

**Kennebunkport Planning Board
October 5th, 2012 ~ 7:00 PM
Village Fire Station, 32 North Street**

A regular meeting of the Planning Board was held on Wednesday, October 5th, 2012. The meeting convened at 7:00 p.m. in the North Street Fire Station.

Members Present: Mr. Greg Reid (Acting Chair), Leo Famolare, Gordon Ayer, John Hathaway, Peter Fellenz, Helen Conaty

Approval of Minutes: Mr. Famolare made a motion to approve the minutes from the September 19th, 2012 Planning Board meeting. Mr. Fellenz seconded the motion and the vote was unanimous.

Items:

1) 120801 Wallace & Virginia Reid / Robert Reid, Authorized Agent – Site Plan Review – **Findings of Fact** – for approval to shift a shared driveway away from their house and do driveway improvements. [45 North Street, Assessor's Tax Map 09, Block 003, Lot 01 in the Village Residential Zone.]

Ms. Conaty read the Findings of Fact into the record. Mr. Famolare made a motion to approve said Findings. Mr. Fellenz seconded the motion and the vote was unanimous. Mr. Reid is recused from this review and will not be signing the Findings of Fact to be recorded.

2) 120602 John & Jeannie Scollins / Harvey Wells, Authorized Agent – Site Plan Review – **Continued Review**– for approval to remove the existing one story cottage and replace it with a new two story cottage in a different location to make it more conforming to setbacks, as well as relocate and enlarge an outbuilding. [11 Harwood Drive, identified as Assessor's Tax Map 21, Block 005, Lot 25 in the Cape Porpoise West Zone.]

Mr. Reid introduced the Agenda item noting the Board's receipt of the revised new plans along with a letter from abutters, Jeremy Weis and Craig Perkins dated October 2, 2012.

Mr. Harvey Wells addressed the Board stating the changes to the proposed plans includes those items the Board requested at the last meeting such as noting the flood plain line on the property along with the calculations of the amount of fill required. Mr. Wells mentioned that Mr. Brian Shaw has reviewed the plans and agrees on the position of the flood plain relative to the property.

Mr. Reid asked Mr. Wells if he has received a copy of Ms. Weis' letter. Mr. Wells stated he has received a copy of Ms. Weis' letter regarding the well and informed the Board the well is not part of this Application at this time.

Mr. Wells asked the Board if there was an issue with having a door between the house and the utility/shed area. Mr. Reid responded it was his recollection that the majority of the Board did not have any objection to it.

Mr. Reid suggested Mr. Wells work with Mr. Brian Shaw in the Code Enforcement Office to ensure the excavation of the new crawl space under the house conforms to the Land Use Ordinance's soil erosion plan. Mr. Wells responded he would talk with Mr. Shaw.

Mr. Ayer made a motion the Application was complete. Mr. Fellenz seconded the motion and the vote was unanimous.

Other Business: Wilbur Cluff wishes to discuss his existing firewood business.

Mr. Reid acknowledged the Board's receipt of the following correspondence regarding Mr. Cluff's business operations:

- Letter from Jean LaRocque dated October 3, 2012 received via email
- Letter from Deidre Spang dated August 27, 2012

Mr. Wilbur Cluff addressed the Board stating he has been cutting firewood since 1979 and in the past few years his sons have started to expand the business. Mr. Cluff stated he has a couple of big jobs in town and would like to get permission to resume his firewood business. Mr. Cluff also stated he would like to work out some sort of compromise with his neighbors.

Mr. Reid asked Mr. Cluff if his business was a part-time business. Mr. Cluff replied it is a seasonal business, conducted during the day, and prefer to process the wood we've been asked to supply by customers within a week's time.

Mr. Hathaway asked Mr. Cluff if he was still processing now. Mr. Cluff responded he was asked to stop. Mr. Hathaway asked how long his seasonal business operated. Mr. Cluff replied the business starts in September and goes into the winter.

The Board members discussed at length the issues at hand regarding Mr. Cluff's business operation, some of which are:

1. Is Mr. Cluff's business a change of use or a new use?
2. Is Mr. Cluff's business classified as manufacturing or retail according to our Land Use Ordinance definitions?
3. Should this issue even appear before the Planning Board or is it out of the Planning Board's scope of authority?

Mr. Ayer noted a stop work order was issued by the Code Enforcement Officer on August 29th which allows the recipient of the order 30 days to appeal and appear before the Zoning Board of Appeals. Mr. Ayer noted that would mean Mr. Cluff's appeal period has already expired before he had the opportunity to be heard in front of a town board.

Mr. Ayer made a motion the Planning Board submit this file to Mr. Brian Shaw urging him to curb the stop work order and bring the matter to the Zoning Board.

Mr. Cluff stated the rented wood processor, which was the source of all of the noise complaints from neighbors, has been returned.

Mr. Ayer restated his motion to forward this client to the Code Enforcement Officer to make a determination as to whether or not the Stop Work Order is correct and bring this issue before the Zoning Board of Appeals. Mr. Hathaway stated his recommendation should be to withdraw the stop work order, suggest the Cluffs appear before the Zoning Board of Appeals and ask the Cluffs to work any issues out with the neighbors.

Phil and Dee Spang, owners of 120 Mills Road and 122 Mills Road addressed the Board stating their complaint was with the noise of the wood processor. The Spangs also stated they have never had any issue with Mr. Cluff or his business prior to the arrival of the wood processor.

Ms. Claire Menard addressed the Board stating she has been a neighbor of Mr. Cluff's since 1969 has never had any problems with noise.

Mr. Ayer again suggested the Board speak with Mr. Shaw to explain that under the Land Use Ordinance his decision for the stop work order should be appealed to the Zoning Board of Appeals not the Planning Board.

Mr. Hathaway seconded Mr. Ayer's motion. The Planning Board voted 4-1 in favor of the motion. Mr. Fellenz opposed the motion. Ms. Conaty did not have voting privileges for this meeting.

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

Submitted by: Patricia Saunders, Planning Board Recording Secretary