

Kennebunkport Planning Board
May 1st, 2013 ~ 7:00 PM
Village Fire Station, 32 North Street

A regular meeting of the Planning Board was held on Wednesday, May 1, 2013. The meeting convened at 7:00 p.m. in the North Street Fire Station.

Members Present: Mr. David Kling (Chair), Greg Reid, Gordon Ayer, John Hathaway, Helen Conaty

Approval of Minutes: Mr. Reid made a motion to approve the minutes from the April 17th, 2013 Planning Board meeting. Ms. Conaty seconded the motion and the vote was unanimous.

Items:

1) 130203 Thomas & Carol St. Germain – Site Plan Review – **Findings of Fact** - for approval to remove and re-construct a retaining wall in a different location, rebuild a retaining wall with new material, install and reduce driveway and build a walkway. [10 Ward Road Extension, identified as Assessor's Tax Map 21, Block 011, Lot 28 in the Cape Porpoise West Zone.] *Greg Reid, Case Manager*

Mr. Reid read the Findings of Fact into the record. Mr. Ayer made a motion to approve said Findings. Mr. Hathaway seconded the motion and the vote was unanimous

3) 130301 Richard Woodman – Site Plan Review – **Findings of Fact**– for approval to build a wood frame structure with a concrete floor for the use as a boat workshop and storage. [Route 9, Assessor's Tax Map 21, Block 004, Lot 36 in the Free Enterprise Zone.] *David Kling, Case Manager*

Mr. Kling read the Findings of Fact into the record. Mr. Ayer made a motion to approve said Findings. Mr. Reid seconded the motion and the vote was unanimous.

4) 130204 Robert T. Murphy / Walsh Engineering, Authorized Agent – Site Plan Review – **Findings of Fact** – for approval to reconstruct a seawall that was built under approval of the Planning Board on January 18, 2012 but has since eroded. [115 Marshall Point Road, identified as Assessor's Tax Map 31, Block 003, Lot 07 in the Goose Rocks Zone.] *John Hathaway, Case Manager*

Mr. Hathaway read the Findings of Fact into the record. Mr. Kling made a motion to approve said Findings. Ms. Conaty seconded the motion and the vote was unanimous.

Mr. Kling gave a brief summary of the Site Plan Approval process for the visiting University of New England students in the audience.

5) 130401, Walkers Point Family Limited Partnership / Woodard & Curran, Authorized Agent – Site Plan Review – **Public Hearing / Findings of Fact will be read at the end of the public hearing** – for approval to extend two low seawalls an additional 50' to 75' in length to prevent further erosion and re-set stone armouring displaced by recent storms on existing stone pier. [243 Walkers Point, identified as Assessor's Tax Map 7, Block 001, lots 01/02.]

Mr. Kling introduced the Agenda item noting the Application was voted complete at the last meeting.

Mr. Dave Cenus of Woodard & Curran addressed the Board and gave a brief summary of the Application noting the goal of extending the two seawalls is to help stabilize the erosive wave action conditions. Mr. Cenus also stated they have received approvals from the Maine DEP and the Army Corps of Engineers.

Mr. Kling opened the Public Hearing. There were no comments or questions from the public. Mr. Kling closed the Public Hearing.

Mr. Reid made a motion to approve the Application as presented. Mr. Hathaway seconded the motion and the vote was unanimous.

Mr. Kling read the Findings of Fact into the record. Mr. Hathaway made a motion to approve said Findings. Mr. Ayer seconded the motion and the vote was unanimous.

6) Lakeside 19, LLC /Ocean Sound Subdivision/ Albert Frick Associates, Inc., Authorized Agent, for approval to revise a previously approved three-lot subdivision off Ocean Avenue, to create a four-lot subdivision. [Ocean Sound Lane, identified as Assessor's Tax Map 20, Block 004, Lots 1A, 1B, 1C and 1D.]

Mr. Kling introduced the Agenda item noting receipt of the following correspondence:

- Letter from Drummond & Drummond regarding Lakeside 19, LLC. Mr. Kling made special note of the last sentence which states: "The Bank of Maine is not in possession or control of Lakeside 19, LLC's property, and Lakeside 19, LLC remains in possession and control of its property."
- Letter from Preti Flaherty representing Mr. and Mrs. Stockwell who are owners of Lot 3 regarding their on-going discussions with the developer.

Mr. Jim Logan, Soil Scientist with Albert Frick Associates, addressed the Board representing both the Applicant and the Stockwells. Mr. Logan explained the approval of the Subdivision in 2004 included a public waterline by KK&W to be installed. Due to various reasons the Board has previously been made aware of, the subdivision will not have public water. Mr. Logan explained to the Board each lot will have their own septic and well and he will provide a more detailed plan with alternative septic test sites at a future point. This change has prompted the Stockwells to consider switching Lot 3 with Lot 4 which would require Site Plan approval as well.

Mr. Kling asked for an update on the current infrastructure at the site. Mr. Logan replied the curb cut and road have been put in on the property.

Mr. Kling made note of the following items from a legal opinion sent to the Board on February 17, 2010 from Brian Willing, the Town's Attorney:

- "Article 9.1 of the Kennebunkport Subdivision Regulations, the Planning Board may approve a revision to a previously approved subdivision plan subject to requirements of final approval of Article 8.
- Article 9.3 limits the Planning Board scope of review to those portions of the original subdivision plan that are being proposed to change.
- In this instance I understand the proposed change would simply permit installations of well(s) instead of Town water. If so, the Planning Board's review should be limited to the water supply.
- Applicant is required to provide evidence of adequate ground water supply, etc.
- There does not appear to be any restriction in the Subdivision Regulations, or under State law, that would prevent the Planning Board from approving the proposed revision assuming the applicant otherwise meets all of the requirements of Articles 8 and 9, as well as State law. Furthermore, I am not aware of any legal precedent establishing that any water is to be supplied by a private well is materially inferior to public water so that the Planning Board would be precluded from approving the proposed revision to the original subdivision plan."

Mr. Logan acknowledged he had received this legal opinion and will attach it as part of this Application.

Mr. Kling asked Mr. Gilliam if he has reviewed the lot calculations for this plan. Mr. Gilliam responded he did not have any issue with the lot lines and was waiting for a septic system plan to make a final assessment.

Mr. Kyle Reiner, representing 279 Ocean Avenue, addressed the Board stating they have drilled two wells on their property and have not been able to obtain drinkable water. Mr. Reiner added the residents are not living on the property because of the water condition and wanted the Board to know there is great difficulty in that area to find acceptable well water.

Mr. Logan asked the Board for a consensus to proceed with the Application. The Board agreed and provided a few suggestions on what needs to be included along with the new Site Plan.

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

Submitted by: Patricia Saunders, Planning Board Recording Secretary