

Kennebunkport Planning Board
February 1st, 2017 ~ 7:00 PM
Kennebunkport Village Fire Station, 6 Elm Street

A regular meeting of the Planning Board was held on Wednesday, February 1st, 2017. The meeting convened at 7:00 p.m. in the Kennebunkport Village Fire Station.

Members Present: Mr. David Kling (Chair), Peter Fellenz, Russ Grady, D. Scott Mahoney, Nina Pearlmutter
Ms. Pearlmutter will have voting privileges for this meeting.

Approval of Minutes: Mr. Grady made a motion to approve the minutes from the December 21st, 2016 Planning Board meeting. Mr. Fellenz seconded the motion and the vote was unanimous.

Items:

1. **Seaside Hotel Associates, d/b/a The Nonantum Resort** - Site Plan Review - **Initial Review** - for approval to add an enclosed hallway as a route of egress from a second floor room which will be used as occupied space. [95 Ocean Avenue, Assessor's Tax Map 8, Block 001, Lot 13 in the Riverfront Zone.]

Mr. Kling introduced the Agenda item.

Ms. Tina Hewitt-Gordon, General Manager of the Nonantum Resort addressed the Board stating in the midst of a renovation to their commercial kitchen they are proposing to expand the interior square footage of the building in order to provide an office space for their chef. Ms. Hewitt-Gordon further explained because of the design of the building and fire code requirements it is necessary to build a new hallway which will add approximately 94 square feet of occupied space.

Mr. Kling asked if the footprint of the building will change and if the new construction is within 75 feet of the water? Ms. Hewitt-Gordon replied the footprint will remain the same and it is not within the 75-foot watermark.

Mr. Kling asked if the Code Enforcement Office had any questions or issues. Mr. Werner Gilliam explained the primary reason for this Application is due to the State Fire Marshall's requirement since the use of the added space will be occupied space and not storage as originally proposed.

Mr. Kling asked if the hotel occupancy will increase with this new construction. Ms. Hewitt-Gordon replied no new guest rooms are being added, just an office for the hotel chef.

Mr. Grady made a motion the Application is complete. Mr. Fellenz seconded the motion and the vote was unanimous. A Public Hearing will be held at the next Planning Board meeting on February 15th, 2017.

2. **Public Hearing for Amendments to Subdivision regulations regarding inspection fees and performance guarantees.**

Mr. Kling introduced this Agenda item.

Mr. Gilliam distributed copies of the latest revisions for Amendments to the Subdivision Regulations to each of the Board members.

Mr. Gilliam explained the proposed changes some of which are:

- Amend Article 10.1.2. increasing the percentage of inspection fees up front before construction is complete.
- Amend Article 13 to simplify and clarify some of the language and also require the developer and bank to notify the town in advance of any pending expirations.
- Amend Article 13.3. to clarify the language for the applicant.
- Amend Article 13.7 to reflect the current practice of reduction requests.

Mr. Fellenz asked if the expirations referred to were of the bond guarantees. Mr. Gilliam replied yes, that is correct. Mr. Kling then asked if the performance guarantee expired and it could not be renewed by the developer then could they still proceed with construction? Mr. Gilliam responded construction would halt in that instance.

Mr. Gilliam added he has reviewed all of these proposed changes with the Town Manager and had Town Counsel Amy Tchao also review the amendments and clarify some of the language.

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

Mr. Fellenz made a motion to approve the proposed Amendments to the Subdivision Regulations. Mr. Grady seconded the motion and the vote was unanimous.

Other Business: Discussion of Open Space Provisions in the Subdivision Regulations

Mr. Kling introduced this Agenda item by stating this discussion began back in 2016 as a result of the Ebs Cove Application, and expressed concern on the part of the Board members whether this provision in our Subdivision Regulations is necessary or prudent. Mr. Kling suggested the focus should be not on the quantity of open space but rather the quality of the open space required.

To concentrate on preserving high value open space, Mr. Kling suggested the following criteria:

- Areas providing water access
- Areas adjacent to open space of abutting properties
- Areas that acted as connective areas to adjacent trails
- Areas forested by primarily large specimen trees
- Areas that are important visual or similar buffer i.e. from a public road.

Mr. Kling added perhaps these should be considerations in the reaching the required 15% of minimum open space to ensure the preserved land was not all wetland area and to add more upland areas into the language.

Ms. Pearlmutter suggested using one term, either “quality” or “high-value”, to describe the required open space area. The Board members agreed with Ms. Pearlmutter’s suggestion.

Ms. Pearlmutter also offered adding more specific language to distinguish between high-value land for human use or for habitat conservation purposes.

Ms. Pearlmutter also suggested making the distinction between preserving the land for use by the entire town or just for the people living in the subdivision.

Mr. Kling clarified the purpose of changing the language in the Subdivision Regulations or perhaps the Land Use Ordinance is so the Planning Board and the developer as well would have some clear guidance as to what kind of open space should be preserved.

Mr. Kling pointed out a table provided by Mr. Gilliam that shows 26.8% of total land in the town is already in conservation. Ms. Pearlmutter asked if that 26.8% of conservation land is for human use or for wildlife habitat. Mr. Kling replied that is the total conserved land in the town that cannot be developed.

The Board members and Mr. Gilliam had a brief discussion regarding the protection of significant wildlife habitats as defined in the Subdivision Regulations and the Land Use Ordinance.

To clarify, Mr. Kling noted the two areas to be defined are 1) specifying other kinds of open areas to be preserved and 2) applying a more wholesome look at natural areas of protection.

After a brief discussion, the Board members agreed to retain some mechanism for an in lieu of payment in the Subdivision Regulations along with adding guidelines as to how the town could utilize those funds or perhaps identify some potential types of projects to be sponsored by such payments.

Mr. Gilliam also asked the Board to consider providing some guiding documentation as to what the expectation is for a Sketch Plan to aid a developer as to what some of the priorities the Board is looking for. This would provide a more efficient process for the developer/designer of a possible subdivision without added delays or aggravation, Mr. Gilliam added.

Mr. Kling volunteered to incorporate the suggestions discussed and provide a written memo detailing the recommendations.

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

Submitted by: Patricia Saunders, Planning Board Recording Secretary