

Kennebunkport Planning Board
March 15th, 2017 ~ 7:00 PM
Kennebunkport Village Fire Station, 6 Elm Street

A regular meeting of the Planning Board was held on Wednesday, March 15th, 2017. The meeting convened at 7:00 p.m. in the Kennebunkport Village Fire Station.

Members Present: Mr. Peter Fellenz (Chair), Tom Boak, Russ Grady, D. Scott Mahoney, Mark Messer, Nina Pearlmutter

Approval of Minutes: Mr. Boak made a motion to approve the minutes from the March 1st, 2017 Planning Board meeting. Mr. Messer seconded the motion and the vote was unanimous.

Items:

1. **170104 Linda Nash / Eco-Analysts, Inc., Authorized Agent** - Site Plan Review – **Findings of Fact** – for approval to install a new dock consisting of an access landing, permanent pier and a seasonal ramp and float. [8 Church Street, identified as Assessor's Tax Map 11, Block 002 Lot 13 in the Village Residential, Shoreland and Resource Protection Zones.] **Russ Grady, Case Manager**

Mr. Grady read the Findings of Fact into the record. Mr. Mahoney made a motion to approve said Findings. Mr. Boak seconded the motion and the vote was unanimous.

2. **170105 Tidemark Corporation / Eco-Analysts, Inc., Authorized Agent** – Site Plan Review – **Findings of Fact** – for approval to do a maintenance dredge to remove approximately 1,800 cubic yards of sediment to restore adequate access depths at the marina. The Applicant also is requesting approval to construct a sheet pile wall that will tie into the existing wall. [75 Ocean Avenue, identified as Assessor's Tax Map 08, Block 001, Lot 22 in the Riverfront Zone.] **D. Scott Mahoney, Case Manager**

Mr. Mahoney read the Findings of Fact into the record. Mr. Grady made a motion to approve said Findings. Mr. Boak seconded the motion and the vote was unanimous.

3. **170106 Robert & Dana Holland** – Site Plan Review – **Findings of Fact** – for approval to remove an existing single family dwelling and foundation and replace with new in same location. [155 Wildes District Road, identified as Assessor's Tax Map 22, Block 005, Lot 22 in the Cape Porpoise West, Shoreland and Resource Protection Zones.] **Peter Fellenz, Case Manager**

Mr. Fellenz read the Findings of Fact into the record. Mr. Grady made a motion to approve said Findings. Mr. Mahoney seconded the motion and the vote was unanimous.

4. **170201 Chester Homer, III / Eco-Analysts, Inc., Authorized Agent** – Site Plan Review – **Public Hearing** – for approval to dredge 904 cubic yards sediment from the Kennebunk River, as well as construct a sheet pile wall along an existing failing bulkhead and reconstruct an existing failing dock. [83 Ocean Avenue, identified as Assessor's Tax Map 8, Block 1, Lot 19 in the Village Residential, Shoreland and Resource Protection Zone.]

Mr. Fellenz introduced the Agenda item.

Ms. Lisa Vickers of Eco-Analysts addressed the Board stating this Application is essentially asking for three approvals: 1.) to replace the existing bulkhead, 2.) to replace the failing dock, and 3.) to dredge 904 cubic yards to re-establish the depth of water. In stabilizing the bulkhead, the Application proposes to install a single wall fiberglass sheet pile wall and the westerly elevation will be raised to meet with the existing lawn area, Ms. Vickers explained. As for the dredging, Ms. Vickers continued, they have completed the sediment sampling and been approved by the Army Corps of Engineers and all dredge work will be within the subtidal area. Ms. Vickers added the lot is a non-conforming lot with 36 feet of water frontage, and the dock will be in the same location within the 10-foot setbacks with the pier reduced in length from 117 feet to 113 feet.

Mr. Fellenz asked the Board members if they had any questions for the Applicant. The Board members had no questions.

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

Mr. Grady made a motion to approve the Application. Mr. Messer seconded the motion and the vote was unanimous. The Findings of Fact will be read at the next Planning Board meeting.

- ~~5. **170202 Justin & Grace Benincasa / Sandra Guay, Esquire Authorized Agent** – Site Plan Review – **Public Hearing** – for approval to construct a 4' x 30' pier, a 3' x 25' seasonal ramp and a 10' x 20' float. [159 Wildes District Road, identified as Assessor's Tax Map 22,~~

~~Block 005 Lot 21 in the Cape Porpoise West, Shoreland and Resource Protection Zones.] Continued to 04/05/17 Agenda at the request of the Applicant.~~

- 6. 170102 Binnacle Hill Subdivision/Sebago Technics, Authorized Agent** –Preliminary Subdivision Review – **Public Hearing** – for approval of a 15 Lot cluster subdivision on New Biddeford Road, identified as Assessor's Tax Map 41, Block 002, Lots 8C & 8D in the Goose Rocks and partial Shoreland Zone.

Mr. Fellenz introduced the Agenda item.

Mr. Steve Doe of Sebago Technics addressed the Board stating he had submitted a supplemental packet of information specifically addressing comments from the Planning Board members and the Peer Review meeting. Mr. Doe also stated they have received a letter today from Jim Burrows, acting on behalf of Allan Moir requesting specifications on the hydrants to be placed at the end of the cul-de-sac and at the entrance. At the request of Mr. Gilliam, Mr. Doe added, they have provided details from the contractor on the precast concrete curbs to be used. Mr. Doe also stated there were several minor comments from the Acorn Engineering peer review and has included separately, details on the inspection, maintenance and housekeeping of the storm water system which will also be included in the homeowners' documents.

Mr. Fellenz asked if Acorn Engineering had any comments regarding the culvert size proposed. Mr. Doe responded stating the town ordinance requires 18-inch culverts be used with a minimum of 12 inches of cover. However, the ditch on New Biddeford Road is not deep enough to get 12 inches of cover so they are working with Mike Claus, Kennebunkport Highway Superintendent to find an alternative, Mr. Doe explained. Mr. Doe added they are required to get a waiver for the change in culvert size and have submitted that waiver request in their Application.

Mr. Doe also stated they did submit a waiver request on supplying a high-intensity soil map but the Maine DEP is requiring them to do one so they will be withdrawing that waiver request.

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

Mr. Messer asked who would have ownership of the common area. Mr. Doe replied that would be owned by the [homeowner's] association. Mr. Messer pointed out on the Site Plan the owners are listed as John & Cheryl Ritchie. Attorney Ralph Austin responded stating the closing and transfer of the property will not occur until the subdivision is approved but it can be noted on the plans that the ownership will be transferred.

Mr. Fellenz opened the Public Hearing.

Mr. Roger Miller of 4 Henchy Way addressed the Board to ask them to consider the following requests:

- All access to the subdivision site be off of New Biddeford Road
- No access to the private Right of Way adjacent to Ghayour property
- Limitation on the hours of work and heavy truck transport during summer hours.

Mr. Doe responded they only have access to the site from New Biddeford Road and would not be using any other outlet. To address concerns regarding work during the summer, Mr. Geoff Bowley addressed the Board stating he respects their concern and it is their wish not to create any type of hardship on seasonal homeowners or renters but in order to meet timelines they would have to engage in some work during that timeframe. Mr. Doe added he has spoken with the site contractor and their plan is once approved, they will focus all of the activity on the site itself during the summer months and will not be accessing the property by way of Kings Hwy. After Labor Day, the work on the sewer and water extension will need to begin however, Mr. Doe added, so that the road can be repaved before the asphalt plants close in November.

Mr. Fellenz asked if there were any further comments or questions from the public. There were none. Mr. Fellenz closed the Public Hearing.

Mr. Gilliam reminded the Board past practice has been for the Board once they've voted to approve a preliminary subdivision review is for the chair to draft a memo to the Applicant acknowledging the Applicant may proceed with the Final Application.

Mr. Boak made a motion to approve the Application and authorize the Chairman to draft such memo as previously mentioned. Mr. Grady seconded the motion.

Mr. Austin suggested it would be helpful to the Applicant if the Board vote on each of the waiver requests in the preliminary plan. Regarding the waiver requests, Mr. Doe cited the following:

- Asking for additional 20 feet for road length
- Asking for additional culverts
- Request steeper side slope
- Request waiver to not perform tree survey in the open space area
- Request no street trees in the open meadow area.

Mr. Messer made a motion to approve the waiver request to allow 20 extra feet to the road length in order for the traffic circle to be more level. Mr. Grady seconded the motion and the vote was unanimous.

Mr. Doe stated the culvert issue would still need to be worked out with Mike Clause of the Highway Department.

Mr. Messer made a motion to allow a steeper side slope for the sides of the road. Mr. Grady seconded the motion and the vote was unanimous.

In regards to the Applicant's request that the tree survey be limited to the developed portions only, Mr. Messer made a motion to waive the tree survey for the open space. Mr. Boak seconded the motion and the vote was unanimous.

Mr. Grady made a motion to grant the waiver to not plant street trees in front of the meadow area. Mr. Boak seconded the motion and the vote was unanimous.

Mr. Boak made a motion to approve the Preliminary Site Plan Application. Mr. Grady seconded the motion and the vote was unanimous.

7. 170103 Mills Road Subdivision /PDF Development & Construction, Authorized Agent – Preliminary Subdivision Review – **Continued Initial Review** – for approval of a 14 lot cluster subdivision on Mills Road, identified as Assessor's Tax Map 23, Block 001, Lot 19A in the Free Enterprise and Shoreland Zones.

Mr. Fellenz introduced the Agenda item.

Mr. Ken Wood of Attar Engineering, along with Mike Sudak and Walter Smith addressed the Board and acknowledged submission of revised plans dated March 6th, 2017.

The first item Mr. Wood addressed is the change in their proposal from on-site well and wastewater systems to extending the town sewer line for all lots to be connected to the town's sewer system. From discussions with Allan Moir, Mr. Wood explained each home would have a low-pressure pump and would be on well water.

Mr. Gilliam explained to the Applicant that the town requires when there is a proposed sewer extension the Applicant also needs to file a sewer application with the Sewer Department.

Due to additional costs estimated to be \$600,000 and the distance of 1,320 feet from the property line to the closest connection to the town water line, Mr. Wood requested to have the subdivision remain with on-site water wells. Mr. Wood further explained that due to the increased costs to tie into town water, the costs of each individual lot would increase by \$40,000 per lot.

Mr. Fellenz expressed his appreciation for the Applicant extending the sewer line but added there is still work to be done to make a convincing argument why they cannot extend the water line to the subdivision as well.

Mr. Wood clarified he is not proposing individual wells for each lot but rather a common water supply and distribution system.

Ms. Pearlmuter asked if there are any common wells in Kennebunkport. Mr. Gilliam responded there are two that have been identified as having that capacity; one is located on the Spang property and the other is at the Trolley Museum. Mr. Gilliam also added he is not aware of a subdivision proposing this type of water system in recent years and reminded the Board they need to not only consider whether there is enough capacity for household water usage but also for fire suppression systems as well. One other item worth mentioning, Mr. Gilliam stated, is when a private developer extends a water main the Public Utilities Commission pays a share of the costs and reimburses the developer a portion of those costs.

Mr. Fellenz asked the Applicant to provide the Board with a cost benefit analysis on the water supply options.

Mr. Messer asked the Applicant if they considered having individual wells for lots #6-10 and connect the rest of the lots to the town water line. Mr. Wood replied that if they elected to extend the municipal water to the site they would extend it to all of the lots. Mr. Wood added it is most attractive to buyers that lots have town sewer and private water or the other option is to not have a cluster development.

Mr. Wood added they will not be requesting a waiver on the tree survey as there is only 1 tree identified on the property that is over 21 inches in diameter.

Mr. Wood noted the project will need the following permits but would prefer not to submit these permits until they have had their preliminary plan approved by the Planning Board:

- 1) Entrance permit from Department of Transportation
- 2) Permit By Rule from Department of Environmental Protection
- 3) Permit from the Army Corps of Engineers for the vernal pools.

Mr. Wood stated ownership and maintenance of the open space are detailed in the Homeowners Association documents contained in the submitted package. Mr. Wood also added the reason for using a cluster design is to preserve more open space which is adjacent to the Kennebunkport Conservation Trust land and provide protection to the wetlands to the rear of the property.

Mr. Wood also stated they are not proposing installing sidewalks because the property is not in a growth zone. Mr. Boak asked if the town planned to install a sidewalk along Mills Road. Mr. Gilliam replied there is not a formal plan to put a sidewalk in but the town has been implementing widening shoulders for bicycle and pedestrian traffic. Mr. Boak pointed out the Applicant has stated they are targeting young families as their potential buyers and think sidewalks would be appropriate to families with young children. Ms. Pearlmutter pointed out people are very active in the summer months that even with an extended shoulder there is a lot of foot traffic in the early evening hours.

The Board members asked the Applicant to consider installing a sidewalk on one side of the access road to the end of the cul-de-sac.

Ms. Pearlmutter asked if the Board could continue this initial review until the Applicant has submitted the requested information on the water system and possibly have a peer review on just the storm water component. Mr. Gilliam responded that typically once the Planning Board has deemed the Application is complete the Board will request a technical peer review on the elements related to road design and the storm water system and the sewer components are handled through the Sewer Department. Mr. Gilliam offered his preference is to have one peer review for all components of the Application.

Mr. Wood concluded his presentation by stating he has submitted all of the requested materials on the checklist and asked the Board to proceed to the Public Hearing portion of the review at the next meeting.

Mr. Fellenz expressed his opinion that he would be more comfortable if the Applicant submitted the information previously requested before voting the Application complete and moving on to the Public Hearing.

In reading the submitted Homeowner's Association paperwork, Mr. Boak pointed out several typographical errors in the documents. Mr. Boak also asked about types of fertilizers to be used and if there needs to be a statement included in the Homeowner's Association documents. Mr. Gilliam responded that since the Homeowner's Association can modify its documents without having to obtain approval from the Planning Board, if the application of herbicides and pesticides is something the Board would like incorporated then it should be included in the Site Plan documents and in the Findings of Fact. Mr. Walter Smith agreed he can include information on the use of pesticides, etc. in the Application.

Mr. Smith also asked the Board to not vote whether the Application is complete and stated they would like to come back to the Board with the requested information at the next meeting.

Mr. Gilliam listed the following items the Applicant needs address for the next meeting:

- Provide a plan sheet of the well exclusion zones not just for septic systems but for road treatment as well.
- Adjust the net calculations for lots 12 & 3 to have the storm water areas deducted
- Provide culvert specifications and cross sections on the stream crossing.
- If proposing street lighting will need to have the Lighting Committee review the fixtures and submit a lighting plan.
- Provide details of the side slopes, particularly at the wetland crossings.
- The Board had previously asked for the open space to be quantified between wetland and upland areas and to identify the percentage of upland areas.

Mr. Boak made a motion to continue this review until the next regularly scheduled Planning Board meeting. Mr. Mahoney 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