

Kennebunkport Planning Board
May 16, 2018 ~ 7:00 PM
Kennebunkport Village Fire Station, 32 North Street

A regular meeting of the Planning Board was held on Wednesday, May 16, 2018. The meeting convened at 7:00 p.m. in the Kennebunkport Village Fire Station.

Members Present: Mr. Russ Grady (Chair), Tom Boak, Mark Messer, Nina Pearlmutter, Neil Higgins, Edward Francis
Mr. Francis will have voting privileges for this meeting.

Approval of Minutes: Mr. Boak made a motion to approve the minutes from the April 4th, 2018 Planning Board meeting. Mr. Messer seconded the motion and the vote was unanimous.

Ms. Pearlmutter made a motion to approve the minutes from the April 18th, 2018 Planning Board meeting. Mr. Messer seconded the motion and the vote was unanimous.

Ms. Pearlmutter made a motion to approve the minutes from the May 2nd, 2018 Planning Board meeting. Mr. Messer seconded the motion and the vote was unanimous.

Items:

1. **180202 Seaside Hotel Associates, d/b/a The Nonantum Resort** – Site Plan Review – **Continued Deliberations**– for approval to tear down an existing garage and storage building, replace with a new storage building and clean up the parking plan. (95 Ocean Avenue, identified as Assessor's Tax Map 8, Block 001 Lot 13 in the Riverfront Zone.)

Mr. Grady introduced the Agenda item.

Mr. Boak made a motion to approve the Application. Ms. Pearlmutter seconded the motion and the vote was unanimous.

Mr. Messer read the Findings of Fact into the record. Mr. Grady made a motion to approve said Findings. Mr. Francis suggested a final parking plan identifying all 222 approved parking spaces on the Nonantum properties be included and recorded with this Application. The Board members and the Applicant agreed with Mr. Francis's suggestion. Mr. Boak seconded Mr. Grady's motion and the vote was unanimous.

2. ~~**80201 Binnacle Hill Phase 2 / Terradyn Consultants, Authorized Agent** – Preliminary Subdivision Review – **Public Hearing** – for approval of a thirteen (13) lot cluster subdivision on 24.78 acres. (Henchey Way, Map 41, Block 2, Lot 8 in the Goose Rocks, Shoreland and Resource Protection Zones.)~~ **At the request of the Applicant, Public Hearing continued to the June 6, 2018 meeting.**
3. **180401 Katherine S. Eraklis / Walsh Engineering Associates, Inc., Authorized Agent** - Site Plan Review – **Initial Review** – for approval to Construct a 200+/- riprap revetment along the edge of the cobblestone beach adjacent to the Applicant's property (30 Skipper Joe's Point Road, identified as Assessor's Tax Map 30, Block 6, Lot 7 in the Goose Rocks, Shoreland and Resource Protection Zones.)

Mr. Grady introduced the Agenda item.

Mr. Bill Walsh of Walsh Engineering addressed the Board stating the purpose of this Application is to prevent some of the significant issues Ms. Eraklis experienced this past winter with storms and water overflowing the current seawall and entering the house. Utilizing enlarged site maps and photos of the property, Mr. Walsh explained in detail the specific components of the Application including constructing a 200 foot revetment to elevation 16. Mr. Walsh also added they are hoping to build a set of stairs thru the wall to provide access to the beach using 5-foot diameter boulders. The Applicant is also in the process of obtaining approvals through the Maine Department of Environmental Protection (DEP) and has received a Natural Resources Protection Act (NRPA) permit back in 2015.

Mr. Francis asked the Applicant to confirm he was referring to a measurement of feet in talking about elevation levels. Mr. Walsh replied yes, it is a datum referring to measurements in feet.

Mr. Boak asked if there was an expiration date on the NRPA permit. Mr. Walsh responded they were granted a full NRPA permit that requires construction to begin within 4 years and expires in 7 years. Mr. Walsh added the Applicant is anxious to begin construction right away.

Ms. Pearlmutter questioned why the DEP approvals received in 2015 did not mention the concrete walkway showed in the submitted plans. Mr. Walsh replied it was not included in the 2015 approval but did not think it would be an issue with the DEP. Ms. Pearlmutter suggested the Applicant go back to the DEP to ensure the Board the concrete walkway isn't an issue. Mr. Walsh agreed to do as Ms. Pearlmutter suggested.

Ms. Pearlmutter asked if the calculation for impervious surfaces on the lot was provided. Mr. Walsh indicated where the calculations were provided adding there is no increase in impervious surface.

Considering the Application was first approved in 2015, Mr. Higgins asked if there have been any other changes, besides significant storm events, that would require modification of the plan. Mr. Walsh responded No, he doesn't believe so.

Mr. Grady made a motion the Application is complete with the exception of confirmation from the DEP the concrete walkway is allowed. Ms. Pearlmutter seconded the motion and the vote was unanimous. Mr. Francis and Mr. Higgins have voting privileges for this Application.

Mr. Grady announced a Public Hearing will be held at the next Planning Board meeting on June 6th, 2018.

Mr. Pearlmutter was assigned as Case Manager for this Application.

180402 Robert & Dana Holland / Riverside & Pickering Marine Contractors, Authorized Agent = Site Plan Review – Initial Review – for approval to construct a 4’x15’ ramp, 4’x35’ pier, 4x30’ gangway and 10’x20’ seasonal float. (255 Wildes District Road, identified as Assessor’s Tax Map 33, Block 005, Lot 22 in the Cape Porpoise West, Shoreland and Resource Protection Zones.)

Mr. Grady introduced the Agenda item.

Mr. Zach Taylor of Riverside & Pickering Marine Contractors addressed the Board on behalf of the Applicant and gave a brief overview of the proposed dock. Mr. Taylor added they have received approvals from the Maine Department of Environmental Protection and the Army Corps of Engineers.

Mr. Francis asked about a discrepancy on the Application in the lot area where it is listed as 1.4 acres and .88 acres. Mr. Robert Holland addressed the Board to respond that when he purchased the property the deed listed the parcel as 1.4 acres that included two cemeteries which in actuality are not part of the property but are separately deeded. The Assessor’s tax card lists the property as .88 acres which is the correct lot area. Mr. Holland agreed to update the Application to reflect the correct lot size.

Mr. Francis had a question regarding the calculations noted in the Application regarding lot coverage. Mr. Taylor explained there is no change in lot coverage from the existing; adding the proposed lot coverage is 13.28% which is well below the 20% allowed.

Ms. Pearlmutter asked if the dock is near the Water District easement. Mr. Taylor replied the dock is not directly over the easement and is set back from the property line.

Mr. Grady suggested it would be helpful for the Board members if the Applicant can provide on the Google earth map the exact location of the proposed dock and identifying where the Water District easement is well. Mr. Taylor agreed to provide that information for the Board.

Ms. Pearlmutter expressed her concern with the increasing number of docks being constructed in Kennebunkport and its effect not only on the environment but also their impact on significant wildlife habitats and scenic views.

Mr. Boak asked the Applicant to provide a checklist along with the Application. Mr. Gilliam explained the checklist Mr. Boak is referring to is not a Kennebunkport Code Enforcement form but was a form that has been submitted by a previous application. Mr. Gilliam suggested to review Article 5.11 in the Land Use Ordinance and using that as a template, it would be helpful to the Board members in their review. Mr. Holland agreed to provide the requested checklist.

Mr. Francis had several questions regarding computational notes listed on the site plan submitted. For clarification purposes the Applicant agreed to provide a more clearly marked map of the property and the proposed dock.

Mr. Higgins asked if the lot coverage percentage was calculated using the lot size of .88 acres. Mr. Taylor confirmed the lot coverage was based on the correct lot size.

Mr. Grady made a motion the Application is complete. Mr. Higgins seconded the motion and the vote was unanimous.

Mr. Grady announced the Board of Selectmen will conduct a Site Walk of the property on May 22nd, 2018 and the Planning Board will hold a Public Hearing at the next meeting on June 6th, 2018.

Mr. Higgins was assigned as Case Manager for this Application.

4. 180403 Southern York Properties, LLC / Ralph Austin Esquire, Authorized Agent – Site Plan Review – Initial Review – for approval to remove an existing single family dwelling and build new in same location. (4 Mill Lane, identified as Assessor’s Tax Map 9, Block 1, Lot 15 in the Village Residential, Shoreland and Resource Protection Zones.

Mr. Grady introduced the Agenda item.

Attorney Ralph Austin, representing Priscilla White and Tim Coon of Southern York Properties, LLC addressed the Board stating the property is located at 4 Mill Lane and consists of a single family residence. Mr. Austin stated this is a non-conforming structure that is deteriorating; adding he has submitted two reports from a structural engineer stating the foundation is no longer adequate to maintain the house along with a deteriorating frame. Citing Article 8.3.B.5 of the Land Use Ordinance, Mr. Austin stated due to the nature of the property it was best to rebuild in the exact same location where there will be no increase in area or volume. Mr. Austin also added they expect to have a Permit By Rule from the Maine DEP within 2 weeks.

Mr. Messer asked why they would not want to move the house further away from the waterway. Mr. Austin replied the house is fairly close to the road and even though it is not a heavily traveled road it still has vehicles on it and presents a safety issue. While moving the house further from the water makes sense in one respect, Mr. Austin continued, it creates setback issues as you get closer to Mill Lane.

Mr. Boak questioned whether the overhangs were included in the calculations on the survey. Mr. Austin explained because the overhangs are bowing due to the level of deterioration it is difficult to get an exact measurement. Mr. Gilliam added that upon visiting the property, he instructed the Applicant to measure as they are presently and that the increase in lot coverage is a result of the increased deterioration of the house.

Mr. Francis asked if there was an erosion control and stormwater management plan as part of this Application. Mr. Austin replied there is a silt flow as part of this Site Plan but there is no formal written erosion control plan. Mr. Gilliam added the state requires that any contractor that does earth disturbance has to go through a specific process for erosion control and has to be certified which have been incorporated into the town's permit requirements.

Ms. Pearlmutter asked if there is a requirement to take out the fences after the construction is over. Mr. Gilliam responded yes, the erosion control fencing is required to be removed. Most contractors today use a bark/mulch mix that is more effective than silt fencing and it is not required to be removed but is dispersed on the property after construction is over, Mr. Gilliam explained.

Ms. Pearlmutter made a motion the Application is complete. Mr. Boak seconded the motion and the vote was unanimous. Mr. Francis was assigned as Case Manager. A Public Hearing will be held at the next Planning Board meeting on June 6th, 2018.

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

Submitted by: Patricia Saunders, Planning Board Recording Secretary