

**Kennebunkport Planning Board**  
**June 21st, 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, June 21st, 2023 in-person and via the ZOOM format. The meeting convened at 6:00 p.m.

Members Present: Mr. Tom Boak (Chair), Nina Pearlmutter, Ed Francis, Charles “Larry” Simmons, George Lichte, Mike West  
Mr. West will have voting privileges for tonight’s meeting.

Approval of Minutes: Ms. Pearlmutter made a motion to approve the amended minutes of the June 7th, 2023 Planning Board meeting. Mr. Francis seconded the motion, and the vote was unanimous.

Items:

1. **230404 803 Kings Highway – John Gallant/Michael Bedell – Kennebunk River Architects/Agent – Site Plan Review – Continued Public Hearing –** the Applicant is seeking a minor expansion of existing single-family home, expansion meets all criteria set forth in the Maine DEP and has been issued a permit to be modified in its current location as designed (Assessor’s Tax Map 34, Block 1, Lot 12 in Goose Rocks Zone). *Case Manager: Charles “Larry” Simmons*

Mr. Boak introduced the agenda item.

Mr. Mike Bedell of Kennebunk River Architects addressed the Board stating the information they submitted prior to tonight’s meeting hopefully clarifies things for the Board members. Mr. Bedell explained they took Lower Village’s survey, came up with new elevations to meet the 30-foot height restriction and removed a small amount of volume out of the house mainly by reducing the roof pitch slightly.

Mr. Simmons thanked Mr. Bedell for his swift response to the Board’s request from the last meeting and asked about the erosion control provisions. Mr. Bedell replied he spoke with Geoff Aleva of Civil Consultants who requested he work with Werner Gilliam before the permit is issued.

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

Mr. Lichte made a motion to approve the Application. Mr. Simmons seconded the motion, and the vote was unanimous.

The Findings of Fact will be read at the end of tonight’s meeting.

Mr. Simmons 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.

- 2. 230405 21 Norwood Lane – Mark and Katherine Badertscher/John Einsiedler, R.A./Agent – Kennebunk River Architects/Agent – Site Plan Review – Continued Initial Review** – the Applicant proposes to add a new foundation under the existing structure, elevating the structure to meet FEMA flood requirements. Additionally, they propose to move the barn structure further away from the resource on the southwest side of the property (Assessor's Tax Map 34, Block 2, Lot 2 in the Goose Rocks Zone).  
*Case Manager: Ed Francis*

Mr. Boak introduced the agenda item.

Mr. John Einsiedler, representing Kate and Mark Badertscher addressed the Board stating they are proposing to elevate the house approximately 4 feet in accordance with the new flood maps and move it to the rear of the property as much as possible. In doing so, Mr. Einsiedler continued, they violate the side setback by an additional 2 feet but will have moved the structure a little over 30-feet from the resource.

Mr. Boak commented that puts the house now closer to the property line of the neighbors and asked if the owners have talked to the neighbors about this. Mr. Einsiedler replied he has not heard anything from the neighbors. After hearing a comment from a member of the audience in attendance, Mr. Boak stated the neighbor is pleased with this proposal.

Mr. Einsiedler also stated they are proposing to bring in some fill of about 120 yards and has contacted the Maine Department of Environmental Protection twice but has not heard back from them. Mr. Boak noted it will be stated in the Findings of Fact that the DEP approval must be obtained before the permit is issued.

Mr. Francis commented that in the process of moving the house 20-feet further away from the resource they will be 2 feet over the setback in the front and will be increasing that non-conformance, and asked what the rationale is behind that. Mr. Einsiedler responded they are moving it closer to the sideline setback not the street and indicated on the site plans where all the setbacks were located.

Mr. Francis asked what the proposed height of the house will be. Mr. Einsiedler replied it is just about 27 feet as we are raising it 4 feet from its current 23 feet.

Mr. Simmons thanked the Applicant for providing an update on the fill details and questioned whether the proposed footing is wide enough. Mr. Simmons also suggested it may be fortuitous to do some bearing testing.

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

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

The Findings of Fact will be read at the next Planning Board meeting on July 5<sup>th</sup>, 2023.

3. **230403 47 The Long & Winding Road – Longview Partners/James Logan** – Preliminary Subdivision Application – **Public Hearing** – This application seeks approval for a major revision to an existing subdivision with the intent to split 25-1-3, identified as Lot 3 on the 1984 Trumbull Plan. This change would result in one (1) additional lot being added to the existing subdivision. (Assessor's Tax Map 25, Block 1, Lot 3 in Farm and Forest Zone).

Mr. Boak introduced the agenda item.

Mr. Jim Logan of Longview Partners addressed the Board stating he submitted prior to tonight's meeting a letter explaining the rationale for the four waivers requested along with a letter from the Fire Chief in reference to the fire pond.

The Board members had no questions for the Applicant.

Mr. Boak made a motion the Board approves the Applicant's request for four waivers which are: high intensity soil survey, hydrogeologic assessment, traffic study, and stormwater management plan. Ms. Pearlmutter seconded the motion, and the vote was unanimous.

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

Mr. Lichte made a motion to approve the Application. Mr. Simmons seconded the motion, and the vote was unanimous.

4. **230502 77 Pier Road – German Lucarelli** – Site Plan Review Application – **Initial Review** – This site plan review application is seeking approval to add a refreshment trailer in the existing paved area adjacent to the restaurant located at 77 Pier Road. (Assessor's Tax Map 29, Block 2, Lot 5B in Cape Porpoise South Zone).

Mr. Boak introduced the agenda item.

Mr. German Lucarelli addressed the Board stating he would like to bring a trailer like a food truck to offer some Italian espressos and snacks for breakfast from 7:00am to lunchtime. Mr. Lucarelli added the trailer has no engine and would be located on the side or front of the restaurant which has no assigned parking spots.

Ms. Pearlmutter questioned if this proposal is allowed since it is an expansion of a non-conforming use in the Shoreland Zone. Mr. Gilliam explained the Shoreland Zone is an overlay zone and as such all the uses permitted in the underlying zone are permitted. Mr. Gilliam added the side of the Right of Way where the food trailer is being proposed is in Cape Porpoise Square Zone where restaurants are a conditional use.

The Board members, Mr. Gilliam and Ms. Radley had a detailed discussion of zones, overlaying zones, permitted uses, and non-conformances.

Ms. Pearlmutter then commented the Application needs to be corrected to state the property is in the Cape Porpoise Square, Cape Porpoise South, and Shoreland Zones. Mr. Francis added the request from the Board is to correct the DZ and to show those 2 zones on the map.

To address the question if this Application is an expansion of a non-conforming use, Mr. Francis stated the hours of operation [of the food truck] is not competing with the restaurants so the parking is not an issue.

Mr. Francis then asked the Applicant if he would consider a condition of approval that limited the hours of operation of the food truck outside of the hours of operation of the existing two restaurants. Mr. Lucarelli replied yes.

A brief discussion occurred on the parking in that area.

Referring to Mr. Lucarelli's comment about using the trailer to do an event at a different location, Mr. Lichte asked if he would be taking the trailer out every day. Mr. Lucarelli responded no, it would be there most of the time and would be seasonal and would take the trailer out just when he had those type of events.

Mr. Simmons asked if he was going to operate this trailer outside of regular hours, like 5:00am to noon. Mr. Lucarelli replied no, it would be 7:00am to noon and provided more details on the restaurants' operations.

The Applicant and Board members had a brief discussion on the restaurant hours and determined this would not be an expansion of use if the food truck closed when the restaurant opens at 5:00p.m.

Mr. Simmons asked if the Applicant would be adding any dumpsters for solid waste disposal. Mr. Lucarelli replied no they will use the same trash disposal as the restaurants.

After some discussion on the parking lot configuration, the position of the trailer and pedestrian and vehicular traffic, the Board asked the Applicant to come up with a plan that addresses their concern about safety of pedestrians.

Mr. Francis made a motion that the Application is complete pending receipt of the 3 items previously discussed. Mr. Simmons seconded the motion, and the vote was unanimous.

Mr. Francis clarified the 3 items the Board is looking for are:

1. Corrected Application showing the property is in 2 zones: Cape Porpoise Square and Shoreland Zone,
2. Corrected Site Plan showing those 2 zones,
3. Proposal satisfying the Board's safety concerns of pedestrians on the property.

Mr. Francis is Case Manager for this Application.

- 5. 230503 7 Belair Avenue, Unit 1 – Gretchen Palmer – David Graham – Graham Architects/Agent – Site Plan Review Application – Initial Review**  
This site plan review application is seeking to demolish and replace Unit 1 at 7 Belair Ave. The existing condominium is a nonconforming structure on a nonconforming lot. The structure is nonconforming due to being located within the front setback, triggering planning board approval. The applicant is also seeking to utilize the 30% expansion for an increase in interior square footage and volume. (Assessor's Tax Map 35, Block 12 Lot 3-A in Goose Rocks Zone).

Mr. Boak introduced the agenda item.

Mr. David Graham, acting agent for Gretchen Palmer addressed the Board stating this Application is proposing to tear down and rebuild the house on the existing footprint. Mr. Graham added a portion of the house is within the frontline setback and they are looking to use the 30% allowable expansion to expand that portion of the non-conforming section of the house. According to his conversation with the DEP, Mr. Graham stated, they are restricted in their Permit-By-Rule from expanding the foundation.

Mr. Graham explained the Application was revised from his June 1<sup>st</sup>, 2023 submission following the DEP review.

Ms. Pearlmutter asked how many condominiums are in this building. Mr. Graham replied there are 3 condominiums on the lot. Mr. Graham added they

included in their packet a letter from the other condominium owners stating they are ok with this project.

Mr. Simmons asked if these are free-standing condominiums. Mr. Graham responded that is correct, yes, adding the condominium in the rear of the lot has been torn down and rebuilt in the past 10-15 years.

Mr. Boak confirmed with the Applicant this property is in neither the Shoreland Zone nor the Resource Protection Zone. Ms. Pearlmutter commented that this is before the Planning Board because it is non-conforming. Mr. Graham agreed with Ms. Pearlmutter's statement, adding also because they are proposing to do a complete teardown of the house.

Mr. Lichte made a motion that the Application is complete. Ms. Perlmuter seconded the motion, and the vote was unanimous. Mr. Lichte voted on this Application.

- 6. 230504 195 Log Cabin Road – Seashore Trolley Museum – Henry Hess/Sebago Technics – Site Plan Review Application – Initial Review –**  
This site plan review application is seeking to add a 2,400 square foot garage at the Seashore Trolley Museum. The current use of this property is a museum, being a conditional use within the farm and forest zone under article four of the LUO (Assessor's Tax Map 3, Block 1, Lot 1 in Farm and Forest Zone).

Mr. Boak introduced the agenda item.

Mr. Henry Hess, on behalf of the Seashore Trolley Museum, addressed the Board stating he is here for the 3<sup>rd</sup> installment on their campus to provide improvements for a 2,400 square foot building. Mr. Hess showed on the large aerial photo of the property where the garage will be located in the back corner of the campus to be used to house maintenance equipment and will have a metal roof. Mr. Hess also noted some proposed improvements to the road and existing ditches to ensure water continues to drain appropriately.

Mr. Hess also noted there will not be any water or sewer lines running to the site, only power lines for light.

After a brief discussion on the soils in that area and the handful of trees that will need to be cut off the existing road there, Mr. Hess agreed to consider keeping a few trees that like wet soil particularly around the garage.

Mr. West asked if the building is strictly for maintenance equipment storage and no maintenance work is done in that building. Mr. Hess agreed, stating there will be no work done in the building and there will be no floor drains or hazardous materials.

Ms. Pearlmutter made a motion that the Application is complete. Mr. Simmons seconded the motion, and the vote was unanimous. Mr. Lichte voted on this Application.

There will be a Public Hearing held at the next Planning Board meeting on July 5<sup>th</sup>, 2023.

Ms. Pearlmutter is Case Manager for this Application.

**7. 230401 Mills Road Subdivision – Michael Tadema-Wielandt, P.E. – Terradyn Consultants, LLC /Agent – Final Subdivision Application – Findings of Fact** – the Applicant is proposing to develop a 13-lot cluster subdivision, including a 1,650 linear foot road, stormwater management infrastructure, underground utilities, and pedestrian accommodations (Assessor's Tax Map 25, Block 5, Lot 8 in Goose Rocks/Free Enterprise Zones). *Case Manager: Mike West*

Mr. West read the Findings of Fact into the record.

Mr. Francis commented on the wording of Item 9 in the Findings of Fact as read. After some discussion, the Board members unanimously agreed to strike out the discussed language and initial the correction when signing. Mr. Boak made a motion to approve said Findings. Ms. Pearlmutter seconded the motion, and the vote was unanimous.

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

**Submitted By:** Patricia Saunders, Planning Board Recording Secretary