

Kennebunkport Planning Board
June 19, 2019 ~ 7:00 PM
Kennebunkport Village Fire Station, 32 North Street

A regular meeting of the Planning Board was held on Wednesday, June 19th, 2019. The meeting convened at 7:00 p.m. in the Kennebunkport Village Fire Station.

Members Present: Mr. Tom Boak (Chair), Nina Pearlmutter, D. Scott Mahoney, Ed Francis, Neil Higgins, George Lichte, Larry Simmons

Approval of Minutes: Mr. Simmons made a motion to approve the minutes from the June 5th, 2019 Planning Board meeting. Mr. Francis seconded the motion and the vote was unanimous

Items:

1. **190401 Henry Family Trust / Ambit Engineering, Authorized Agent** – Site Plan Review – **Continued Initial Review** – for approval to install a new 4' x 134' bark mulch pathway, a 4' x 16' access ramp, a 4' x 60' fixed pier, a 3' x 33' gangway and a 10' x 20' float located by two helical moorings. (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.)

Mr. Boak introduced the Agenda item.

Mr. John Chagnon, representing the Henry Family Trust, addressed the Board stating the changes made to the original Application are a result of the feedback provided from this Board at the last meeting. Mr. Chagnon explained this proposal is to construct a 4-foot by 60-foot fixed pier with a 10-foot by 20-foot float with access to the pier from the house site by a natural bark mulch pathway. Mr. Chagnon also noted there will be no impact to the wetland area.

Mr. Boak asked Mr. Gilliam if the proposed bark mulch pathway is something the Board needs to rule on. Mr. Gilliam replied No, the fact that it is in the Application and reflects the modification the Board requested, but typically those types of paths to the water fall under the purview of the Code Enforcement Office.

Ms. Pearlmutter asked if the materials for the pathway are acceptable. Mr. Gilliam responded he has no issue with the materials.

Mr. Francis asked what is the approximate depth. Mr. Chagnon replied it is shallow and only about 5 inches at low tide.

Mr. Higgins asked what the new total length of everything altogether is. Mr. Chagnon replied the float to the Highest Annual Tide (HAT) Line is exactly 100 feet. Mr. Higgins then asked if there was anything in the revised Application that shows that. Mr. Lichte commented he calculated the total length to be 139 feet. Mr. Chagnon remarked it was his understanding the total length was calculated using the HAT Line.

Mr. Higgins noted the ordinance states the 100-foot maximum length is the total of the ramp, pier, gangway, and dock.

The Applicant and the Board members had a brief discussion on the methodology to calculate the total length of the dock and if there were any reasonable alternatives to possibly shorten the dock in order to conform to the Land Use Ordinance's 100-foot maximum length requirement. Mr. Chagnon agreed to include that calculation total on the site plans.

Mr. Lichte asked if there is an alternative site on the property that would allow the Applicant to meet the 100-foot requirement. Ms. Pearlmutter cautioned there may be but the problem with that is it may exceed the 1/5th length across from the Mean High Water mark.

Mr. Francis asked the Applicant if the proposed dock meets the 1/5th requirement. Mr. Chagnon responded he believes his colleague Mr. Ricker calculated that figure. Mr. Chagnon explained what was submitted was a copy of a Google Earth map scaled with the Mean High Water (MHW) mark overlaid to show the MHW mark is 263 feet where 1/5 of that is approximately 51 feet. Mr. Francis asked the Applicant to also include that calculation on the Site Plans.

Due to concerns raised by some neighbors with regards to the size of the proposed dock and the effect of having a motorboat docked there as opposed to kayaks, Mr. Francis asked the Applicant to provide the Board with a clear representation of how this Application meets the requirements of Land Use Ordinance, in particular with Article 5.11.

Understanding this is a problematic site for getting water access, Mr. Lichte acknowledged receipt of the checklist provided by the Applicant and asked if they could also demonstrate that there is no other reasonable alternative.

Ms. Pearlmutter suggested perhaps it would be helpful if the Applicant could explain what percentage of time one would be able to get a boat in the water and how much time you would have to shave in order to meet the Ordinance.

Mr. Higgins questioned whether a view easement mentioned in the submitted deed would impact this Application. Mr. Boak added it would be best for the Planning Board to also know if this proposal has been presented and approved by the Homeowner's Association.

Referring to the spacing of the posts in the guardrail, Mr. Simmons suggested adding an intermediate post in between the 7.5-foot spaced guardrail assembly as indicated in the Application. Mr. Chagnon agreed it would not be a huge impact to place the posts 5-feet apart.

Mr. Boak made a motion to continue this initial review until the next Planning Board meeting citing the Board's request for additional information on the following:

- A clear definition of the 115-foot total,
- Why the dock needs to be greater than the 100-foot requirement,
- What alternatives are available on this site proving this proposal is the most reasonable option,
- Provide calculation of the 1/5th requirement and indicate those measurements on the Site Plans.

The Board members and Mr. Chagnon had a brief discussion on how to calculate the 100-foot requirement, how the float sits on the mud at low tide, and how the presence of a motorboat would change the character of the area or have an environmental impact.

Mr. Higgins repeated Mr. Boak's motion to continue this Initial Review. Mr. Francis seconded the motion and the vote was unanimous.

- 2. 190501 Louise Spang / Tim Spang, Authorized Agent – Site Plan Review – Public Hearing** – for approval of 935 square feet of additional office are, add a 60 square foot shed and to build a 7,500 square foot storage building which was previously approved by the Planning Board. (10 Granite Heights Road, identified as Assessor's Tax Map 14, Block 2, Lot 39A in the Farm & Forest Zone.)

Ms. Pearlmuter recused herself from review of Items #2 and #3 of tonight's Agenda.

Mr. Boak introduced the Agenda item and announced Mr. Simmons would have voting privileges for this Agenda item.

Mr. Boak asked the board members if they had any question on this Application. The Board members had no questions for the Applicant.

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

Mr. Simmons made a motion to approve the Application. Mr. Higgins seconded the motion and the vote was unanimous.

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

- 3. 190501 Tim & Louise Spang – Site Plan Review – Public Hearing** – for approval to do road improvements by widening Granite Heights Road. (10 Granite Heights Road, identified as Assessor's Tax Map 14, Block 2, Lot 39A in the Farm & Forest Zone.)

Mr. Lichte will have voting privileges for this Agenda item.

Mr. Boak introduced the Agenda item and acknowledged receipt of the Road Maintenance Agreement provide by the Applicant.

Mr. Francis asked if the current abutter were notified in the proper time. Mr. Spang replied he submitted the current names and addresses of all abutters within the required timeframe.

After some discussion about the specifics of the Road Maintenance Agreement, Mr. Boak reminded everyone that the Planning Board does not enforce private Road Maintenance Agreements.

Mr. Francis asked who owns the land the Right of Way is on. Mr. Spang replied the Convery's own the land but he has the rights to build or improve the road.

Mr. Lichte clarified the property should be identified on the Findings of Fact as Map 14, Blok 2, Lot 25. Mr. Werner noted the main portion is on Map 14, Block 2, Lot 25 but the improvements extend into Map 14, Block 2, Lot 39.

Mr. Boak opened the Public Hearing. There were no comments from the audience in attendance. Mr. Boak closed the Public Hearing.

Mr. Francis questioned why the percentage of lot occupied by structures on the Application says "none". Mr. Spang explained he owns half of the Right of Way and gave permission to the other owners for the other half. Mr. Francis suggested perhaps changing the word "none" to "N/A" instead.

For clarification on the language to be included in the Findings of Fact, Mr. Lichte suggested the wording be changed to "the owner of lot 39 has the appropriate Right of Way and right to maintain...".

As requested, Mr. Spang agreed to provide the Board with a copy of the 2010 property deed along with a revised cover sheet to the Application with Items #8 and #9 answered as "N/A".

Mr. Boak made a motion to approve the Application. Mr. Mahoney seconded the motion and the vote was unanimous. Mr. Simmons voted due to Mr. Lichte's absence from this portion of the meeting.

Mr. Lichte returned to the meeting in a few minutes with the Findings of Fact for this Application. Mr. Lichte read the Findings of Fact into the record. Mr. Higgins made a motion to approve said Findings. Mr. Mahoney seconded the motion and the vote was unanimous.

OTHER BUSINESS:

Mr. Boak asked the Planning Board members to provide any comments or questions to him before the next Planning Board meeting on the revisions submitted on the Comprehensive Plan as requested by the Growth Planning Committee,

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

Submitted by: Patricia Saunders, Planning Board Recording Secretary