

Kennebunkport Planning Board
August 2nd, 2017 ~ 7:00 PM
Kennebunkport Village Fire Station, 6 Elm Street

A regular meeting of the Planning Board was held on Wednesday, July 19th, 2017. The meeting convened at 7:00 p.m. in the Kennebunkport Village Fire Station.

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

Approval of Minutes: Mr. Mahoney made a motion to approve the minutes from the July 19th, 2017 Planning Board meeting. Mr. Messer seconded the motion and the vote was unanimous.

Items:

1. **170502 Mills Road Subdivision /Attar Engineering, Authorized Agent** – Final Subdivision Review – **Finding of Fact** – 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. Grady introduced the Agenda item. For the record Mr. Messer noted his disagreement with the process of reading the Findings of Fact after the Application has already been approved at previous meeting.

Mr. Grady read the Findings of Fact into the record. Ms. Pearlmutter made a motion to approve said Findings. Mr. Grady seconded the motion and the motion passed with a vote of 3-0-1. Mr. Messer abstained from voting.

2. **170402 Binnacle Hill Subdivision/Sebago Technics, Authorized Agent** –Final Subdivision Review – **Continued 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. Grady introduced the Agenda item.

Attorney Ralph Austin, along with Geoff Bowley and Steve Doe, addressed the Board representing the Applicant stating the Public Hearing was continued expressly for the Board to receive the Department of Environmental Protection permit. Mr. Austin noted due to input from the DEP and the Maine Inland Fisheries and Wildlife there are some very minor changes to the Site Plan.

Mr. Steve Doe of Sebago Technics addressed the Board explaining the Department of Inland Fisheries and Wildlife's concerns were related to a spotted turtle habitat which has prompted the Applicant to adjust several lot lines to allow a more open, contiguous wetland area. The lots affected with altered boundary lines are Lots 10, 11, 5, and 3, and Mr. Doe indicated those lot changes using an enlarged Site Plan.

Mr. Messer asked how moving a line on a map will help the spotted turtle? Mr. Doe replied that the concern is more about habitat area and doing more to protect the wetland areas.

Ms. Pearlmutter asked if the Applicant would be informing the new homeowners of the wetland protection areas as they buy the lots. Mr. Austin responded yes, the homeowners would be notified of all restrictions. Mr. Doe added members of the Department of Inland Fisheries and Wildlife have done an extensive site walk on the property and did not find any turtles or habitat areas on the proposed property.

Mr. Grady asked how much land was added from the lots to the open area. Mr. Doe replied it is about 20 feet and we will redraw the lot lines and provide a revised plan to the Board and the DEP.

Mr. Messer asked if the Department of Inland Fisheries and Wildlife gave the Applicant other options in their comments and what those options were. Mr. Doe responded one of the options was to put deed restrictions on the lots. Mr. Austin commented there are already deed restriction on the lots that no wetland areas can be filled in. Mr. Doe also stated another suggestion given was to delay the project until the spring or summer of 2018.

Mr. Austin mentioned to the Board they do expect to have the DEP permit within the next 2 weeks and was hoping for conditional Planning Board approval pending receipt of that permit to avoid further delays. Mr. Austin noted the developer will have timing issues if approval is delayed as the asphalt plants close in the fall which would hinder completion all of the infrastructure and utility work.

Mr. Messer noted he is abstaining from voting on this Application but suggested the Board review the DEP permit before voting on final approval. Mr. Messer also suggested the Planning Board should do a Findings of Fact before voting approval as opposed to reading the Findings at a separate meeting after approval.

Mr. Geoff Bowley addressed the Board stating he understands Mr. Messer's concern and knows it is not the Board's burden to maintain his schedule. However, Mr. Bowley noted, if this project is held up for much longer and the asphalt plants close the infrastructure cannot be completed.

Mr. Mahoney made a motion to approve the Application contingent upon Maine DEP approval and receipt of the revised Site Plans. Ms. Pearlmutter seconded the motion.

Mr. Messer commented the sequence of voting approval at one meeting and reading the Findings of Fact at another meeting afterwards is wrong. Mr. Grady acknowledged Mr. Messer's concerns and asked him if he believed there are any negative findings that would compel denial of the Application. Mr. Messer replied No there are no negative Findings in his opinion.

The Planning Board members voted in approval of Mr. Mahoney's motion with a vote of 3-0-1. Mr. Messer abstained from voting. Mr. Grady was assigned as Case Manager to prepare the Findings of Fact to be read at the next Planning Board meeting.

- 3. Seaside Hotel Associates, d/b/a The Nonantum Resort** – Final Subdivision Review – **Public Hearing** – for approval to demo the existing staff house and rebuild on the same foundation. [98 Ocean Avenue, identified as Assessor's Tax Map 8, Block 009, Lot 10 in the Riverfront Zone.]

Mr. Grady introduced the Agenda item.

Ms. Tina Hewitt-Gordon, General Manager of the Nonantum Resort addressed the Board thanking them for their time in reviewing all of the information and stated they are requesting to remove the existing staff house across the street from the resort and rebuild it on the same foundation.

Mr. Grady opened the Public Hearing and asked if any abutters or members of the audience wish to voice their concerns to the Board members. There were no comments or questions.

Mr. Gilliam addressed the Board stating that the Application describes using the existing foundation for the new building. Mr. Gilliam noted that after the demolition is done if there are any issues with the existing foundation it could be replaced due to structural reasons. Ms. Gordon added she would restate her request that the building will be rebuilt within the same footprint in the event the foundation needed to be replaced as well.

Mr. Grady closed the Public Hearing.

Mr. Messer made a motion to approve the Application to demolish the existing staff building and rebuild and to allow the foundation to be replaced/repared if needed provided the building is within the exact footprint. Mr. Mahoney seconded the motion and the vote was unanimous. Mr. Messer was assigned as Case Manager to prepare the Findings of Fact to be read at the next Planning Board meeting.

- 4. 170701 Edward Buttner/ Eco-Analysts, Inc., Authorized Agent**–Site Plan Review – **Initial Review** – for approval to construct a walkway, a 4' x 65' pier, a 3' x 20' seasonal ramp and a 4' x 16' float. [37LangsfordRoad, identified as Assessor's Tax Map 21, Block 011Lot 21 in the Cape Porpoise West, Shoreland and Resource Protection Zones.]

Mr. Grady introduced the Agenda item.

Mr. Bud Brown of Eco-Analysts addressed the Board stating the walkway is on the north side of the house and the dock is on the south side of the house. Mr. Brown explained the walkway location was selected because there is already an existing clearing and will provide access from the yard to the building which will be turned into a studio. Mr. Brown noted that both the dock and walkway meet all of the standards set forth in Article 5 of the Land Use Ordinance.

Mr. Messer asked Mr. Brown if he could provide the actual numbers within the Application. Mr. Brown noted the measurements for the dock are contained on sheet #2 of the Application but will supply the Board members with those figures.

Mr. Grady asked how deep are the posts installed. Mr. Brown replied the posts are driven in to a level of torque which is approximately 6 to 8 feet.

Ms. Pearlmutter asked if the dock is going over marsh grass or spartina. Mr. Brown replied it is actually going over black grass.

Ms. Pearlmutter asked if the Board of Selectmen have approved the dock? Mr. Brown replied yes, they did get the Selectmen's approval since that is a requirement before seeking Planning Board approval.

The Board members questioned where in the Application the Board of Selectmen's approval is confirmed as it is only noted in the checklist. Mr. Gilliam stated he was in attendance with the Board of Selectmen when they conducted their Site Walk and will provide a copy of the Board of Selectmen's meeting minutes that indicates their approval of the project.

Ms. Pearlmuter commented that the proposed dock is not suitable for boats but rather for kayaks or paddleboards. Mr. Brown added they could probably get a small flat iron skiff or a row boat to the dock.

Several members of the audience asked questions and expressed concerns about the project and the process of the Planning Board's review. Mr. Grady explained the Planning Board's review process and noted the opportunity for the public to provide input is during the Public Hearing. Mr. Gilliam explained the notification process of a Public Hearing to the members of the audience.

In response to continued comments from a few members of the audience, Ms. Pearlmuter gave more detailed explanation of the Planning Board's Site Plan Review procedure and suggested those concerned with this particular Application review the applicable sections of the Land Use Ordinance pertaining to this Application, specifically Articles 10.10, 10.13 and Article 5.9.

Mr. Mahoney made a motion the Application is complete. Mr. Messer seconded the motion and the vote was unanimous. A Public Hearing will be held at the next Planning Board meeting on August 16, 2017.

OTHER BUSINESS:

The Board members and Mr. Gilliam had a brief discussion on topics to discuss at the upcoming Planning Board workshop meeting and possible dates when said meeting could occur.

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

Submitted by: Patricia Saunders, Planning Board Recording Secretary