

Kennebunkport Planning Board
January 5th, 2022 @ 6:00 PM
Virtual Meeting Via ZOOM

A virtual meeting of the Planning Board was held on Wednesday, January 5th, 2022 via the ZOOM format. The meeting convened at 6:00 p.m.

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

Approval of Minutes: Mr. Simmons made a motion to approve the minutes from the November 17th, 2021 and December 1st, 2021 Planning Board meetings. Mr. Francis seconded the motion, and the vote was unanimous.

Items:

Mr. Boak announced the Planning Board has been asked to keep track of how many people are viewing and signed into tonight's meeting. Mr. Boak repeated from Mr. Dave Powell, the videographer for the Town of Kennebunkport, there are currently 27 attendees in addition to the panelists.

1. **211004 Ocean Woods / Sebago Technics, Authorized Agent - Preliminary Plan Review - Initial Review - ~~WITHDRAWN AT THE REQUEST OF THE APPLICANT~~ - for removal of existing 30 units (49 bedrooms) + 2 apartments and 108 110 seat restaurant to be replaced with 30 units (43 bedrooms) hotel cottages and replacement restaurant (88 seats) with 6 hotel rooms above within existing development area, along with other proposed site improvements (71 Dyke Road, Assessor's Tax Map 37, Block 5, Lot 2 in the Goose Rocks Zone.)-**

Mr. Boak announced this Application has been withdrawn by the Applicant.

2. **211102 15 Langsford Road Owner, LLC / Sebago Technics, Authorized Agent – Site Plan Review – Initial Review – Change of use from Multiplex to Inn. Consisting of converting 11 residential units to 9 inn suites (15 Langsford Road, Assessor's Tax Map 22, Block 6, Lot 14).**

Mr. Boak introduce the agenda item and asked the representatives of this Application to be promoted as panelists.

Mr. Steve Doe of Sebago Technics addressed the Board stating this property was before the Planning Board when Lord and Harrington purchased it asking to add a porch and to rebuild the 2 single-family homes on the property. Since that time the new owners, 15 Langsford Road Owner, LLC, purchased the multiplex building consisting of units 1 thru 9 on December 7th, 2020 and later, after receiving the Certificate of Occupancy for the newly rebuilt single-family homes, purchased those and was in full ownership of the parcel as of June 2nd, 2021, Mr. Doe added. Mr. Doe continued stating the owners have operated the property as short term rentals which is an allowed use in the Cape Porpoise Zone. The town had concerns about the way the owners were operating the property, Mr. Doe continued, and suggested the owners come before the Planning Board to ask for a change of use from a multiplex to an inn use.

To meet the definition of an inn, Mr. Doe explained, they are only allowed to have 9 units so they will keep the 2 single-family homes as individual units and combine 4 of the units in the larger building for a total of 7 units in the multiplex. Mr. Doe concluded there are no changes to the site itself as this Application is simply a request for a change of use as per the Land Use Ordinance.

Mr. Francis commented what he recalls and what he read in the Findings of Fact is the Planning Board approved 2 single-family homes and the multiplex which had 9 units rather than the allowed 8 and agreed that the lot coverage and setbacks were grandfathered as the site had been formerly 2 single-family homes and a multiplex. Mr. Francis continued, noting on the Application, the Applicant is requesting to change its use from an 11-unit multiplex to a 9-unit inn and that is not what you have; you have 2 single-family homes and a 9-unit multiplex. Mr. Doe agreed with Mr. Francis's statements.

Mr. Francis questioned how the property is allowed to be used as short-term rentals when they were set up and approved as condominium units.

Mr. Gilliam explained the town recently adopted a short-term licensing ordinance so as it currently stands the property owners have had opportunity to register for those licenses provided, they have had evidence they have operated as such. Mr. Gilliam continued explaining to the Board how this Application came to be before the Board today. Mr. Gilliam explained the property went through the Planning Board's review as a multiplex and went through a review process with himself as the Code Enforcement Officer and the town attorney for a condominium conversion and as such was marketed and believed some of the units were sold as such. The property ownership has changed and was sold to the current owner, Mr. Gilliam continued, and the town then became aware of, and a letter was drafted by the town attorney Amy Tchao when the town became concerned with how the property was being marketed and operated as a commercial inn use as opposed to a separate residential property. Mr. Gilliam concluded it was the town's recommendation that the Applicant come to the Planning Board to request a change of use as an inn which is a conditional use in the Cape Porpoise Zone.

Recalling from their previous Application, Mr. Francis commented there was some sensitivity after the fact from the abutters on the potential impact on traffic if the property were to be an inn and the Board did not consider traffic as an issue because the property was treated as residential properties. Mr. Francis also noted it is important to recognize they are asking to convert 2 single-family homes plus a multiplex to an inn.

Mr. Francis then asked Mr. Gilliam if the town is advocating for the change of use. Mr. Gilliam replied No, the town is not taking a position of advocating it; in terms of having the property operating within the confines of the Land Use Ordinance it was our recommendation to the property owner that they come before the Planning Board for a change of use.

Mr. Francis then asked the Applicant if this use of inn is approved would they offer meals as well and would meals then be offered to the public. Mr. Doe replied the units have full kitchens in them so they can prepare their own food. Mr. Justin Grimes, Manager of The Kennebunkport Resort Collection confirmed Mr. Doe's statement that the folks that stay there cook in their own kitchens.

Mr. Mahoney asked if a liquor license would be something they would consider for the property. Mr. Grimes responded a liquor license would be something they would be interested in exploring in the future but not at this time.

Mr. Mahoney then asked why they want to go from short term rentals to an inn. Attorney Phil Saucier representing the Applicant responded stating they believe they could still operate the property as a short-term rental under the current definition but in meetings with the town it was requested that they appear before this Board for a change of use so as a gesture of good faith we are here and want to work with the town to find a mutual conclusion.

Mr. Boak asked Mr. Gilliam if he could provide copies to the Board members of Attorney Amy Tchao's letter to the Applicant. Mr. Gilliam agreed to provide that information as well as posting it on the town's website.

Ms. Pearlmutter offered her concerns with this Application as 1.) the Applicant is basically trying to set a hotel/motel into our description of an inn; and 2.) the non-conformance of the property increases the minute the property is converted to an inn as it does not meet the dimensional requirements, structural limitations, or setback requirements. Ms. Pearlmutter continued stating this is a residential neighborhood and trying to turn something that was residential and is supposed to be residential into a commercial inn, is not something that is suited for the neighborhood. This change of use will bring in more people over time which is different than when the Board first approved this as the Board was led to believe it was going to be residential condos used for long-term rentals, Ms. Pearlmutter added.

As for the dimensional standards, Mr. Doe commented nothing has changed on the site except the standards are different for an inn than a residence.

The Board members raised concerns about the increase in traffic if this property is converted to an inn. Mr. Doe responded they did provide a traffic memo that states there would be a slight reduction in traffic since they are losing 2 units on the property.

Mr. Francis responded to Mr. Doe's comment that they are not losing the 2 units from a residential use they are losing them from a rapid short-term rental use which was not approved. Ms. Pearlmutter agreed with Mr. Francis' statement.

Mr. Francis also expressed concern about the verbiage being used as he knows the Board did not approve an 11-unit short-term rental development on Langsford Road.

Attorney Saucier commented that from the company's perspective nothing is going to change as the intensity is going to decrease since they will have 2 fewer units that can be rented. Attorney Saucier added it was an attempt to work with the town as the town asked them to apply for the change of use to an inn out of concern with how the property was operated and advertised in conjunction with the rest of company's properties.

For clarification, Mr. Gilliam explained that when the town was having conversations with the Applicant it was because what they were seeing is The Langsford was being marketed and advertised as one of the larger accommodations as part of the Kennebunkport Resort Collection at that point when you market the amenities with a group of other properties that are hotels it is hard to say that it is not really a hotel and that is why the town made a suggestion for a change of use.

Mr. Simmons questioned how the property would be managed, cleaned and maintained year-round by personnel from the Cabot Cove Cottages which is only open six months of the year. Mr. Grimes replied the manager happens to manage both The Langsford and Cabot Cove Cottages and operates out of Cabot Cove from May through October and otherwise is remote either from her house or the corporate offices in Kennebunk.

Mr. Francis requested a clarification be made to the Application that states the unit count of 11 units is grandfathered when it should state 9 units. Mr. Doe agreed with Mr. Francis's request.

Ms. Pearlmutter expressed concern on the language of the Applicant as they seem to imply that the Board of Selectmen and the town is in favor of an inn whereas they only suggested the Applicant might try to get approval for an inn as Mr. Gilliam has said the town has only suggested you to come before the Planning Board as they are not in favor of it one way or another.

Mr. Lichte asked if someone could hold a large event on the property if it is an inn. Mr. Doe replied there is not a lot of room to hold a large, tented event on the property. Mr. Grimes added if events were a concern for the Board and neighborhood that could be discussed and restricted.

The Board members and Applicant had a discussion regarding hosting events on the property, short-term rentals, and the events that lead up to the town suggesting the Applicant appear before the Planning Board for a change of use.

Mr. Francis made a motion the Application is complete with the correction to be made on the Application of changing the existing use of property to multi-family 11 units to 2 single-family and a multiplex. Ms. Pearlmutter seconded the motion, and the vote was unanimous.

Mr. Francis volunteered as Case Manager for this Application.

A Public Hearing will be held at the next Planning Board meeting.

3. **211101 100 Oak Ridge Road** – Preliminary Subdivision Application – **Initial Review** – to amend a previously approved subdivision resulting in the creation of one new lot that is outside the boundaries of the previously approved subdivision. (100 Oak Ridge Road, Assessor's Tax Map 26, Block 2, Lot 9).

Mr. Boak introduced the agenda item noting Mr. McKellar should be promoted as panelist. Mr. Boak confirmed with the videographer there are currently 25 attendees online for this meeting.

Mr. Michael McKellar along with his wife Heather McKellar addressed the Board stating they reside 100 Oak Ridge Road and have roughly 20 acres of property and are looking to remove a portion of the property, join it with an acre they've purchased from an abutter in order to create two separate lots.

Mr. Gilliam explained this is one of those odd and unique Applications as this is a modification to a subdivision with the intent being not to create an additional lot within the subdivision but to instead remove some land from the subdivision, and add some land that is outside of the boundaries of the subdivision.

Ms. Pearlmutter questioned if this should be a major revision as it is changing the borders of the subdivision even though the Applicants are not creating more lots. Ms. Pearlmutter also questioned whether the Planning Board has the authority to remove land from a subdivision. Mr. Gilliam explained the property owner has the right to appear before the Board to adjust the property lines within a subdivision and the reason this is not a major revision is this is removing a portion of land from lot 4 which is the McKellar's parcel.

The Board members and Mr. Gilliam had a detailed discussion on whether this Application qualifies as a major or minor revision to a subdivision and if the Planning Board has the authority to approve such a request.

After some discussion on process and authority, Mr. Gilliam agreed to contact Attorney Amy Tchao to send a legal opinion on whether the Planning Board has the authority to review this Application and to also contact the Maine Municipal Association's Legal department for their help to understand the specifics of this Application and procedurally who has the authority to agree to review and grant this request.

Mr. Gilliam stated he would hope to have both responses in time for the next meeting.

Mr. Francis made a motion to continue this Initial Review. Ms. Pearlmutter seconded the motion, and the vote was unanimous. Ms. Pearlmutter volunteered as Case Manager for this Application.

4. 211201 Mills Road Development, LLC –**Sketch Plan** – Discussion of a proposed subdivision on a 75-acre parcel consisting of 9-12 year-round cottages and 12-15 seasonal cottages as well as amenities such as a pool, community center, gym, and restaurant.

Mr. Boak announced the Applicant has asked for this item to be placed on the agenda for the next Planning Board Meeting.

Adjournment: A motion was made to adjourn. It was seconded, and the vote was unanimous.
Submitted By: Patricia Saunders, Planning Board Recording Secretary