

**Kennebunkport Planning Board
December 7th, 2022 @ 6:00 PM
Hybrid Meeting Via ZOOM and In-Person
32 North Street, Kennebunkport**

A meeting of the Planning Board was held on Wednesday, December 7th, 2022 in-person and via the ZOOM format. The meeting convened at 6:00 p.m.

Members Present: Mr. Tom Boak (Chair), Ed Francis, Larry Simmons, George Lichte
Mr. Lichte will have voting privileges for tonight's meeting.

Mr. Boak confirmed a quorum of 4 members present.

Approval of Minutes: Mr. Simmons made a motion to approve the amended minutes of the November 2nd, 2022 Planning Board meeting and the minutes as submitted for the November 16th, 2022 Planning Board meeting. Mr. Francis seconded the motion, and the vote was unanimous.

Items:

1. **221101 Ocean Sound Subdivision – Robert Metcalf – Mitchell & Associates/Agent – Minor Revision to Previously Approved Subdivision – Initial Review** – This application for minor revision to a previously approved subdivision has been submitted with the intent to alter Ocean Sound Subdivision's plan. The applicant is seeking a revision to wetland delineation for lot 1c. The existing plan displays a wetland "finger" along the cul de sac, being the primary focus of this application (Assessor's Tax Map 20, Block 4, Lot 1C in the Cape Arundel Zone).

Mr. Bob Metcalf of Mitchell & Associates addressed the Board representing Philip and Lisa Vickers who purchased the property in February. In doing some evaluation, Mr. Metcalf continued, the owners discovered the wetland identified on the plans does not exist. Mr. Metcalf explained the property owners hired Longview Associates to review the wetland area who have determined the identified wetland "finger" of land does not exhibit any characteristics of a wetland and recommend the designation as a wetland be removed from the subdivision's approved plan.

Mr. Francis asked if this change will be a redline to the existing plan or will a new subdivision plan be drawn to be recorded. Mr. Metcalf responded this plan will be recorded as an amendment just for this lot.

Mr. Simmons asked if the area that has been reviewed is not a wetland, does the DEP have to agree with that conclusion or does any other organization have to approve this change in definition? Mr. Metcalf replied the DEP would not be involved in this and that is why they had Longview Associates conduct a survey of the area in question for their expertise in determining it is not a wetland area.

Mr. Gilliam offered the Code Enforcement Office has not objections to what is being presented in this Application as it is a minor modification to a subdivision plan.

There were no further questions from the Board members.

Mr. Francis made a motion the Application is complete. Mr. Simmons seconded the motion, and the vote was unanimous.

Mr. Boak announced a Public Hearing will be held at the next Planning Board meeting on January 4th, 2023.

Mr. Simmons volunteered as Case Manager for this Application.

2. **221102 Turbats Creek Preserve – Robert Metcalf – Mitchell & Associates/Agent – Minor Revision to a Previously Approved Subdivision – Initial Review** – This application for minor revision to a previously approved subdivision has been submitted with the intent to alter Turbats Creek Preserve’s plan. The applicant requests to “add” an existing lot from outside of Turbats Creek Preserve Condominium, to be included as part of the subdivision. The lot in question, 7 Timber Ledge Lane (21-9-52A), is proposed to be Unit #8 of Turbats Creek Preserve. This lot is located between Ebs Cove Subdivision and Turbats Creek Preserve Condominium. It is accessed via a private deeded right of way that travels over Nehoc Lane and Timber Ledge Lane (Assessor’s Tax Map 21, Block 3, Lot 2A in the Village Residential Zone).

Mr. Boak introduced the agenda item.

Mr. Bob Metcalf of Mitchell and Associates addressed the Board representing the property owner who is asking to have their lot be included as Unit #8 of the Turbats Creek Preserve Condominiums.

Mr. Francis questioned what role the Planning Board has in this request and asked if the Board has jurisdiction over an owner requesting to be incorporated into an association. Mr. Metcalf responded this is a lot line change as an amendment to an existing subdivision to incorporate the property into the Turbats Creek Preserve as part of the Association.

Mr. Gilliam explained this is an amendment to the subdivision for the purposes of having a recorded plan at the Registry of Deeds; adding a legally recognized plan of this development requires that it be reviewed and signed by the Planning Board and the only way to do that is to bring it before the Board as a minor amendment.

Mr. Boak asked why this a minor amendment and not a major amendment since they are adding a lot. Mr. Gilliam replied this is a minor amendment because they are not creating a new lot.

The Board members, Mr. Gilliam, and Mr. Metcalf had a brief discussion on the Planning Board’s authority in this instance and the categorization of this Application as a minor amendment to a subdivision.

Mr. Francis requested the Board receive a legal opinion from town counsel. Mr. Gilliam cautioned that if town counsel is asked to give an opinion it will have to be in writing and the Application will need to be fully reviewed which will have an additional cost.

Mr. Simmons made a motion the Application is complete subject to approval by the town attorney.

Mr. Simmons stated the process available to the Applicant is the new plan has to be signed by the Planning Board in order for the Registry of Deeds to consider it a valid plan to be recorded so we as a Board are aligning with the process. Mr. Simmons also added there is no change in the development of the property since it is just a map change.

Citing the Kennebunkport Subdivision Regulations, Mr. Gilliam quoted: “*if the revision involves only modifications of the approved plan without the creation of additional lots or dwelling units (for example, a lot line change; a driveway relocation within the lot;*”. Mr. Gilliam added the closest thing is there’s a line change here that’s occurring on the drawings which falls under the minor revision definition.

Mr. Francis withdrew his request for a legal opinion.

Mr. Simmons made a motion the Application is complete. Mr. Lichte seconded the motion, and the vote was unanimous.

Mr. Boak announced a Public Hearing will be held at the next Planning Board meeting on January 4th, 2022 and Ms. Pearlmutter has been assigned as Case Manager for this Application.

3. **221001 Kitty’s Run – Christopher Coppi – Coppi Environmental, LLC/Agent – Site Plan Review Application – Findings of Fact** – This site plan review application is seeking to alter the number of service lots accessible by the existing driveway. A findings of fact from August 15th, 2012 stipulated the approval of the access driveway to service two lots. Applicant is seeking the altered driveway to ultimately service three lots. The existing driveway initially required approval by the Planning Board due to wetland crossing (Assessors Tax Map 13, Block 3, Lot 16B in Free Enterprise Zone). *Case Manager: Ed Francis.*

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

4. **221002 37 Pier Road – Devin Prock – Permitting with Prock, LLC/Agent – Site Plan Review Application – Findings of Fact** – The site plan review application has been submitted with the intent to reconstruct a preexisting pier. The existing pier serves as a support structure for a residential cottage. ~~Cottage to be temporarily relocated on the property for the duration of the requested rebuild.~~ (Assessor’s Tax Map 30, Block 1, Lot 10 in the Cape Porpoise East Zone). *Case Manager: George Lichte*

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

Other Business:

In waiting for Mr. Metcalf to arrive to the meeting, the Board members and Mr. Gilliam discussed and decided to not hold a second meeting in December due to potential holiday conflicts.

Mr. Gilliam also provided details on potential changes to the Kennebunkport Flood Plain Management Ordinance in preparation for the new FEMA flood maps to be in place in June of 2023.

Mr. Gilliam also provided details on potential town ordinance changes because of the recently passed legislature affecting the rate of housing and zoning densities within many communities in Maine known as LD2003. The Board members and Mr. Gilliam discussed in detail what areas of the Land Use Ordinance that could be affected.

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

Submitted By: Patricia Saunders, Planning Board Recording Secretary