

**Kennebunkport Planning Board**  
**January 16th, 2019 ~ 7:00 PM**  
**Kennebunkport Village Fire Station, 32 North Street**

A regular meeting of the Planning Board was held on Wednesday, January 16th, 2019. The meeting convened at 7:00 p.m. in the Kennebunkport Village Fire Station.

Members Present: Mr. Tom Boak (Chair), Nina Pearlmutter, Neil Higgins, George Lichte, Larry Simmons  
Mr. Lichte and Mr. Simmons will have voting privileges for this meeting.

Approval of Minutes: Ms. Pearlmutter made a motion to approve the corrected minutes from the December 19<sup>th</sup>, 2018 Planning Board meeting. Mr. Higgins seconded the motion and the vote was unanimous. Mr. Simmons made a motion to approve the minutes from the January 2<sup>nd</sup>, 2019 Planning Board meeting. Ms. Pearlmutter seconded the motion and the vote was unanimous.

Items:

1. **181201 Aaron & Emily Cooper / Walsh Engineering, Authorized Agent** – Site Plan Review – **Public Hearing** – for approval to remove an existing stone seawall and replace with a new stone revetment. (165 Kings Highway, identified as Assessor's Tax Map 33, Block 1, Lot 3 in the Goose Rocks, Shoreland and Resource Protection Zones.)

Mr. Boak introduced the Agenda item acknowledging receipt of several items provided by the Applicant. Mr. Boak reminded the Applicant that all information submitted to the Planning Board should be sent into the Code Enforcement Offices at least 7 days prior to the next Planning Board meeting.

Mr. Bill Walsh of Walsh Engineering addressed the Board on behalf of the Applicant and apologized for the lateness in submitting the additional materials. The materials submitted were a letter of authorization signed by the trustees of the Trust, a copy of the recorded property deed, and a copy of the survey of the property. Mr. Walsh gave a brief summary of the Application noting the lot is approximately 0.288 acres and the proposed project is to take the existing stone wall, deconstruct it and then reconstruct it using larger stones. The work on the revetment will be done in sections using geotextile fabric to aid in keeping the sand from being pulled out from the dunes and to help prevent the stones from shifting during storm events, Mr. Walsh added. Acknowledging a question that arose earlier regarding whether the Coopers' property line extends out to the beach, Mr. Walsh stated he believes the Coopers are part of the group that signed the beach agreement.

Mr. Werner Gilliam stated he checked with the Town Clerk and the Coopers are not signers of the Beach Use Agreement and are still listed as Plaintiffs. Mr. Gilliam reminded the Board the lawsuit concerning ownership of the beach is still ongoing and having spoken with both the Town Manager and the Town Attorney, the town does not have any objection to the Coopers doing this repair work on the seawall and would be happy to provide a letter to that affect providing access to the wall for repair.

Mr. Walsh also explained the Coopers are in the process of obtaining from each of their neighbors a 15-foot temporary construction easement and asked the Board that receiving said easements be made a condition of approval.

Ms. Pearlmutter asked if the town would need to provide those easements, not the neighbors. Mr. Gilliam responded he does not know if there needs to be an easement for the stone wall itself; however the town would give a letter that states there is no objection to access the property via the beach for the purposes of this project.

Mr. Higgins added that if there is litigation regarding that part of the beach, since the town is part of the litigation and the Coopers are not part of the Beach Use Agreement, would the town need to give its blessing to do this specific work. Mr. Gilliam agreed to pose that question to the Town Attorney for clarification.

Mr. Simmons asked if the Coopers' neighbors refuse to grant the temporary construction easement, how will the work be done? Mr. Walsh replied he would just come in and mark where the property lines are and stay solely on the Coopers property which isn't ideal but he will do what is necessary in order for the work to be completed.

In response to an email received from a neighbor, Mr. Walsh stated there should not be any effect on the abutting wall as you get more wave action where there isn't a wall. "I don't feel this is a problem because the wall will be built at the same angle, same location", Mr. Walsh added.

Ms. Pearlmutter asked if the pier presently on the property will be changing at all or relocated. Mr. Walsh replied No, there are steps that go down to the water and those are removed each year.

Mr. Higgins commented the steps down to the water appear to be in a different location from the 2014 plans. Mr. Walsh agreed the steps were shifted slightly when the house was rebuilt in 2015-2016.

There were no further questions from the Board members.

Mr. Gilliam stated he would contact the Town Attorney to give her an overview of the project and address the specific questions the Board has raised tonight. Mr. Higgins asked if the neighbors on either side of the Coopers are part of the Beach Use Agreement, does the town also

need to sign off on the neighbors. Mr. Gilliam explained the Beach Use Agreement is an agreement basically stating the town wasn't claiming any ownership on the first 25 feet and signers of the Beach Use Agreement had rights to the first 25 feet.

Mr. Boak opened the Public Hearing. There were no comments from the audience in attendance.

Ms. Pearlmutter made a motion to continue the Public Hearing until the next Planning Board meeting. Mr. Higgins 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