

Kennebunkport Planning Board
July 18th, 2012 ~ 7:00 PM
Village Fire Station, 32 North Street

A regular meeting of the Planning Board was held on Wednesday, July 18th, 2012. The meeting convened at 7:00 p.m. in the North Street Fire Station.

Members Present: Mr. David Kling (Chair), Leo Famolare, Gordon Ayer, Greg Reid, Peter Fellenz, Helen Conaty

Approval of Minutes: A motion was made to approve the minutes from the June 20th, 2012 Planning Board meeting. The motion was seconded and the vote was unanimous.

Items:

Other Business: Village Baptist Church / Harvey Wells, Authorized Agent – replacement of first floor egress deck and steps as well as second floor exterior fire escape at rear of church.

Mr. Harvey Wells, Architect for the Village Baptist Church addressed the Board stating their proposal is to replace two of their fire escapes located at the rear and side of the building. Mr. Wells stated the occupancy would remain the same as well as the parking area and the construction would be within the sideline setback. Mr. Wells also stated Jim Graves at the state Fire Marshall's office has reviewed these plans. In conclusion, Mr. Wells stated the church is asking to request the Planning Board to waive the Site Plan Review criteria and file directly with the Code Enforcement Officer after all state permits are received.

Mr. Kling stated he did not see an issue with referring this Applicant to the Code Enforcement Office and cited Article 8.3.A.3 which states: "Neither the addition of steps for access to the ground floor nor the addition of exterior stairs for access to the second floor of a building shall constitute an enlargement or expansion of an existing use."

Mr. Ayer made a motion the Board find that the work proposed by Harvey Wells on behalf of the Village Baptist Church should not require Site Plan submissions and can be reviewed solely by the Code Enforcement Officer. Mr. Reid seconded the motion and the vote was unanimous.

1) 120601 Kennebunkport Conservation Trust / Sebago Technics, Inc., Authorized Agent – Site Plan Review - **Initial Review** - for approval to alter 1,275 feet of forested freshwater wetland with an access road for a walking trail and tractor access to an existing field for maintenance mowing by constructing a 10' wide gravel road crossing a wetland with riprap side slopes and two culverts. [Assessor's Tax Map 24, Block 002, Lot 07C in the Free Enterprise Zone.]

Mr. Kling introduced this Agenda item and noted all of the Agenda items this evening are for Initial Review which means the Planning Board's duty is to determine the information presented is adequate or complete and if there are any issues that should be resolved before continuing to a Public Hearing.

Mr. Bill Case addressed the Board stating the long term goal of the Conservation is to have a trail system extending from Trust headquarters at Emmons Preserve to Cape Porpoise and the Arundel town line. Mr. Case indicated on the site plan where they were trying to go across a small parcel of wetland that is in the Shoreland Zone. Mr. Case noted the DEP recommended the Applicant use two 12" culverts on the crossing rather than one 18" culvert as originally planned. The field will be mowed in late October after all the nesting birds have gone, explained Mr. Case. Mr. Case also added there is no flow to this wetland.

Mr. Ayer asked if the DEP required putting in 2 culverts. Mr. Case replied the DEP did not require it but suggested the two culverts since the area does fill up with water and doesn't have a thread to the stream so it would be better to have 2 12-inch ones.

Mr. Famolare asked how much fill would be put in there. Mr. Case responded to fill the wetland itself is approximately 1200 feet and there is no fill required to get to the wetland itself. Mr. Case noted there is a substantial Hutchins cemetery on the land and they plan to restore that.

Mr. Reid asked if this parcel has been cleared recently. Mr. Case explained the field hasn't been mowed in 10-12 years but they are not going to completely clear it and will maintain the diversity of the habitat.

Mr. Fellenz asked what the walking trails were used for and if there were any that were handicapped accessible. Mr. Case responded that it is very difficult for the Trust to control how the trails are used. However, due to the topography it would be mostly pedestrian with 20-25% used by bikers, Mr. Case added. There aren't too many handicapped accessible trails at this point, Mr. Case concluded.

Ms. Conaty asked what the timetable is for the project's completion. Mr. Case replied they have the funds for this work to be done so it's based on the Board's approval and the contractor's availability when it can be completed.

Mr. Fellenz made a motion to find the Application complete. Mr. Famolare seconded the motion and the vote was unanimous. A Public Hearing will be held at the next Planning Board meeting on August 1, 2012.

2) 120602 John & Jeannie Scollins / Doyle Enterprises, Authorized Agent – Site Plan Review – Initial Review– for approval to remove the existing one story cottage and replace it with a new two story cottage in a different location to make it more conforming to setbacks, as well as relocate and enlarge an outbuilding. [11 Harwood Drive, identified as Assessor’s Tax Map 21, Block 005, Lot 25 in the Cape Porpoise West Zone.]

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

- Two communications from Jeremy Weis & Craig Perkins; one in relation to the septic plan and other concerns about relocation of the shed and the outflow from 2 basement sub pumps.
- Email from Alice Duston stating: “OUR NEW LEECH FIELD PLAN SHOWS THE BEDROCK 32 INCHES BELOW GRADE. WE ARE CONCERNED THAT THE LARGE AMMOUNT OF BLASTING WILL DAMAGE THE SONATUBES AND CEMENT COLUMNS SUPPORTING OUR COTTAGE. IF THIS PLANGOES FORWARD PLEASE INCLUDE LIABILITY PROTECTION FOR DAMAGE TO THE ABBUTTERS.
THANK YOU FOR YOUR KIND ATTENTION ALICE DUSTON 15 HARWOOD DRIVE”.

Ms. Diane Doyle representing John & Jeannie Scollins, addressed the Board explaining there are two structures; an accessory structure and a primary structure located in the Shoreland zone. Ms. Doyle gave a brief history of this Application and its previous denial by the Planning Board for including the square footage of the accessory building in the expansion of the main building. Ms. Doyle stated this revised plan is to expand the accessory structure by 30% as allowed and relocate it out of the flood zone to the head of the driveway. The primary structure will be expanded by 30% within the same footprint, Ms. Doyle explained.

Mr. Kling offered his opinion that with respect to the house, it is more straightforward and a matter of submitting all of the dimensional requirements. Mr. Kling noted this proposal is still moving the accessory structure further away from the water but will have to comply with Article 8.3.b.1. Determination of the Extent of Allowable Expansion.

Mr. Kling cited Article 8.3.B.4 which states in part: “In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation...In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.”

Mr. Reid asked what the foundation on the shed would be. Ms. Doyle replied it will be a new foundation but haven’t developed much since she was waiting for more direction from the Planning Board.

Mr. Ayer asked if the shed was being reconstructed. Ms. Doyle stated yes it was. Mr. Ayer pointed out that according to section 8.3.B.5 “Any non-conforming structure which is located less than the required setback from a lot line or a water body, tributary stream, or wetland and which is removed by fifty (50%) percent or less of the market value, or damaged or destroyed by fifty (50%) percent or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal. In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in section 3 above, the physical condition and type of foundation present, if any.” Mr. Ayer also made reference to the end note of the same section which states: “The words “damaged” and “destroyed” include voluntary removal by owners, as well as “Acts of God” such as fire, flood, wind or other causes.”

Mr. Kling summarized by stating the Applicant can increase the volume and the square footage by adding a second floor but cannot increase the impervious surface, i.e. the footprint. Ms. Doyle responded that she is not expanding the footprint at all

Mr. Brian Shaw addressed the Board and proposed an alternate plan that would provide a common wall for a portion of the house and shed and would allow a 14 foot setback on 2 sides. Ms. Doyle and the Board agreed with Mr. Shaw’s suggestion. Ms. Doyle stated she would meet with Mr. Shaw to work out the details and submit a revised site plan to the Board for their review.

3) 120603 John & Janet Cluff / James Logan, Authorized Agent – Site Plan Review – Initial Review – for approval to create an access driveway to serve two lots. [Old Cape Road, Assessor’s Tax Map 13, Block 003, Lot 16 in the Free Enterprise Zone.]

Mr. Kling introduced the Agenda item. Mr. Jim Logan with Albert Frick Associates addressed the Board stating they are proposing an access driveway to serve 2 lots where a portion of the driveway falls into the Shoreland Zone. Mr. Logan stated this will be 16 ft. wide clearance to allow emergency vehicle access.

Mr. Kling asked if this road is partly on a CMP easement. Mr. Logan replied a portion of it is and he would provide the language of that easement to the Board.

Mr. Reid asked if there was an issue with the culverts. Mr. Logan explained the DEP standards for storm water were not triggered though they did revise the culverts from the DEP application to the accurate standards.

Mr. Logan stated this is expressly a gravel driveway to serve 2 dwellings. Mr. Shaw asked if the Applicant would limit the lots to single family dwellings only. Mr. Logan replied he believed that is the owner’s intended proposal but could add a note to the plans stating so.

Mr. Kling asked Mr. Logan if he could provide the Board with the dimensions on the turnaround on the driveway, the Fire and Police Chief’s approvals and a copy of the easement language. Mr. Logan replied he would try to supply that information before the next meeting.

Mr. Reid made a motion to find the Application complete as presented by Albert Frick Associates. Mr. Famolare seconded the motion and the vote was unanimous. A Public Hearing will be held at the next Planning Board meeting on August 1st, 2012.

4) 120604 Robert & Marjorie Dennis / LeBlanc Associates, Authorized Agent – Site Plan Application – **Initial Review** – for approval to construct a 4' x 55' pier, 4' x 10' light transmitting thru-flow access ramp, 3' x 35' aluminum ramp & a 8' x 19' wood float. [25 Langsford Road, identified as Assessor's Tax Map 30, Block 001, Lot 35 in the Cape Porpoise West, Shoreland and Resource Protection Zones.]

Mr. Kling introduced the Agenda item. Mr. Joe LeBlanc, representing Robert and Marjorie Dennis, addressed the Board stating the project has received DEP approval as well as the Army Corps of Engineers permit. Mr. LeBlanc explained the new proposal has positioned the outer float between the mudflats and put a small landing float to get the ramp by some large boulders. The 4'x55' pier and 4'x10' access ramp will comprise of a light transmitting deck over the marsh grass.

Mr. Reid made a motion to find the Application complete. Mr. Fellenz seconded the motion. The vote was 4-0-1 in favor of the motion. Mr. Famolare abstained from voting. Mr. LeBlanc asked the Planning Board if the reading of the Findings of Fact could be done at the close of the Public Hearing in order to expedite matters. Mr. Kling replied he would prepare a draft Findings for the next Planning Board meeting.

5) 120605 US Hotels New England d/b/a Breakwater Inn & Spa / John Einsiedler, Authorized Agent - Site Plan Application – **Initial Review** – for approval to remove an existing structure under a single story porch roof and rebuild in same place with no expansion. [133 Ocean Avenue, Assessor's Tax Map 08, Block 001, Lots 5 & 7 in the Riverfront Zone.]

Mr. Kling introduced the Agenda item. Mr. John Einsiedler addressed the Board stating after meeting with some contractors it was suggested to remove the existing 1-story roof and replace it entirely. Mr. Einsiedler added the footprint will not change. The proposal also calls for removal of one bay window and a small end section of the restaurant in order to extend the deck all the way down the length of the building.

Mr. Reid asked if there would be any additional seating in the restaurant. Mr. Einsiedler replied there would not be any additional seating.

Mr. Reid made a motion to find the Application complete. Mr. Famolare 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