seconded the motion, and the vote was unanimous.

Ms. Pearlmutter volunteered to be Case Manager for this Application.

5. 230701 St. Ann's Episcopal Church/William R. Walsh, III, P.E., LEED AP/Agent – Site Plan Review Application – Findings of Fact – Replacement of the existing masonry seawall to provide adequate shoreline protection and protect the existing structures from flood damage (Assessor's Tax Map 7, Block 1, Lot 9 & 9A in Cape Arundel Zone). Case manager: Larry Simmons

Mr. Simmons read the Findings of Fact 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