

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

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

Members Present: Mr. Tom Boak (Chair), Nina Pearlmutter, Edward Francis, Neil Higgins, George Lichte
Mr. Lichte will have voting privileges.

Approval of Minutes: Ms. Pearlmutter made a motion to approve the corrected minutes from the October 17th, 2018 Planning Board meeting. Mr. Francis seconded the motion and the vote was unanimous.

Items:

1. **180901 Ledges at Ocean Avenue Subdivision / Properties of James & Jennifer Viola and James A. Mandell / Ralph Austin, Authorized Agent for both property owners** – Minor Subdivision Revision – **Public Hearing** – for approval to exchange 2,007 square feet of property to each other, thereby changing lot lines. (20 & 22 Washburn Drive, Map 41, Block 2, Lots 3L & 3M in the Cape Arundel Zone.) *George Lichte, Case Manager*

Mr. Boak introduced the Agenda item.

Attorney Ralph Austin representing both property owners addressed the Board stating this Application is for a minor revision to an approved subdivision. Mr. Austin explained the Applicants are asking to exchange 2,007 sq. ft. of land and the net area of both lots will remain unchanged. In response to a question raised at the last Planning Board meeting, Mr. Austin stated he forwarded a copy of an email from the president of the Homeowner's Association stating the Association had no issues with this Application.

Mr. Boak asked the Board members if they had any questions. There were no questions from the Board members.

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

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

As Case Manager, Mr. Lichte prepared and read the Findings of Fact into the record. The Board members signed the Findings of Fact as read.

2. **180902 George H. Walker, III & 91A-B Ocean Avenue Cottage LLC / Riverside & Pickering, Authorized Agent** – Site Plan Review – **Public Hearing** for approval to replace an existing pier, wharf, ramp and float with a shorter pier, longer ramp and similar float. This project was previously approved by the Planning Board on July 16, 2014, but never constructed. (91A-B Ocean Avenue, identified as Assessor's Tax Map 8, Block 001, Lot 14 in the Village Residential, Shoreland and Resource Protection Zones.) *Neil Higgins, Case Manager*

Mr. Boak introduced the Agenda item.

Mr. Zachary Taylor, of Riverside & Pickering addressed the Board and gave a brief summary of the Application to replace the existing dock. Mr. Taylor explained the proposed dock will be located in the center of the parcel with a 6-foot wide by 32-foot long fixed pier leading to a 3-foot wide by 35-foot gangway with an 8-foot by 25-foot wide float. As part of the review process, Mr. Taylor provided copies of a site plan showing the dock in relation to the Velocity Zone including all abutting docks. The dock to the north of the Applicant's property is approximately 81 feet away while the Nonantum's dock to the south is about 206 feet away, Mr. Taylor concluded.

Mr. Francis asked when the current dock was last used. Mr. Taylor replied the dock was in use until the decking started failing.

In reviewing Section 8.3.B.5. of the Land Use Ordinance regarding Reconstruction or Replacement of a Non-Conforming Structure, Mr. Francis questioned whether this was not a case of grandfathering but rather it is a new approval. In response, Mr. Higgins commented he interpreted the same section of the Land Use Ordinance differently in that it is replacing what is a current non-conforming structure but making it more conforming with the setback requirements.

Mr. Francis asked the Applicant if he believed Section 8.3.B.5. does not apply in this situation. Mr. Taylor replied yes it does not apply because the dock needs to be replaced due to age not because of a single event.

Mr. Francis asked when the dock was first approved by the Planning Board in 2014, were all of the permits granted? Mr. Taylor replied yes all the approved permits were obtained to reconstruct the dock.

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

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

Mr. Higgins read the Findings of Fact into the record. Mr. Boak made a motion to approve said Findings. Ms. Pearlmutter seconded the motion and the vote was unanimous.

- 3. 181001 Mills Road Subdivision /Attar Engineering, Authorized Agent – Minor Revision to a previously approved Subdivision – Initial Review** – for approval to revise the type of permit release subject to water testing from building permit to occupancy as noted on Sheet 1, General Note #15; and correct bearing and distance on Sheet 2 for Lots 2, 3, 7, 8, 12 and 13 lot lines. (Mills Road, identified as Assessor's Tax Map 23, Block 001, Lot 19A in the Free Enterprise and Shoreland Zones.)

Mr. Boak introduced the Agenda item.

Mr. Mike Sudak of Attar Engineering addressed the Board stating the original subdivision was approved on August 2nd, 2017 which called for a 14-lot cluster subdivision on 27 acres in the Free Enterprise Zone with all lots to be serviced by private wells and public sewer. Mr. Sudak explained there are no modifications to the approved subdivision except to Sheet 1 which changes the type of permit released for water testing from building permit to certificate of occupancy. Mr. Sudak also explained the proposed changes to Sheet 2 are to provide the bearing and distance coordinates in order to establish the lot lines.

Mr. Boak commented there is no change to the lot lines but instead are more clearly defining them. Mr. Sudak agreed with Mr. Boak's comment adding there is no alteration to the size or location of the lots.

Noting there were three current members serving on the Planning Board when this Application was first approved in 2017, Mr. Boak asked when in the permitting process is a well checked? Mr. Gilliam explained typically during a final inspection the builder is asked to provide acceptable water quality test results showing it meets the requirements for occupancy of minimum drinking water standards.

Mr. Gilliam commented this approval was unusual to have the water test requirement at the building permit stage rather than at the occupancy stage.

Mr. Higgins commented the property deed states the current owner as Mills Road LLC but the Application is on behalf of Cripple Creek. The Applicant should be in the name of Mills Road LLC and will correct that before the next Planning Board meeting.

Mr. Francis noted the Applicant provided a list of items to be included in the Application that are missing, some of which are a copy of a list of abutters and a site map.

Ms. Pearlmutter asked if all of the Applicant's abutters were notified of these proposed changes. Mr. Gilliam replied he believes they have been notified of receipt of this Application and will be notified again when the Public Hearing is scheduled.

Mr. Higgins made a motion the Application is complete subject to receipt of the items noted previously. Ms. Pearlmutter seconded the motion and the vote was unanimous.

Mr. Boak announced a Public Hearing will be held at the next Planning Board meeting on December 5th, 2018. Mr. Lichte was assigned as Case Manager for this Application.

- 4. 181002 136 North Street, LLC / Shepard & Read, Authorized Agent – Site Plan Review – Initial Review** – for approval to convert the previously existing trucking facility into a boatyard, to be used for boat repairs, storage and boat brokerage. (136 North Street, identified as Assessor's Tax Map 13, Block 1, Lot 1 in the Free Enterprise Zone.)

Mr. Boak introduced the Agenda item.

Attorney Bruce Read of Shepard & Read addressed the Board and gave a brief history of the ownership of the property and a summary of the Application. Mr. Read explained in his opinion there will be a reduction in the intensity of the use of the property as the new owner will have no employees unlike the previous owner when it was used as the site of trucking company. Mr. Read also noted the Applicant is not proposing to install any signage or additional lighting and will use the containment area to power wash boats in accordance with DEP's Best Management Practices.

Mr. Boak asked if the Applicant intended to park boats on the property. Mr. Read replied yes there is a large area for that.

Several Board members expressed their concerns over the sight lines and increased traffic at a very busy intersection, and asked if there were any neighbors' concerns if the Applicant chooses to allow several boats to be stored there during the winter months.

Mr. Read commented he does not anticipate a ton of boat storage to be done on the property and conceded he believed the Applicant would be amendable if the Board wished to establish a cap set on the number of boats to be stored on property as a condition of approval.

Ms. Pearlmutter asked if the property was in the Free Enterprise Zone and if this parcel was grandfathered as a conditional use. Mr. Gilliam responded there are conditional uses within the zone; adding there is a long history of trucking storage on the property.

To address the Board's concern over site line for traffic purposes, Mr. Gilliam asked Mr. Read if he could provide the Board members with an overlay of the plan onto an aerial image of the property. Mr. Read agreed to provide that information to the Board before the next Planning Board meeting.

Mr. Francis commented this property is located on the town line. Mr. Read acknowledged they did notify everyone within 200 feet on the Arundel side as well.

Mr. Higgins expressed his concern over the use and disposal of toxic materials involved in the routine maintenance of the boats. Mr. Read responded there is a wash down area indicated on the site plans and the new owner will most likely perform routine maintenance such as painting the bottoms of the boats.

Citing Article 10.6.D, Mr. Higgins suggested Mr. Read provide the Board members with the necessary information to satisfy each item of said Article will be adhered to. Mr. Gilliam added some of that information would be contained in the Material Safety Data Sheets that are required to be onsite which deals with the correct disposal of paints and materials in accordance with OSHA regulations.

Mr. Higgins made a motion the Application is complete subject to receipt of the requested information previously discussed. Mr. Francis seconded the motion and the vote was unanimous.

A Public Hearing will be held at the next Planning Board meeting on December 5, 2018. Ms. Pearlmutter was assigned as Case Manager for this Application.

Mr. Gilliam announced he is unable to attend the next Planning Board meeting on December 5th, 2018 and Assistant Code Enforcement Office Matt Philbrick will be in attendance in his place.

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

Submitted by: Patricia Saunders, Planning Board Recording Secretary