

**Kennebunkport Planning Board**  
**June 15, 2016 ~ 7:00 PM**  
**Kennebunkport Village Fire Station, 6 Elm Street**

A regular meeting of the Planning Board was held on Wednesday, June 15th, 2016. The meeting convened at 7:00 p.m. in the Kennebunkport Village Fire Station.

Members Present: Mr. David Kling (Chair), John Hathaway, Peter Fellenz, Ray Hilwig, Tom Boak, Russ Grady  
Mr. Hilwig will have voting privileges for this meeting.

Approval of Minutes: Mr. Hathaway made a motion to approve the minutes from the June 1st, 2016 Planning Board meeting. Mr. Boak seconded the motion and the vote was unanimous.

Items:

**1. Sandpiper Capital Management II, LLC (Ebs Cove Subdivision) / Sebago Technics, Authorized Agent** – Preliminary Review – **Public Hearing** – for approval to create an eight (8) lot subdivision. [Ebs Cove Lane, Assessor's Tax Map 21, Block 009, Lot 52 (portion) in the Village Residential Zone.]

Mr. Kling introduced the Agenda item.

Mr. Steve Doe of Sebago Technics addressed the Board stating this Application is for an 8 lot subdivision. Mr. Doe also explained they have settled with the Town on the payment amount in lieu of the 15% open space requirement, the details of which were contained in a memo from the Town Planner Werner Gilliam. Mr. Doe concluded his brief summary of the Application by mentioning the following:

- The road will remain privately owned and maintained
- The road is designed in accordance to town standards with the exception of certain waivers previously mentioned such as the sidewalks
- All lots will have public water and will be tied into the force main on Turbat's Creek Road
- Power utilities will be underground.

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

Mr. Hilwig asked if the Applicant makes the in lieu of payment where does that money go with regards to the town. Mr. Gilliam responded that based on the language in Subdivision Regulations this money would be placed in a specific land acquisition and recreation improvement fund. The Subdivision Regulations give a general concept of what those funds could be used for but the expenditure is approved at the annual town meeting, Mr. Gilliam concluded.

The Board expressed their concerns regarding the mechanics of the in lieu of open space payment and asked Mr. Gilliam if the final amount was definite. Mr. Gilliam responded stating the amount is based on 6.2% of open space and since that calculation will mostly not change the payment amount is set.

In a memo submitted to the Board prior to this meeting, Mr. Gilliam explained Town Counsel suggested the town require a mortgage be placed on the lots to be released when the lots are sold. Mr. Kling suggested having a condition upon approval that no permits are issued until the in lieu of payment is made.

Mr. Hathaway made a suggestion that the wording of the agreement between the Town and the Applicant be more explicit so as not make it difficult for potential home buyers to obtain financing.

Mr. Kling asked Mr. Gilliam if the Board could have the details of the payment included in the Final Application.

Mr. Boak expressed his concern the town was selling open space by allowing this in lieu of payment. Mr. Kling directed the Board members to refer to page 37 of the Subdivision Regulations Article 11.8.b.7 which states: "*Where the land within the subdivision is not suitable or is in insufficient amount, where the applicant prefers, or when suggested by the Comprehensive Plan and subsequent amendments or revisions, a payment in lieu of dedication may be substituted for the reservation of some or part of the open space requirement.*" Mr. Hathaway offered the Board has had situations where an applicant has created more open space from getting more land from a neighbor when in reality they are just changing property lines.

Mr. Grady asked if the funds would be placed in an interest bearing account. Mr. Gilliam responded he did not know the answer to that question but would be happy to find out and report back to the Board.

Mr. Kling asked if the Right of Way was wide enough to accommodate a sidewalk. Mr. Doe replied it is a 50 foot Right of Way so if required, a sidewalk could be installed.

Mr. Kling asked the Applicant to explain their financial and technical capability for this project. Mr. Geoff Bowley of Woodchuck Development LLC addressed the Board explaining he has joined with Sandpiper Capital, LLC to work on this project. Himself and his business partner, Glenn Seitz have worked on several subdivisions in the past including the Arundel Commerce subdivision and have worked with his father Steve Bowley on the Ledges subdivision on Ocean Avenue. Mr. Bowley added they are experienced in residential construction in both contracting and managing projects on a daily basis from \$3,000,000 to over \$7,000,000 projects.

The Board members had a brief discussion on some specific language in the Homeowners Declaration that will need to be clarified in the final Application.

Mr. Kling pointed out it is a condition in the Subdivision Regulations that the gate will be taken out or rendered inoperable. Mr. Doe stated there is a note on the site plan stating “the existing gate shall be secured in the open position and the closing mechanism removed.”

Mr. Hilwig asked if there was a notation that the road will never become a public road. Mr. Doe pointed to the enlarged Site Plan before the Board stating Note #21 in the general notes states “the road in the subdivision is intended to be private and maintained by the lot owners”.

Mr. Kling opened the Public Hearing.

Mr. Steven Price of 31 Turbat’s Creek Road addressed the Board and asked if the properties were to be developed as they’re purchased or will they be built as spec sites. Mr. Bowley replied the plan is currently to sell the lots as they will exist and Bowley Builders would be the exclusive builder in the subdivision.

Mr. Price also asked if the infrastructure would be brought to each lot so they are ready for development when sold. Mr. Bowley stated the plan is to install the infrastructure and sell the lots individually.

Ms. Linda Ward, also of 31 Turbat’s Creek Road asked if the new homes would be summer homes or year round owners. Mr. Bowley replied it could be a mix of both but the homes will be built as all season homes.

There were no further questions or comments from the public. Mr. Kling closed the Public Hearing.

Mr. Kling listed the following items were discussed and requested by the Board members to be included in the Final Application:

- Details of the Performance Guarantee
- Details of the mechanics of the mortgage for the payment in lieu of open space
- Notation on the Site Plan that the gated entrance to the property will be immobilized
- Letters of Approval from the Fire Chief and Sewer Superintendent
- Notation on the Site Plan the path to the water will remain a permeable surface
- Clarification on items discussed in the Homeowners’ Declaration
- Clarification of the storm water requirements from the peer review by Ransom Engineering.

Mr. Gilliam added that the draft of the mortgage documentation will not be part of the Final Application because the Town Counsel’s office will be composing that information.

Mr. Hathaway made a motion to approve the Preliminary Application. Mr. Boak seconded the motion and the motion passed. Mr. Fellenz abstained from voting. Mr. Kling, Mr. Hathaway and Mr. Boak voted in favor of the motion.

The Applicant asked the Board if it were possible to not have a Public Hearing as part of the Final Site Plan Approval process. Speaking on behalf of the Board members, Mr. Kling stated the Board was uncomfortable with not holding a Public Hearing and thinks they should follow the standard procedure for this Application.

Mr. Kling also stated he would compose a short memorandum in place of a formal Findings of Fact.

**2. John Henchey / Mitchell & Associates, Authorized Agent – Site Plan Review – Initial Review** – for approval to create an additional Right-of-Way by extending Hillside Drive to provide access to a proposed lot. [The property is located off Ocean View Road, identified as Assessor’s Tax Map 41, Block 002 Lot 09 in the Goose Rocks Zone.]

Mr. Kling introduced the Agenda item.

Mr. Bob Metcalf of Mitchell & Associates addressed the Board stating this is 28.3 acre parcel of land with only a 3 foot wide Right of Way that presently serves 2 undeveloped lots on each side. Mr. Metcalf added they’re requesting permission to create an additional Right of Way that would be wide enough to accommodate emergency vehicles. There is a narrow stream on the property, Mr. Metcalf continued, and the proposed road crosses that stream at its narrowest point.

Mr. Kling asked what the surface of the road would be. Mr. Metcalf replied it would be an entirely gravel road.

The Applicant is asking for two waiver requests to not install public sewer and water to the lots as it would be cost prohibitive to extend the lines almost 900 linear feet, Mr. Metcalf stated.

Mr. Metcalf also mentioned he has met with Fire Chief Allan Moir who was satisfied with the location of the fire hydrant as it is well within the required distance.

Mr. Hilwig made a motion to find the Application complete as presented. Mr. Hathaway seconded the motion and the vote was unanimous.

**OTHER BUSINESS:**

The Planning Board members agreed there will be no meeting held on July 6<sup>th</sup> so the next Planning Board meeting will be scheduled for July 20<sup>th</sup>, 2016.

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

**Submitted by:** Patricia Saunders, Planning Board Recording Secretary