

**Kennebunkport Planning Board  
November 19th, 2014 ~ 7:00 PM  
Village Fire Station, 32 North Street**

A regular meeting of the Planning Board was held on Wednesday, November 19th, 2014. The meeting convened at 7:00 p.m. in the Kennebunkport Village Fire Station.

Members Present: Mr. David Kling (Chair), Greg Reid, John Hathaway, Peter Fellenz, Helen Conaty, Ray Hilwig

Others Present: Werner Gilliam, Town Planner

Approval of Minutes: Mr. Reid made a motion to approve the minutes from the October 15th, 2014 Planning Board meeting. Ms. Conaty seconded the motion and the vote was unanimous. Approval of the minutes from the November 5<sup>th</sup>, 2014 Planning Board meeting was deferred.

Items:

- **Phillip McCabe Revocable Trust / Albert Frick Associates** – Minor Subdivision Amendment – **Public Hearing** – for approval to relocate head of access drive to its original permitted location prior to Ocean Sound Subdivision approval. [260 Ocean Avenue, identified as Assessor's Tax Map 20, Block 004, Lot 01 in the Cape Arundel Zone.]

Mr. Kling introduced the Agenda item. Mr. James Logan of Albert Frick Associates addressed the Board stating his client would like approval to relocate the head of the driveway in order to have direct access from his property to Ocean Avenue. Mr. Logan explained the head of the driveway still contains the base fill and culverts although it has been re-vegetated. Mr. Logan also stated the increase in additional paved area would net 2,329 sq. ft. and will be offset with a vast amount of replanting.

Before opening the Public Hearing, Mr. Kling asked for Mr. Werner Gilliam's comments on his October 23<sup>rd</sup> memo of record. Mr. Gilliam explained when the driveway was initially contemplated and approved the Ordinance at that time recognized the property as a Shoreland Zone area but did not recognize it as Resource Protection Zone. In June of 2002, Mr. Gilliam continued, the area was designated a Resource Protection area which is strictly regulated and which substantially changes the uses of the area. As part of Ocean Sound's approval in 2003, there was a re-vegetation plan submitted that provided specifics on tree and shrub plantings, Mr. Gilliam added. In his opinion, Mr. Gilliam concluded, the current area does not comply with the 2003 Plan and has since been mowed significantly.

Mr. Kling asked if the reason for the re-vegetation plan is to comply with the Resource Protection regulations. Mr. Gilliam replied he was not present for that review but "looking at that Plan I'd say that is what the intent was to bring the vegetation back to what was there in the surrounding area". Mr. Gilliam referred the Board to review Article 4.15.b.2 of the Ordinance.

Mr. Kling asked if the home itself is in the Resource Protection Zone. Mr. Gilliam responded the home is not in the Resource Protection Zone.

Mr. Gilliam reminded the Board that regardless of the past improvements this project needs to be reviewed as a new driveway construction.

Attorney Steve Hodsdon, representing Mr. McCabe addressed the Board stating he disagrees with Mr. Gilliam's characterization that this is a new driveway but rather a relocation of a portion of an existing driveway. Mr. Hodsdon also added in his opinion the Planning Board has the jurisdiction to grant this relatively minor amendment to a subdivision plan.

Mr. Reid stated if the Board was to consider this a new driveway they are applying for more square footage. Mr. Hodsdon agreed with Mr. Reid's statement. Mr. Kling added that the new driveway proposal is closer to the water than the existing driveway.

Mr. Logan added the zone change occurred after the original driveway was approved but it was not substantially constructed until the zone change took place.

Mr. Hilwig offered his opinion that he does not see any great benefit having another driveway out to Ocean Avenue.

Mr. Kling opened the Public Hearing. There were no comments or questions from the public. Mr. Kling closed the Public Hearing.

Mr. King offered his opinion that this proposal increases the non-conformity of the lot and is not consistent with the ordinance.

Mr. Hathaway made a motion to approve the Application as submitted. The motion was not seconded.

Ms. Conaty made a motion to deny the Application. Mr. Fellenz seconded the motion. The motion passed with a vote of 4 to 1. Mr. Hathaway voted against Ms. Conaty's motion. Mr. Kling stated he would compose a memo on the Planning Board's decision to be included as part of this Application.

- **Wallace Woods** – Sketch Plan – for review of a proposed nine lot cluster style residential subdivision. [North Street, identified as Assessor's Tax Map 9, Block 3, Lot 1B.]

Mr. Reid is recused from this Application. Mr. Hilwig will have voting privileges for this Application.

Mr. Kling introduced the Agenda item stating this is a Sketch Plan so there will be no formal vote at this time.

Mr. Steve Doe of Sebago Technics addressed the Board and gave a brief summary of the proposed subdivision showing the outline of nine new lots in a cluster development with an open space lot consisting of 6 acres. Using an enlarged Site Plan of the properties, Mr. Doe illustrated the road design of the development including curbing and a sidewalk on one side while pointing out where the protected wetlands and vernal pools were located along with the required buffers. Mr. Doe also stated they would be extending the town water to the cluster with the understanding the road would be offered to the town as a public road in the future.

Ms. Conaty asked if there would be any lighting in the road. Mr. Doe replied he has not discussed any street lighting but would ask his client.

Mr. Kling asked if there are any stormwater management issues with having the cluster design. Mr. Doe responded they are just developing the road and would be looking into any stormwater issues.

Mr. Kling asked Mr. Gilliam if he had any comments at this point in the review. Mr. Gilliam stated he has had a preliminary look at the proposal and instructed the Board to refer to Article 7.4 of the Land Use Ordinance.

- **Oak Ridge Estates / Albert Frick Associates, Inc.** – Final Plan Application - **Initial Review** – for approval to create a seven lot subdivision off Oak Ridge Road [Oak Ridge Road, identified as Assessor's Tax Map 39, Block 001, Lot 03 in the Free Enterprise Zone.]

Mr. Reid has rejoined the Board.

Mr. Kling introduced the Agenda item. Mr. James Logan addressed the Board and gave a brief overview of the proposal highlighting the increased open space area to protect the endangered spotted turtle habitats. Mr. Logan also mentioned they have obtained a NRPA permit from the Maine DEP.

Mr. Fellenz made a motion to find the Application complete as presented. Mr. Reid seconded the motion and the vote was unanimous.

- **141001 Raymond Shmalo/Shmalo Family LLC**, Site Plan Review – **Initial Review** – for approval to turn vacant retail space located in Units 7 & 8 into two bathrooms to become part of and for the exclusive use of Units 5 & 6, Salt & Honey Restaurant. [24 Ocean Avenue, identified as Assessor's Tax Map 11, Block 009, Lot 10, Units 7 & 8 in the Dock Square Zone.]

Mr. Kling introduced the Agenda item. Mr. David Wade addressed the Board on behalf of the Shmalo Family LLC stating the Salt & Honey Restaurant would like to expand their kitchen area, expand the seating area and add bathrooms. Mr. Wade explained all of the work would be done within the building itself with no outward expansion of the property.

Mr. Gilliam informed the Board from a zoning perspective he has no objection to this Application.

Mr. Reid made a motion the Application is complete. Ms. Conaty seconded the motion and the vote was unanimous. A Public Hearing was scheduled for the December 17<sup>th</sup>, 2014 Planning Board meeting.

- **The Chicadee Trust, Cape Arundel Woods Subdivision / Sebago Technics, Authorized Agent** - Final Application –**Initial Review** - for approval to amend the Plan of Lot 2A [2 Poets Lane, identified as Assessor's Tax Map 07, Block 013, Lot 1D in the Cape Arundel Zone.]

Mr. Kling introduced the Agenda item. Mr. Steve Doe of Sebago Technics, along with Attorney Ralph Austin, addressed the Board stating there has not been much change in the Application since its Preliminary Review with the exception that the public water main will be extending to Poets Lane.

Mr. Fellenz made a motion to find the Application complete as presented. Ms. Conaty seconded the motion and the vote was unanimous. A Public Hearing will be held on December 17<sup>th</sup>, 2014.

- **Adam Winstanley / Bruce Read, Authorized Agent** – Site Plan Review - **Initial Review** - for approval to remove an existing house and garage at 68 Ocean Avenue with the plan to replant and beautify both properties as one. [68 & 70 Ocean Avenue, identified as Assessor's Tax Map 10, Block 005, Lots 14 & 15 in the Village Residential Zone.]

Mr. Kling introduced the Agenda item. Mr. Bruce Read of Shepard & Read addressed the Board and provided a brief history of the project.

Mr. Kling stated the only issue he sees is ensuring the earth disturbance is managed properly and erosion is controlled during construction. Mr. Kling was also concerned the plantings would be of a scale that would alter views from any abutting properties.

Mr. Ted Carter, Landscape Designer, addressed the Board and provided enlarges displays of the types of plantings and trees that would be incorporated. Mr. Reid asked how tall the planned evergreen hedge would be. Mr. Carter responded the evergreens should be groomed to approximately 8 feet tall.

Mr. Reid asked if there would be any grade changes or drainage issues. Mr. Carter replied no as all the drainage ditches would remain and they would move the bulk of the planting away from the Resource Protection area.

Mr. Reid made a motion to find the Application complete as presented. Ms. Conaty seconded the motion and the vote was unanimous. A Public Hearing will be scheduled for December 17<sup>th</sup>, 2014.

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

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