

**Kennebunkport Planning Board
September 20th, 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, September 20th, 2023 in-person and via the ZOOM format. The meeting convened at 6:00 p.m.

Members Present: Mr. Tom Boak (Chair), Nina Pearlmutter, D. Scott Mahoney, Charles “Larry” Simmons, George Lichte, Mike West
Mr. Lichte and Mr. West will alternate voting in tonight’s meeting.

Approval of Minutes: Mr. Simmons made a motion to approve the minutes of the September 6th, 2023, Planning Board meeting. Ms. Pearlmutter seconded the motion, and the motion passed.

Items:

- 1. 230703 63 Pier Road – Flycatcher, LLC/Lisa Vickers/Agent – Site Plan Review Application – Continued Initial Review** – Applicant seeks to reconstruct a new dock to replace the original dock destroyed in October of 2022 (Assessor’s Tax Map 29, Block 2, Lot 6 in Cape Porpoise East Zone).
Case manager: George Litche

Mr. Boak introduced the agenda item.

Mr. Tim Forrester of Flycatcher, LLC addressed the Board on behalf of the Applicant noting there was a short to-do list that came out of the last meeting which included adding a note on the site plans indicating there will be ½-inch deck board spacing as well as to correct a typo on the main sheets 1 and 2 where it said 70 instead of 68 feet in length.

Mr. Boak expressed his objection to having a 6-foot-wide dock. Ms. Pearlmutter agreed a 6-foot-wide dock is not standard.

Mr. Lichte asked why the Applicant isn’t requesting to rebuild the dock exactly the way it was. Mr. Forrester responded that is mainly because of elevation and is what partly led to its demise during the storm. Mr. Forrester further explained they did not want to make the dock more nonconforming than it was so in raising the elevation they decided to keep the same length by adding steps but in doing so they need to apply for a new permit from the Maine Department of Environmental Protection.

Mr. Lichte asked if they were to build a new dock it would have to be raised? Mr. Forrester replied, no one would build a new dock in that location at that elevation.

Mr. Lichte then asked why they chose to stay with the 6-foot width. Mr. Forrester responded it was the Applicant's choice and they are adamant on keeping the width at 6-feet.

Mr. Boak added that it is completely unreasonable to not make this dock as conforming as possible.

Ms. Pearlmutter asked the Applicant if they have received the permits they need. Mr. Forrester replied the Maine DEP has approved the 6-foot width which is the maximum width allowed for a new residential dock according to the DEP standards. Mr. Forrester also noted the habitat underneath the dock is all ledge and so in terms of the elevation there is no intertidal vegetation below it that could possibly be impacted by shading.

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 this Application. Mr. Simmons seconded the motion, and the vote was 5-0-1 in favor of the motion. Mr. Boak abstained from voting. Mr. Lichte and Mr. West voted on this Application.

Mr. Boak announced the Findings of Fact will be read at the next Planning Board meeting.

2. 230704 22 Agamenticus Avenue – Atlantic Environmental/Lisa Vickers/Agent – Site Plan Review Application – Continued Public Hearing
– Applicant seeks to stabilize the existing stone retaining wall that is failing and in need of repair (Assessor's Tax Map 30, Block 3, Lot 30 in Cape Porpoise East Zone). Case manager: Larry Simmons

Mr. Boak introduced the agenda item.

Mr. Tim Forrester again addressed the Board on behalf of the Applicant noting the Board requested some additional information at the last meeting. The first item, Mr. Forrester noted, was to include the location of the septic system on the site plans that shows the leach field is located on the adjacent parcel that is also owned by the Applicant.

The other item that was discussed at the last meeting, Mr. Forrester noted, is the impact the new proposed FEMA flood maps would have on this project. Mr. Forrester explained their proposed design has the top of the wall at 14-feet which exceeds the current maps. The new proposed maps would require an additional 4-feet which would bring the wall to 18-feet and hinder being able to see out of the house windows.

Mr. Simmons asked if there was a base flood elevation that applies to this. Mr. Forrester replied not for a riprap wall; there is a 13-foot elevation of the Velocity Zone, but riprap doesn't have to be above or below that.

Mr. Simmons asked if there is a velocity issue of water going back over the wall. Mr. Forrester responded right now they get spray that hits over the wall and the elevation on the front side is higher than the elevation on the side so the water runs down the driveway.

Mr. Simmons had several more technical questions for the Applicant and there was a brief discussion on perhaps having a low retaining wall behind the new rip rap and backfilled with topsoil to bring a portion of the lot level up to the base level of the house, providing any guarantees to the homeowner about the effectiveness of the rip rap to be added to stabilize the existing retaining wall, and having a provisional detail to be used if drilling holes for pinned support of the granite slabs during construction degrades the existing retaining wall, which is composed of rocks and grout..

Mr. Boak re-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. Simmons made a motion to approve the Application. Ms. Pearlmutter seconded the motion, and the vote was unanimous. Mr. Lichte voted on this Application.

Mr. Boak announced the Findings of Fact would be read at the next Planning Board meeting.

3. 230801 Seaside Hotel Associates dba: Nonantum Resort/Tina Gordon AP/Agent – Site Plan Review Application – Continued Initial Review – The Applicant seeks to repair the back lawn of the resort by adding approximately 540 cubic yards of material in the shoreland (Assessor's Tax Map 8, Block 1, Lot 13 in Cape Arundel Zone).

Mr. Boak introduced the agenda item.

Ms. Tina Gordon, General Manager of the Nonantum Resort, addressed the Board stating she amended the errors brought up at the last meeting on the Application. Ms. Pearlmutter also noted the Applicant needs to indicate on the Application that they are a corporation in good standing. Ms. Gordon also noted she is accompanied tonight by Mr. Geoff Aleva with Civil Consultants to answer any questions.

Mr. Aleva addressed the Board stating this project is proposing to fill the back lawn area of the resort that over the years has subsided due to the type of soils

there and the wave action from storms. Mr. Aleva explained they are proposing to add some grade changes by stripping the topsoil that is there and bring in sand material, clean sand and sod placed on top of that to raise that area. A licensed contractor with the Maine DEP has been hired to perform the work, Mr. Aleva added, and the fill will not impact the existing riprap or change the top of that riprap seawall at all.

Ms. Pearlmutter asked if they were repairing the seawall or just bringing in more riprap. Mr. Aleva replied they are repairing the wall and may need to replace other blocks in there but it is a very small section of a maximum of 15-feet long and no taller than 4-feet high.

Ms. Pearlmutter asked Mr. Aleva to include their DEP application with this Application. Mr. Aleva agreed to provide that information before the next meeting.

The Board members and Mr. Aleva had a discussion on the details of the proposed work.

Ms. Pearlmutter asked if there is a soil erosion control plan. Mr. Aleva responded yes, they show on the site plans the mulch berm and have included those details in the Application.

Mr. Simmons and Mr. Aleva had a very detailed discussion on the proposed construction, the existing concrete chambers on the property, and the possibility of installing a French drain system to help reduce the hydrostatic pressure acting on the seawall at low tides when it functions as a retaining wall.

Mr. Aleva noted that since they are not changing the groundcover it shouldn't change the stormwater runoff.

Ms. Pearlmutter suggested adding more sand would help. Mr. Aleva responded that the grades will stay the same on the surface, but he will look if there is a need to add more sand based on the soils they find below.

Ms. Pearlmutter made a motion the Application is complete pending receipt of a copy of the DEP Application. Mr. Simmons seconded the motion, and the vote was unanimous. Mr. West voted on this Application.

Mr. Boak announced a Public Hearing will be held at the next Planning Board meeting.

4. 230803 54 River Road – Thomas W. McClain 2009 Trust James Logan/Longview Partners, LLC/Agent Site Plan Review of a Minor Revision of Approved Subdivision Initial Review The Applicant seeks to adjust an existing lot line dividing lots 2 and 3 with the intent to keep the

existing gazebo structure on the lot with the existing dwelling unit. Located at 54 River Rd (Assessor's Tax Map 1, Block 1, Lots 2 & 3 in Village Residential).

Mr. Boak introduced the agenda item.

Mr. Jim Logan of Longview Partners addressed the Board stating this is a minor revision as there are no new lots or dwellings that will result in this Application being approved. Mr. Logan explained there is a small gazebo structure just off to the left of the Applicant's lot so they would like to revise the lot line to so that the gazebo is on the same lot as his home. Mr. Logan added they will swap 25 feet in front of the lot for 45 feet in the back and have remapped the wetlands and re-delineated both lots so that the new area calculations have been revised with both lots still meeting the 40,000 net lot area.

Mr. West asked if there are septic systems or wells on the properties. Mr. Logan replied the whole are ais on public sewer.

Ms. Pearlmutter asked if this lot change will affect any driveway going on the vacant lot. Mr. Logan responded no.

Ms. Pearlmutter noted the Application does not contain a copy of the property deed. Mr. Logan agreed to provide that before the next meeting.

Mr. Boak noted the name of the original subdivision from 1991 should be included somewhere in the Application. Mr. Logan also agreed to make that correction.

Mr. Boak made a motion the Application is complete pending receipt of a copy of the property deed and the addition of the original subdivision name. Mr. Simmons seconded the motion, and the vote was unanimous. Mr. Lichte voted on this Application.

Mr. Boak announced there will be a Public Hearing at the next Planning Board meeting.

Mr. Boak volunteered as Case Manager for this Application.

5. 230702 Richard and Mary Steiger – 11 Wildwood Ave – Site Plan Review Application – Findings of Fact – Replacement of an existing non-conforming 2 story, 2 family house (Assessor's Tax Map 35, Block 23, Lot 10 in Goose Rocks Zone). Case manager: Mike West

Mr. West 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.

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

Submitted By: Patricia Saunders, Planning Board Recording Secretary