

**Kennebunkport Planning Board**  
**March 15th, 2023 @ 6:00 PM**  
**Hybrid Meeting Via ZOOM and In-Person**  
**32 North Street, Kennebunkport**

A meeting of the Planning Board was held on Wednesday, March 15th, 2023 in-person and via the ZOOM format. The meeting convened at 6:00 p.m.

Members Present: Ms. Nina Pearlmutter(Vice Chair), D. Scott Mahoney, Ed Francis, George Lichte, Michael West

Mr. West and Mr. Licht alternated having voting privileges at tonight's meeting. Mr. Larry Simmons will be participating via Zoom.

Approval of Minutes: Mr. Francis made a motion to approve the minutes of the March 1st, 2023 Planning Board meeting. Mr. Mahoney seconded the motion, and the vote was unanimous.

Items:

1. **221003 K.J. Trudo Properties, LLC/The Glen at Goose Rocks Subdivision – Jason Vafiades/Agent** – Preliminary Subdivision Application – **Continued Public Hearing** – The Applicant proposes a 9-lot residential subdivision. The project will be served by private wells and septic. Access to the site will be from Goose Rocks Road via a single road that splits into two segments each with a cul-de-sac. (Assessor's Tax map 15, Block 1, Lot 1B in the Farm and Forest Zone). *Case Manager: Charles "Larry" Simmons.*

Ms. Pearlmutter introduced the agenda item and asked the Applicant to provide a synopsis of the updated materials provided prior to this meeting, specifically to explain what exhibit #17 is.

Mr. Lucien Langlois addressed the Board stating the package they have submitted is the revised Preliminary Subdivision Application and exhibit #17 is the plan set with Acorn Engineering's response from their peer review. Mr. Langlois listed some additions to the application since the last meeting which are:

- Cost estimate for the infrastructure to be developed on the site,
- A bank letter,
- Draft of the Homeowners Association By-Laws with some language discussed at previous Board meetings prohibiting the use of pesticides, insecticides, and herbicides except on review of the HOA to approve on a case-by-case basis to treat insect or invasive plant species,
- Large specimen trees have been added to the site plans,
- Boundary survey added to the plan set,
- Developed a base flood elevation for the Preliminary A Zone on the site plan.

Mr. Langlois added they have completed additional soil test pits and stormwater BMPs to show adequate distance between wastewater and wells.

After providing a brief detailed explanation on the base flood elevation, Mr. Langlois noted there are no stormwater structures, building structures, wells, or wastewater systems in either flood zone.

The concept for the plan, Mr. Langlois continued, is to have a rural country setting by making sure there are buffers from sensitive resources as well as from neighboring properties.

Mr. Langlois then explained there are several easements on the project, some of which are:

- Stormwater Easement for no-cut forested buffers,
- Driveway Easement for the owner of lot 6 to cross another lot to get to their property in order to reduce the wetland impact,
- Open Space Easement for 2 trails coming off each cul-de-sac so residents can have access to the open space.

Mr. Langlois added these easements will be deed recorded.

As for the stormwater structures, Mr. Langlois explained there is 1 gravel wetland and a few bioretention cells which will also be deed recorded. Maintenance responsibility will be on the developer until the Homeowners Association takes over and the residents of the individual lots will be responsible that they don't cut any vegetation or trees in their stormwater buffers, Mr. Langlois stated; adding it is important to have severity language in the Homeowners Association documents if there is a violation.

Lastly, Mr. Langlois brought to the Board's attention the section of the Application that correlates each Application Exhibit with the Subdivision Requirements.

Mr. Lichte joined the meeting in person.

Mr. Simmons asked the Applicant to explain the relationship of the Homeowners Association and the developer. Mr. Langlois responded this project will be sequenced, meaning houses will be developed consecutively and the developer will be responsible for maintenance and proper installation of the stormwater BMPs. So in this case, Mr. Langlois explained, there is an array of bioretention cells and 1 gravel wetland that the developer will be responsible for installing according to the plan set and will be responsible for maintaining them as stated in the stormwater report until the Homeowners Association is formed and takes ownership of everything which includes a transfer in the Maine Department of Environmental Protection permit as well.

A more detailed discussion occurred between Mr. Simmons and Mr. Langlois on the specifics and readiness of the Homeowners Association assuming responsibility of the stormwater systems. Mr. Langlois agreed to include a Pro-Forma contract for maintenance requirements along with a checklist of what items need to be inspected as part of the maintenance requirements. HOA could use these documents to request bids from contractors to perform such maintenance.

Ms. Pearlmutter commented in the Final Plan, the Board will expect to have a hydrogeological report, all permits currently pending, and the Maine DEP approval of the stormwater management plan.

Mr. Francis asked about the updated site plans. Mr. Langlois noted they updated the flood elevations on the plan and will include that in the Final Submission. A brief discussion on submission requirements and the town's process for such occurred with Mr. Gilliam noting he would like to look at the stormwater management plan for the Final Submission because there were a number of changes to the stormwater elements that will be sent out for peer review.

Mr. Francis expressed concern the Homeowners Association will not have the expertise to assume the maintenance responsibilities of the stormwater systems. After some discussion, Mr. Francis suggested perhaps the transfer of responsibility is to a certified provider or equivalent. Mr. Langlois agreed with Mr. Francis' suggestion.

There was more discussion on the details of the Homeowner's Association documents regarding the use of pesticides, stormwater management requirements, maintenance of the stormwater systems, and clearing limits to ensure maintenance of a tree canopy. Mr. Langlois commented the final draft of the Homeowners Association documents will be done by their attorney.

Ms. Pearlmutter opened the Public Hearing. There were no comments from the audience in attendance or on Zoom. Ms. Pearlmutter closed the Public Hearing.

A brief conversation occurred with the Board members, Mr. Langlois and Mr. Patrick Johnson, Project Surveyor on flood elevations and house sites.

Mr. West made a motion to approve this Preliminary Subdivision Application plan with the understanding that the hydrogeological report be submitted for the Final Subdivision Application along with the Maine Department of Environmental Protection permit and the Army Corps of Engineers permit. Mr. Simmons seconded the motion, and the vote was unanimous.

As is procedure, Ms. Pearlmutter stated she will send a letter to Chairman Tom Boak for his signature

2. **230201 Roberts Lane – J.W. Group, LLC/Joshua Waterhouse** – Site Plan Review – **Public Hearing** – the Applicant seeks approval to extend the road to a new lot that was created. A prior Planning Board approval for extension of that road was for the purpose of one house lot (Assessor's Tax Map 22, Block 9, Lot 1D in Free Enterprise Zone).

Ms. Pearlmutter introduced the agenda item.

Mr. Josh Waterhouse addressed the Board stating Roberts Lane is the road they are extending and putting in a turnaround for emergency vehicles.

Mr. Francis noted the Fire Chief has weighed in and approved the proposed layout of the road extension.

Ms. Pearlmutter asked the Board members if they had any questions for the Applicant. There were none.

Ms. Pearlmutter opened the Public Hearing. There were no questions or comments from the audience in attendance or on Zoom. Ms. Pearlmutter closed the Public Hearing.

Mr. Francis made a motion to approve the Application. Mr. Mahoney seconded the motion; and the vote was unanimous.

As Case Manager, Mr. Francis will read the Findings of Fact at the next Planning Board meeting.

3. **230202 45 Ocean Avenue/Bruce Read, Esq. /Agent – Site Plan Review – Initial Review** – This application is seeking a change of use for one of the first-floor units at 45 Ocean Ave. the current use of this unit is a hair salon, with a proposed use of retail. A findings of fact from June 3<sup>rd</sup>, 2009 provided approval for said unit to operate as a hair salon, with the existing use being retail (Assessor's Tax Map 10, Block 1, Lot 8 in the River Front Zone).

Ms. Pearlmutter introduced the agenda item.

Attorney Bruce Read, representing the Applicants addressed the Board stating this is simply a change of use from a hair salon to a retail operation of selling wine and cheese. Attorney Read also explained the purchase and sale contract submitted is of an LLC that has not been formed yet.

Since the LLC is not formed yet, Ms. Pearlmutter asked to see a certificate of good standing for the new business. Attorney Read explained the owners have financing and will be forming the LLC per the bank's instructions.

Ms. Pearlmutter expressed her concerns there isn't adequate parking for this business to go from a professional use to a retail store since it is already non-conforming.

A brief discussion amongst the Board members occurred on conditional uses and non-conforming uses.

Mr. Francis asked the Applicant to provide a map or picture of the number of parking spaces available and where they will be located on the site.

Mr. Lichte asked if there will events held at the property such as a wine tasting. Ms. Heidi Maynard responded no there will be no events or wine tastings.

Mr. West asked how deliveries will be done. Ms. Lani Dietz replied she has the same dealers as Arundel Wharf Restaurant so trucks will park at the restaurant and walk over any deliveries for her business.

Mr. Simmons asked the Applicant if there will be any large refrigeration units that would create noise for adjacent properties or any upgrade to utilities necessary. Ms. Dietz responded No she just has one small cooler inside the shop and there are no utility upgrades needed.

Mr. Francis made a motion the Application is complete with the exception of providing parking information and an update on the LLC information. Mr. West seconded the motion, and the vote was unanimous.

Ms. Pearlmutter announced a Public Hearing will be held at 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