

**Kennebunkport Planning Board
October 1st, 2014 ~ 7:00 PM
Village Fire Station, 32 North Street**

A regular meeting of the Planning Board was held on Wednesday, October 1st, 2014. The meeting convened at 7:00 p.m. in the Kennebunkport Village Fire Station.

Members Present: Mr. David Kling (Chair), John Hathaway, Peter Fellenz, Helen Conaty, Thomas Boak
Mr. Boak will have voting privileges for this meeting.

Approval of Minutes: Ms. Conaty made a motion to approve the minutes from the September 17th, 2014 Planning Board meeting. Mr. Fellenz seconded the motion and the vote was unanimous.

Items:

1. **The Chicadee Trust, Cape Arundel Woods Subdivision / Sebago Technics, Authorized Agent - Preliminary Application – Continued Initial Review** - for approval to amend the Plan of Lot 2A [2 Poets Lane, identified as Assessor's Tax Map 07, Block 013, Lot 1D in the Cape Arundel Zone.]

Mr. Kling introduced the Agenda item and asked Mr. Steve Doe of Sebago Technics to provide a summary of the recent changes to the Application. Mr. Doe addressed the Board stating they have submitted a letter of approval from Allan Muir, Fire chief prior to this meeting. Mr. Doe also explained that after speaking to the abutter, Ms. Terralyn Swift has agreed to extend a private water line for access to town water to enable the Applicant to connect their lots to town water as well. Mr. Doe added they are trying to coordinate with the abutters so that the installation can be done all at once. There will be a hydrant installed on Poet's Lane, Mr. Doe concluded.

Mr. Kling acknowledged receipt of Fire chief Muir's letter approving the Application for adequate emergency vehicle access.

Due to the small scope of this Subdivision Application, Mr. Kling asked the Board's opinion on whether to waive holding a Public Hearing during this preliminary phase of review and move onto the Final Site Plan Review. The Board unanimously consented to waive holding a Public Hearing during this Preliminary Phase. Mr. Fellenz made a motion to approve this Preliminary Application as presented. Mr. Hathaway seconded the motion and the vote was unanimous.

2. **140802 Earth Restaurant, Hidden Pond II / Sebago Technics, Authorized Agent – Site Plan Review – Public Hearing** – for approval to increase the kitchen and food prep area at the Earth Restaurant by 412 square feet, relocate two sheds and do some minor site work. This project was previously approved by the Planning Board on March 20, 2013, however no permits were obtained and the approval has expired. [354 Goose Rocks Road, identified as Assessors Tax Map 38, Block 001, Lot 08 in the Free Enterprise Zone.]

Mr. Kling announced the Agenda item and introduced Mr. Steve Doe, representing the Applicant of Earth Restaurant at Hidden Pond II. Mr. Doe addressed the Board stating this Application was originally approved on March 20, 2013 to expand the kitchen area. Mr. Doe explained there are no changes to this Application from the previously approved Application.

Mr. Kling opened the Public Hearing. There were no comments or questions from the public. Mr. Kling closed the Public Hearing and asked the Board for a motion to approve. Mr. Hathaway made a motion to approve the Application as presented. Mr. Fellenz seconded the motion and the vote was unanimous. Mr. Fellenz was assigned Case Manager to prepare the Findings of Fact to be read at the next Planning Board meeting.

3. **140803 Anne Barnes and Patrick & Lesley Brophy / Walsh Engineering, Authorized Agent – Site Plan Approval – Public Hearing** – for approval to reconstruct and expand a non-conforming family dwelling. [87 Ocean Avenue, identified as Assessor's Tax Map 08, Block 001, Lot 17 in the Village Residential Zone.]

Mr. King introduced the Agenda item. Attorney Ralph Austin, along with Bill Walsh, addressed the Board, stating they have made some modifications based on the Board's suggestions from the last meeting. Mr. Austin explained they have moved the location of the proposed house 7 feet further from the river and by so doing that have reduced the impervious surface area.

Mr. Walsh addressed the Board to give a brief detailed summary of the project stating this new proposal has further reduced the impervious area by reducing the front walkway and adjusting the side patio along with relocating the proposed house 32 feet from the water. Mr. Walsh also illustrated on enlarges site plans the existing wood seawall to be rebuilt with granite slabs.

Mr. Kling asked if the code Enforcement Office has independently verified the volume calculations submitted. Mr. Gilliam responded he has not gone to the site and measured the building but has reviewed the calculations provided in the Application and has no issues with the proposed plan.

Mr. Walsh pointed out to the Board where the garage would be relocated into a conforming position at a later date. Mr. Kling asked when that happens if it would reduce the driveway even further. Mr. Walsh replied yes it would.

There were no further questions from the Board for the Applicant.

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

Mr. Hathaway made a motion to approve the Application as amended subject to approval from the DEP provided no material changes will result from said DEP permit that would require the Applicant to appear before the Planning Board. Ms. Conaty seconded the motion and the vote was unanimous. Ms. Conaty was assigned as Case Manager to prepare the Findings of Fact to be read at the next Planning Board meeting on October 15th, 2014.

4. **Phillip McCabe Revocable Trust / Albert Frick Associates** – Preliminary Application – **Initial Review** – for approval to relocate head of access drive to its original permitted location prior to Ocean Sound Subdivision approval. [260 Ocean Avenue, identified as Assessor's Tax Map 20, Block 004, Lot 01 in the Cape Arundel Zone.]

Mr. Kling introduced the Agenda item. Mr. James Logan of Albert Frick Associates addressed the Board stating this Application is to relocate a driveway; adding there is no division of property and the lot in question is not part of the Ocean Sound Subdivision. Mr. Logan explained his client would like to have an individual driveway leading to Ocean Avenue which would require a minor subdivision amendment to the Ocean Sound Subdivision.

Mr. Kling asked for confirmation that this lot was not legally part of the subdivision. Attorney Steve Hodsdon responded it is not part of the subdivision and that issue was addressed in 2004 when the Ocean Sound Subdivision was before the Board. Mr. Hodsdon continued stating there was a letter from the Town Attorney Amy Tchao clarifying this parcel was not part of the subdivision but a condition was put into approval that the driveway be relocated.

Mr. Kling asked for clarification if the driveway is in the Resource Protection Zone. Mr. Gilliam responded the dwelling is not located within the Resource Protection Zone; however, the Maine Department of Inland Fisheries and Wildlife did include the driveway in the Resource Protection Zone because of its designation of the wetland area as a bird habitat. Mr. Gilliam advised that the Board needs to decide if this parcel has reasonable access according to the Ordinance. The driveway previously as it existed was permissible because it would have been seen as reasonable access, Mr. Gilliam continued. Mr. Gilliam instructed the Board to consider whether or not it is environmentally sound to reconstruct this driveway back into the Resource Protection Zone as a means of "necessary access". Mr. Gilliam offered his opinion the property already has reasonable access in its current configuration.

Mr. Logan argued that the Ordinance only refers to certain performance standards of roadway construction adding there would be no removal of fill from the original wetland. Mr. Logan also stated they would replant the connecting roadway to the Ocean Sound Subdivision.

Mr. Logan showed the Board members enlarged photos of the area in question.

Mr. Kling asked the Applicant if they know the total differences of the existing and proposed areas of impervious surfaces. Mr. Logan replied he has not performed those calculations yet.

Mr. Kling asked what the legal arrangement is between the Subdivision with respect to granting access at all times to the existing property. Mr. Hodsdon replied there is a deeded easement.

After much discussion among the Board, the Applicant and Mr. Gilliam, Mr. Kling listed the following items the Board would like the Applicant to provide clarification on:

- Calculations of impervious surfaces
- Legal status of guaranteed access
- Status of possible sidewalks along Ocean Avenue
- Sight distances

Mr. Hathaway made a motion to find the Application complete subject to receipt of the above mentioned items. Ms. Conaty seconded the motion and the vote was unanimous.

Other Business: Discussion of Growth Planning Committee's proposal regarding changes to residential/mixed use parts of Land Use Ordinance.

Referring to the draft document provided the Board at the last meeting, Mr. Gilliam explained this is a working document and covers the intent of what the Growth Planning Committee is attempting to do with regard to residential and commercial mixed use affordable housing.

There was a brief discussion among the Board members and the Growth Planning Committee members in attendance. Mr. Kling asked Mr. Gilliam to provide the Planning Board with some specific language of the potential ordinance additions or changes.

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

Submitted by: Patricia Saunders, Planning Board Recording Secretary