

Kennebunkport Planning Board
May 5th, 2021 ~ 6:00 PM
Virtual Meeting (Via Zoom)

A meeting of the Planning Board was held on Wednesday, May 5th, 2021. The virtual meeting convened at 6:00 p.m. via Zoom.

Members Present: Ms. Nina Pearlmutter (Vice Chair), Ed Francis, Larry Simmons, George Lichte, John Harcourt

Ms. Pearlmutter noted Agenda Item #6 has been moved to the next Planning Board meeting on May 19, 2021.

Approval of Minutes: Mr. Lichte made a motion to approve the minutes from the April 21st, 2021 Planning Board meeting. Mr. Francis seconded the motion, and the vote was unanimous.

Items:

1. **Henry Family Trust / Civil Consultants, Authorized Agent -- Site Plan Review -- Public Hearing** -- for approval to install a tidal docking structure consisting of a 4' x 134' bark mulch pathway, a 4' x 7' fixed stair, a 4' x 51.56' fixed pier, a 3' x 33' gangway and a 10' x 20' float located by helical moorings. Overall pier length will be 98.77'. (22 Ebs Cove Lane, identified as Assessor's Tax Map 21, Block 9, Lot 52B in the Village Residential East, Shoreland and Resource Protection Zones. *Larry Simmons, Case Manager*

Ms. Pearlmutter introduced the Agenda item.

Mr. Geoff Aleve of Civil Consultants along with Attorney Amy McNally addressed the Board stating they are before the Board with a re-submission of a pier and float that meets the 100-foot maximum length requirement. Mr. Aleve added they have received approvals from the Army Corps of Engineers and the Maine Department of Environmental Protection which were included in their submission package along with a checklist on how this project meets the requirements of Section 240-5.11 of the Land Use Ordinance.

Mr. Aleve shared several plans on the screen and gave a more detailed presentation on the design and length of the proposed pier, ramp, and float.

In totaling the lengths of each section of the proposed pier and float, Ms. Pearlmutter questioned whether this Application meets the 100-foot maximum length since by her calculations the total length is 101.56 feet. Mr. Aleve explained there is a section of the float that overlaps with the ramp so the overall length is 98.77 feet not 101.56 feet. Ms. Pearlmutter then asked if the Applicant is arguing that instead of adding the total lengths of each section of the proposed dock, it is only covering 98.77 feet of ground because it is angled? Mr. Aleve agreed with Ms. Pearlmutter's statement and shared a page of his site plans on the screen that showed the elevations.

Mr. Lichte questioned the total length of the dock was accurate since the site plans depicted the dock length at low tide and the dock length would change at high tide.

Citing the Land Use Ordinance, Ms. Pearlmutter added the Ordinance does not refer to the coverage over the land, but rather it states the requirement is the total length of the structure you are putting in the tidal area. Mr. Lichte agreed with Ms. Pearlmutter's statement.

Mr. Francis noted if you review other piers this Board has approved it has in fact allowed for this overlap to be debited from the overall length regardless of how many different structures, as it has been the end-to-end length we have ruled on in the past.

Mr. Aleve added in reviewing the previous denial and talking with town staff, it appeared that this is the way it has been reviewed in the past that the length is from start to finish of the area as it fits at low tide and that is how we are under the 100-foot total length.

Mr. Lichte commented that is not the criteria the Board has used on other docks. Ms. Pearlmutter added it is also not the criteria in the Land Use Ordinance.

Attorney McNally stated in rereading the previous denial and the language in the Ordinance both state the approximate assembled length, so it is reasonable to infer that the measuring stick here is how far it extends and not just adding up the pieces.

Mr. Lichte pointed out that the Board is being showed the dock at low tide which is shorter than a dock at high tide and the Board was not given those measurements at high tide.

Ms. Pearlmutter agreed with Mr. Lichte's statement adding at high tide the dock will extend much further and may not meet the requirements.

Mr. Aleva asked the Board for the opportunity to illustrate the dock does meet the 100-foot requirement at high tide and will provide the Board members with the calculations of the angle of the dock as well.

Mr. Gilliam asked the Applicant how the float is anchored in place. Mr. Aleva explained the float is attached to the ramp itself with a bracket that has hinges on it that allows it to rise/fall with the tide.

The Board members and the Applicant had a detailed discussion on the effects of the float resting on the mud flats, erosion in the cove, the proliferation of docks in general in the town, and the effects of docks on the movement of water that help contain the silt and mud build-up.

Mr. Simmons joined the Planning Board meeting and asked about the float that is secured by hinges on one end and a roller system on the other end. After some discussion, Mr. Simmons asked the Applicant to provide dimensions to the sketches to show the float will maintain a minimum of 18-inches above the flood line and provide information on the bearing strength of the mud flats.

Mr. Simmons also asked the Applicant to provide a more detailed definition of the bolts and washers used to secure the railing posts. Mr. Aleva agreed to provide all of Mr. Simmons requested information to the Board.

Mr. Lichte asked how big of a boat could be put on a float of the Applicant's proposed size. Mr. Aleva replied one could put a 30-foot center console boat on that float.

A discussion followed about the types of boats to be used for such a dock and the fact that a large 30-foot boat would be sitting in the mud at low tide.

Mr. Simmons summarized some of the items that would be helpful for the Board that the Applicant could provide which are:

1. Dimensions on the proposed float skid detail showing the elevation plan views
2. Revised elevation drawing of the overall assembly to show there is a minimum of 18-inches above the mud line in all locations
3. Proof of the soil's bearing strength to sustain the weight of the float
4. Confirmation that the Owner realizes that a water depth of only about 3ft is available around the time of high tides each day. The water depth may impact intended use for the dock and could limit the use of the dock to kayaks or smaller shallow-draft boats. A larger boat with a draft deeper than 3ft likely would have to be moored elsewhere.

Ms. Pearlmutter opened the Public Hearing and asked any members of the public who wish to speak to raise their virtual hands.

Ms. Monica Keating of 24 Bufflehead Lane addressed the Board to express her opposition to this Application and her concerns in preserving the pristine marshland.

Ms. Molly Ruggles of 74 Turbats Creek Road addressed the Planning Board and summarized her comments submitted in writing to Lisa Harmon in the Code Enforcement Office. Mr. Ruggles stated she feels this Application will negatively impact the shoreland and resource protection zones and urge the Planning Board to consider the future of Turbats Creek before permitting another dock adding to an already congested area that will further change the natural character of this beautiful area.

Ms. Pearlmutter suggested any residents who wish the town to prohibit building in certain areas or ban docks you might want to direct your views to the town manager or the Board of Selectmen.

There were no more comments from the viewing audience.

This Public Hearing will be continued until the next Planning Board meeting to allow the Applicant to provide the requested additional information.

2. 201001 Boughton Hotel Corporation d/b/a/ The Colony Hotel / Windward Development, Authorized Agent -- North Campus -- Site Plan Review -- Continued Public Hearing -- for approval to demolish all existing buildings and parking areas and construct two new buildings with multiple parking areas. (128 Ocean Avenue / 12 & 14 colony Avenue, identified as Assessor's Tax Map 8, Block 8, Lots 14, 15, & 16 in the Riverfront and Shoreland Zones.) *Nina Pearlmutter, Case Manager*

Ms. Pearlmutter introduced the Agenda item.

Mr. Bill Walsh of Walsh Engineering along with John Martin of the Boughton Hotel Corporation, Silas Canavan of Walsh Engineering, and Rob Harbeson of Market Square Architects addressed the Board.

Mr. Martin began the presentation by stating the Boughton Hotel Corporation has decided to add Wright Ryan Construction and Market Square Architects along with Walsh Engineering to their team for this project.

Mr. Martin outlined the following items that have been updated after meeting with the Board of Selectmen:

1. Proposed lighting on Colony Avenue has been removed
2. Number of parking spaces has been reduced along with reduced number of rooms
3. Board of Selectmen are still reviewing the number of the proposed stone walls which will be a mirror image of the columns that are currently at the entrance as you drive onto the property
4. Working on an agreement with the Board of Selectmen on the proposed sidewalks.

Mr. Martin stated they will be before the Board of Selectmen again on May 13th and will hopefully have more answers then.

Mr. Francis asked Mr. Martin to elaborate on what the town's issue is with the proposed sidewalks. Mr. Martin explained they are trying to identify what the benefit is to the town and there is some concern that people on the Board of Selectmen don't believe that road is utilized by pedestrians for walking. Mr. Martin added he believes Colony Avenue and the town in general would be better served with more walking trails and they are prepared to pay for the installation of the sidewalks.

Mr. Gilliam further explained there has been some sensitivity right now regarding sidewalk issues relative to replacement and whether it is a town or private issue.

Recalling from the last time this Applicant appeared before the Planning Board, Ms. Pearlmutter questioned whether the Planning Board could approve a project that would take 5 years to complete. Mr. Gilliam explained the timeframe and calendars are something he is working on and believes Attorney Ralph Austin was working with Mr. Walsh on establishing a clear timeline so that deadlines, permits, and expirations could be identified. Ms. Pearlmutter asked if that were something that would need to be detailed in the Findings of Fact. Mr. Gilliam replied he thinks it is something that needs to be acknowledged by the Planning Board so there is no question to the validity of the timeline of the project.

Ms. Pearlmutter stated this is a Continued Public Hearing and asked the Applicant to describe the updates made to this proposal.

Mr. Walsh shared the site plans on the screen for the viewing public and gave an overview of the project so far. Some of the items discussed were:

- The parking lot has been pulled within the Right of Way on Colony Avenue
- Added a retaining wall that is all within the Colony property and kept it outside the Right of Way
- Moved the sewer line to the back of the property where there is less ledge
- Eliminated the pump station and will use a gravity system instead
- Overhead utilities will remain and turn to underground utilities as you enter Colony Avenue and continue through the property and revert back to overhead lines at the other end of the property towards Arlington Avenue
- Will have the final parking counts when the final room counts are set
- A traffic report has been drafted and there were no substantial issues with that.

Mr. Silas Canavan addressed the Board and gave a detailed presentation on the stormwater treatment plan using a focal point biofiltration system which is a combination between natural stormwater treatment from vegetation growing within the basin and has a filtration aspect using a higher flow rate that allows one to reduce the footprint from a standard stormwater treatment system.

Mr. Canavan showed detail plans of the proposed stormwater treatment system on the screen as well as a map of the area where the system will be installed. There was a brief discussion on the details of the treatment system with the Applicant and the Board members.

Mr. Rob Harbeson of Market Square Architects addressed the Board and shared several drawings of the proposed new buildings to be built on the North Campus.

Ms. Pearlmutter asked why the number of rooms was reduced. Mr. Harbeson responded when an architect takes over the designs from a concept level your number of rooms will change once you start to determine where the egress stairs and furniture will go.

Ms. Pearlmutter also asked if the Applicant has spoken with the town's Shade Tree Committee about the plantings on the property. Mr. Harbeson replied they have a landscape architect who is familiar with Maine and the plantings here and will have a plan for us in the near future. Mr. Martin added they also have walked the site to take inventory of the existing trees and plantings.

There were no further questions from the Board members.

Ms. Pearlmutter opened the Public Hearing.

Mr. David Strachan of Spring Valley Road addressed the Board asking how long Colony Avenue will be out of commission for this project. Mr. Martin replied they are still working on the build schedule, but they will try to limit the impact to the neighborhood

as little as possible. Mr. Harbeson added as the designs and schedule gets set, they will hold meeting with abutters to talk about what they can expect for construction timing.

Mr. Strachan also had several questions regarding plans for widening or changing the current grade of the road and how it will impact the creek in the back of the property. Mr. Martin responded they are proposing provide some upgrades to the road and put in a sidewalk, but those improvements are at the discretion of the Board of Selectmen and what they decide we're allowed to do. As for the impact on the creek, Mr. Canavan explained all the stormwater is currently running directly into the creek right now and all they are doing is redirection the flow into the treatment system that will really look more like a wetland.

Mr. Gilliam noted the Water District will be replacing the water main in that area and coordinate their construction time with the Applicant's construction schedule.

There were no further comments from the Board members or the viewing public.

The Public Hearing will be continued to the next Planning Board meeting.

3. 201002 Boughton Hotel Corporation d/b/a/ The Colony Hotel / Windward Development, Authorized Agent -- South Campus -- Site Plan Review -- Continued Public Hearing -- for approval to demolish 4 existing buildings and construct one new building, to include building expansion, and the reconstruction of circular parking area. (140 Ocean Avenue, identified as Assessor's Tax Map 8, Block 6, Lot 4 in the Riverfront and Shoreland Zones.) *Nina Pearlmutter, Case Manager*

Ms. Pearlmutter introduced the Agenda item.

Mr. Martin explained the design team is the same for the south campus as it is for the north campus.

Mr. Walsh shared the site plans on the screen for the viewing public and explained the team has been focused on the north campus so far so design updates on the south campus are lagging a bit behind in the design process.

Mr. Harbeson explained they do not anticipate the building footprints of buildings #3 and #4 will change.

Mr. Walsh added they have moved the dormitory building further into the property and out of the setback and will have more details with their next submission probably in August.

There were no further questions from the Board members.

Ms. Pearlmutter opened the Public Hearing.

Mr. Strachan again addressed the Board asking if the other building closer to Arlington Avenue will be removed. Mr. Martin replied the one building that is in Arlington Avenue that we refer to the Gallant House is not on this proposal, but they are removing the dormitories that are directly on Colony Avenue in addition to the shop and maintenance building which are on that same side.

Mr. Strachan also asked if they were planning any sort of egress onto Arlington Avenue. Mr. Martin responded there will be no egress onto Arlington Avenue and there will be a reduction in curb breaks onto Arlington Avenue.

There were no further comments from the public. The Public Hearing will be continued until the Applicant requests to be placed on the Planning Board meeting agenda.

4. 210401 Ivy Subdivision / Sebago Technics, Authorized Agent -- Final Subdivision Review -- Initial Review -- for approval of major changes to previously approved subdivision -- to subdivide a 7.8 acre lot (previously known as Lot #2 of the Ivy Subdivision approved in 2012), to create 2 lots; one lot will be accessed by Colony Avenue and the other will be accessed by Endcliffe Road. (Endcliffe Road / Colony Avenue known as Assessor's Tax Map 7, Block 13, Lot 1B in the Cape Arundel Zone.)

Ms. Pearlmutter introduced the Agenda item.

Mr. Gilliam reminded the viewing audience that this is a Final Subdivision Review, so the process starts over again as in the Preliminary Review with an Initial Review, Public Hearing, and Final Review.

Mr. Steve Doe of Sebago Technics addressed the Board and shared on the screen the site plans for this Application. Mr. Doe gave a brief explanation on his communications with Acorn Engineering regarding the culvert at intersection of Spring Valley Road and Arlington Avenue.

Mr. Doe also noted Attorney Ralph Austin has been working with the residents on Endcliffe Road on a road maintenance plan which is still ongoing.

Mr. Doe stated they have submitted a road maintenance agreement to Mrs. Perkins who does not wish to enter into such agreement at this time so the Applicant has decided to upgrade the road and the new owner of Lot 2A will be responsible for the maintenance of the road from South Main Street to the driveway of Lot 2A and Mrs. Perkins will be responsible for the balance of that the road to her driveway.

Lastly, Mr. Doe stated the road name of Ivy Lane has been submitted and accepted by the town road committee.

Ms. Pearlmutter asked if the question regarding ownership of a section of the road has been determined. Mr. Doe replied he can provide the Board with a document that explains the history of the past ownerships of the private road.

Mr. Simmons asked if there was some kind of piping configuration that would need to be installed as part of the initial operation to facilitate insertion of the sphere mentioned. Mr. Doe responded he would talk to his engineer whether they will need some additional clean-outs in the line.

Ms. Pearlmutter asked if they are still awaiting approval from the Water Department. Mr. Doe replied the Water Department has accepted their flow rates but have asked for some additional valving in two location which the Applicant has agreed to. Mr. Doe added he will make provide documentation of such approval to the Planning Board.

Mr. Simmons suggested it would be helpful if Mr. Doe could provide an update to the stormwater management report to clarify the issue of the adequacy of the 18-inch pipe as discussed with Acorn Engineering.

Mr. Tom Boak joined the Planning Board meeting.

Mr. Francis made a motion the Application is complete. Mr. Simmons seconded the motion and the vote was unanimous. A Public Hearing will be held at the next Planning Board meeting on May 19th, 2021.

- 5. 210402 Cape Arundel Woods / Sebago Technics, Authorized Agent** -- 3rd Amended Subdivision Minor Amendment regarding Lot 2A -- **Initial Review** -- for approval to remove a turnaround easement and increase a side yard setback for Lot 2A. (Endcliffe Road, known as assessor's Tax Map 7, Block 13, Lot 1F in the Cape Arundel Zone.)

Ms. Pearlmutter introduced the Agenda item and noted the authorization letter submitted with the Application has expired.

Mr. Steve Doe addressed the Board and shared the site plans on the screen for the viewing public. Mr. Doe stated this Application is a carry-over from the Ivy Subdivision Application to increase the setback on Lot 2A to 30 feet and to remove a hammerhead turnaround.

There were no questions or comments from the Board members.

Mr. Francis made a motion the Application is complete pending receipt of a current authorization letter. Mr. Simmons seconded the motion, and the vote was unanimous.

A Public Hearing will be held at the next Planning Board meeting on May 19th, 2021. Mr. Francis volunteered as Case Manager for this Application.

- 6. 210405 Ocean Woods / Sebago Technics, Authorized Agent** -- Site Plan /Review -- **Initial Review** -- for approval of a complete reconfiguration of the existing hotel/motel, by replacing the existing buildings with a new one store, 88-seat restaurant and pool, with 30 individual 1 and 2 bedroom cottages, and a reconfiguration of the parking area to create 68 parking spaces, a new main entrance and use the existing driveway for service vehicles and employees. (71 Dyke Road, Assessor's Tax Map 37, Block 5, Lot 2 in the Goose Rocks Zone.) **Moved to May 19th Agenda at the request of the Applicant.**

Other Business:

Mr. Gilliam asked the Board members to confirm a quorum will be in attendance for a Public Hearing at the Board of Selectmen's meeting on May 13, 2021. Ms. Pearlmutter, Mr. Boak, Mr. Simmons, and Mr. Harcourt all stated they could attend the meeting.

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

Submitted By: Patricia Saunders, Planning Board Recording Secretary