

Kennebunkport Planning Board
March 17th, 2021 ~ 6:00 PM
Virtual Meeting (Via Zoom)

A meeting of the Planning Board was held on Wednesday, March 17th, 2021. The virtual meeting convened at 6:00 p.m. via Zoom.

Members Present: Mr. Tom Boak (Chair), Nina Pearlmutter, D. Scott Mahoney, Ed Francis, Larry Simmons, George Lichte, John Harcourt

Approval of Minutes: Mr. Simmons made a motion to approve the minutes from the March 3rd, 2021 Planning Board meeting. Ms. Pearlmutter seconded the motion, and the vote was unanimous.

Items:

1. **210201 Kennebunkport Captains Collection, LLC (d/b/a Maine Stay Inn & Cottages) / Sebago Technics, Authorize Agent -- Site Plan Review -- Public Hearing --** for approval to modify the existing site and parking, to include new site landscaping. (34 Maine Street, Assessor's Tax Map 10, Block 6, Lot 1 in the Village Residential Zone.)

Mr. Boak introduced the Agenda item.

Mr. Steve Doe of Sebago Technics, along with Mr. Rob Blood of the Kennebunkport Captains Collection addressed the Board.

Mr. Doe shared the site plans on the screen for the viewing public and gave a detailed presentation on the Application. Below are some of the items mentioned in Mr. Doe's presentation:

- All parking in front of the cottages will be converted to green space to create passive quiet garden areas,
- New parking lot will have 18 spaces with 2 spaces retained for ADA parking on opposite side from the new parking area,
- Parking spaces along Maine Street cannot be counted as designated parking for the Maine Stay Inn,
- There are 2 watersheds on this property,
- Much of the runoff on this property drains internally into a catch basin located centrally on the property that empties into an enclosed drainage system,
- A summary is included in the stormwater management report that explains peak rate runoff which will result in a net reduction after the proposed project is completed,
- Fencing and landscaping will be improved to increase the screening for the adjacent properties,
- Each cottage will be equipped with a small patio area and fire pit,
- All cottages will have a gas fireplace which was approved by the Fire Chief,
- There are 4 other locations of fire pits in the central part of the property; 3 will be gas firepits and one will be a wood-burning firepit,
- A hedgerow will be planted along the street that will enclose the parking area from neighbors across the street,
- Several large trees along the side of the proposed parking lot will be maintained along with all existing vegetation,
- Additional vegetative screening or fencing will be installed to add a buffer to the abutter on the side of the proposed parking lot,
- There are 18 parking spaces on site which is short of the required 19 spaces.

Mr. Doe also explained the reason there is a reduction in the stormwater runoff calculations is due to the fact they will be adding a lot of gardening spaces thus reducing the ability of the water to runoff in a very quick manner as the gravel walkways and planting beds slow down the water to run off the site.

As for the shortage in the parking requirement, Mr. Doe stated to get to the required 19 spaces it would require cutting a couple of large trees which they would prefer not to do that.

Mr. Francis asked if the existing 18 spaces includes the on-street parking. Mr. Doe replied it does not. Mr. Francis questioned if the Board could waive the requirement of the additional parking space since the property is grandfathered with 18 spaces already. Mr. Boak added the Board could decide that the non-compliance is not being increased since the property currently has 18 parking spaces.

Citing Article 7.7.D. in the Land Use Ordinance which states: *"The total area of Motel, Hotel, Bed & Breakfast, or Inn buildings plus the total area of parking spaces and driveways taken together shall not exceed one third (1/3) of the total area of the lot, in the case of single-story buildings, nor exceed one quarter (1/4) of the total area of the lot, in the case of two-story buildings."*

Mr. Boak questioned if the total proposed impervious surface area is greater than allowed. Mr. Doe responded the existing

parking area is 11,381 square feet and the proposed parking area will be 7,289 square feet so the net reduction is approximately 4,000 square feet since only the footpath is impervious as the fire lane is all grass.

Ms. Pearlmutter stated it is genuinely concerning the number of fire pits proposed in the Application as this is a non-conforming use in the Village Residential Zone. Ms. Pearlmutter added this property is not a campground so to have fire pits and people sitting around wood fires that will encourage guests to stay up late into the evening, talking, possibly drinking, and getting boisterously loud which would disturb the neighbors, not to mention the odors from all those fire pits going at once. Mr. Blood responded stating they are proposing a singular wood burning fire pit and the remainder will be gas which give off no odor. Most of the gas fire pits are around the cabins and have a 2-person occupancy limit so there is little risk of multiple people gathering around the fire pits, Mr. Blood added. Mr. Lichte questioned if the inn were rented out to a wedding party for the weekend there would surely be a large gathering of people around the fire pits.

Ms. Pearlmutter reiterated her concern over the number of fire pits close to the edge of the property. Mr. Blood added they have fire pits at both the Captain Fairfield Inn and the Captain Lord Mansion, and they have never had a problem with abutters or neighbors.

Mr. Francis agreed with Ms. Pearlmutter's statement adding the fire pits at the other inns are more centralized and this proposal shows a proliferation of fire pits. Mr. Blood explained there would be 11 individual fire pits, one for each of the cabins and four in the middle of the property. Mr. Blood also pointed out that the maximum occupancy at the Maine Stay Inn is 34 people so by creating these smaller private gathering areas which will be protected through vegetation and screening, it will prohibit large groups from congregating around the fire pits.

Mr. Blood also explained that at the Captain Fairfield Inn there are 2 fire pits abutting the neighboring property which are shielded by a row of arborvitae and through good innkeeping so far have not been an issue. Mr. Francis asked if those are wood fire pits. Mr. Blood replied no they are gas firepits.

Ms. Pearlmutter expressed her concern for the neighborhood having such a large number of firepits in a residential area.

Ms. Pearlmutter also voiced her concern on the new elevation of the proposed parking lot and the serious impact it will have on the old stately trees. Mr. Doe explained the reason they are elevating the parking lot is because they do not want to excavate the soil as all of the tree roots conserve that area. Mr. Doe explained they would just scrape off the loam and fill in on top of that. Mr. Doe also added he is scheduled to meet with Nate Tucker of Bartlett Tree to see how they can work while preserving those trees.

Mr. Harcourt referred to the minutes of the last Planning Board meeting asking if the Applicant met with the Shade Tree Committee. Mr. Doe replied he has contacted the tree warden and was hoping to meet with him.

Mr. Mahoney expressed his concern on the number of fire pits causing the property to become a prolific gathering place for the Applicant's other commercial properties in the area as well as the sound and unsightliness for the neighbors of the proposed parking lot. Mr. Doe explained the only part people will see from Maine Street of the parking lot is the entrance as the rest will be screened by 10-12-foot arborvitae. Mr. Doe added if the neighbors prefer, they can continue the arborvitae or put up a fence along the shared property line of the parking lot.

Mr. Blood explained he owns and operates 30 hotels that are all in residential neighborhoods and pride themselves on being good neighbors understanding the nature of residential neighborhoods and the ecosystems of the neighborhoods. Mr. Blood also added priority goes to being good neighbors since part of the charm of staying at one of his hotels is you are part of the neighborhood and not separate from it. This property is a luxury property that caters towards couples, the rates are very high so it is not a party property or a spring break property in any way, Mr. Blood continued it is romantic retreat for couples and by putting a fire pit for each cabin we would actually be distributing any outdoor noise rather than concentrating it on a few central fire pits.

Mr. Mahoney thanked Mr. Blood for his explanation and asked what the occupancy is of the cabins. Mr. Blood replied there are 5 buildings and within those 5 buildings are 11 keys each accommodating 2 people for a total of 22 people. There are 11 fire pits proposed so 1 fire pit for every 2 people, Mr. Blood explained, and they will not rent to more than 2 people per room on the property.

Mr. Francis asked why they propose 4 central fire pits as that seems like a magnet for larger groups. Mr. Blood offered he would be open to reducing that number of central fire pits with the Board's guidance; adding one of the things they want to provide to their guests is to have serenity & solace when they wish and to be able to connect with others when they want a more communal experience. The reason they asked for 4 central fire pits Mr. Blood explained, is he did not want everyone in the property gathering around 1 as it would create too much noise.

Mr. Francis then asked if the central fire pits are for the guests in the main house. Mr. Blood replied yes, they have 6 suites in the main house and because they do not have their own private outdoor space, he wanted to create a place for them as well, which would be located in the central part of property that is the most distant from neighbors.

Mr. Mahoney asked if someone from one of the other inns could walk over to the cottages and use one of the fire pits. Mr. Blood replied there is no way they could do that because the switch for the fire pits is located inside the cabins so even if you were staying in the main building you still would not have access to those fire pits. Additionally, Mr. Blood continued, they are all very shielded by plantings, so it is intentionally private for each of those units as they are not designed for gatherings but for solitude.

Mr. Blood acquiesced if the Board would prefer, he would be amenable to reducing the number of firepits in the center of the property to 2 and not having any wood-burning fire pits at all.

Mr. Doe presented on the screen some samples of what the cabin fire pits would look like if approved.

Mr. Lichte commented that one of the issues raised by some of the abutters is this Application is taking a primarily indoor operation and moving it outdoors which is a change of the character of the property.

Mr. Simmons expressed his concern over the number of proposed fire pits and suggested perhaps instead of so many fire pits, to substitute an outdoor dining table.

Mr. Simmons also suggested the parking lot be composed of cement pavers instead of asphalt to maintain some element of green grass. Mr. Doe responded those pavers do not perform well in the wintertime as the lot will need to be plowed and pavers are not a practical solution due to the fact they don't hold up in the long term. Mr. Simmons agreed snow plowing is quite destructive which is why he has his concrete driveway cleared by a snowblower instead of plowed which causes a lot less damage.

The Board members and Mr. Doe had a brief conversation on the potential of the proposed parking lot to damage the existing root system of the large trees and potential drainage from snow piles.

Mr. Boak opened the Public Hearing.

Mr. Paul Labouve addressed the Board stating his concern about the number of fire pits which will increase the volume of conversation during the summer months. Mr. Blood acknowledged Mr. Labouve's concerns and reiterated his intent to be good neighbors and offered for the neighbors to have his general manager's phone number if there are ever challenges that need to be addressed. Mr. Labouve repeated his concern adding this is not a commercial area and he is not comfortable with exceptions being granted based on a property having grandfathered status.

In response to Mr. Labouve's comments and Ms. Pearlmutter's concern regarding the potential increase in a non-conforming use, Mr. Blood offered he would agree if the Planning Board were to place a restriction the fire pits may not be used after 9:00pm.

Mr. Nick Gere of Towne Street addressed the Board expressing his concerns over two firepits behind the cabins that could potentially be 35-40 feet from his back deck and cause a huge invasion of his privacy having hotel guests essentially living in his back yard. Mr. Gere continued stating in general the Maine Stay has been an excellent neighbor but what they are proposing is something totally different as it is meant to now be an outdoor activity zone and the impact on neighbors will be huge.

Ms. Andrea Miles, of 11 Towne Street addressed the Board and asked to coordinate with Mr. Doe on the proposed landscaping since they too are anticipating some changes to their property. Ms. Miles also agreed that a time limit when the outdoor fire pits could be used would be agreeable. Mr. Doe agreed to meet to discuss the landscaping.

Mr. Greer Presley, owner of 38 Maine Street, addressed the Board to voice his concerns about the proposed parking lot which would directly abut their property. Mr. Presley strongly objected with Mr. Blood's proposal stating it is designed to enhance the experience of transient guests at the expense of the residential neighborhood and at the expense of an owner of a historic property directly next door.

Ms. Katie Presley, also of 38 Maine Street, addressed the Board stating her concerns regarding the invasion of noise and light from the proposed parking lot into their property as well as the potential drainage issues of having an elevated parking lot. Ms. Presley continued stating Mr. Blood is trying to create the ambience of Earth out in the woods but in the middle of a residential neighborhood.

Mr. Blood responded to the Presley's concerns by stating they are willing to make modifications to the plans to mitigate any concerns they have; however, the reality is they are all in a neighborhood where there are inns, and they were there when we

moved in. Mr. Blood also expressed his desire to consolidate the parking, but he is willing to look at any kind of mitigation necessary.

Mr. Blood had to leave the meeting and asked Mr. Doe to continue on his behalf.

Mr. John Ripton, Kennebunkport Tree Warden addressed the Board stating he met with Mr. Doe to discuss the sugar maple tree on the property. In visiting the property recently, Mr. Ripton explained any soil removal at the location of the proposed parking lot will disturb the root system there as any added soil will create soil compaction and will have an impact on the protected elm trees. Speaking on behalf of the Shade Tree Committee, Mr. Ripton stated he believes this is not a plan that will be to the benefit of our interest in trying to preserve these trees. Our committee is very serious about maintaining the quality of the canopy of the town, Mr. Ripton concluded, and this is not something the Shade Tree Committee can endorse.

For clarification, Mr. Francis asked if the Shade Tree Committee's concern is the one tagged elm that is jeopardized by the proposed parking lot. Mr. Ripton replied yes and there may be other trees in back of the parking lot that are not tagged but are part of the ambiance and canopy of the town that should be considered.

Mr. Simmons asked if the Applicant makes some modifications to the proposed parking lot after meeting with the arborist next week, is it still the Committee's stance they would not allow relocation of the parking lot at all. Mr. Ripton replied the Committee believes the parking lot will disturb the elm and perhaps others.

Mr. Greg Rottiger of 28 Maine Street addressed the Board to ask if the Applicant will have any outdoor grills and if there is a restaurant and bar in the main building. Mr. Doe replied there are no outdoor grills planned and there is an existing restaurant on the property. Mr. Gilliam added the owner can serve food to guests, but it is not an amenity that is also open to the public.

Mr. Rottiger then asked if the Applicant is allowed to hold catered events in the area they are planning to develop in the back. Mr. Gilliam responded they are not precluded from having an event like any other property or other hotels have tents in the backyard for occasions. Mr. Doe added the proposed changes are not designed to accommodate a tent as that is not what the owner is trying to do.

Mr. Rottiger also had questions about the 2,000 square feet of impervious surface and asked the Applicant to provide some clarification. Mr. Doe explained there is a decrease in the parking lot of about 4,000 square feet but with the added walkways there is an increase of 2,000 square feet. Currently from the parking lot, all the runoff goes directly into the storm drainage system, Mr. Doe continued, but with the new plan of incorporating pathways they are breaking up the path of the water so the water has a longer route and a chance to percolate into the ground. All the paths are gravel which helps slow the water down too, Mr. Doe concluded.

Ms. Michelle Draghetti addressed the Board to express her concerns regarding the Applicant's change of use of the property from a mainly indoor use to an indoor/outdoor use as well as concerns about light and noise pollution. Ms. Draghetti also noted as an abutter to the Captain Lord Mansion, she was not aware they had a fire pit since they have hardly had any guests this past year and to say it hasn't been a problem is a big misrepresentation.

Mr. Mahoney made a motion to continue the Public Hearing to the next meeting. Mr. Simmons seconded the motion, and the vote was unanimous.

Mr. Boak asked Mr. Gilliam if this Application is a change of use for the hotel. Mr. Gilliam replied generally speaking the use of the property is a grandfathered inn and that applies to the property as a whole. Mr. Gilliam added he could not give a definitive answer if it qualifies as a change of use or expansion of use by encouraging guests to sit out in the backyard. Mr. Gilliam offered the question the Board members have to struggle with is this Application an expansion of use.

Mr. Francis added his opinion that the Board needs to determine if the proposed changes are going to increase the non-conformance and/or impact the neighborhood, especially since this property is a grandfathered use and is disallowed in the Village Residential Zone according to the current Land Use Ordinance.

Mr. Lichte offered his opinion that the Applicant is moving from an indoor-focused facility to an outdoor-focused facility and that changes the residential area.

Mr. Francis suggested the Board should be focused on if this will increase or decrease the non-conformance. Mr. Lichte added the Applicant is decreasing the non-conformance by decreasing the parking area.

Mr. Gilliam added that the number of rooms has not been decreased even though the Applicant has stated the number of guests will decrease that is not a metric the town considers.

The Board members had a detailed conversation regarding the number of parking spaces; in particular regarding the on-street parking spaces.

Mr. Doe had to leave the meeting.

The Board members continued their conversation regarding the on-street parking spaces.

Out of respect for the Applicant, Mr. Gilliam suggested the Board members table their discussion until Mr. Doe or Mr. Blood could participate.

- 2. 210202 Shmalo Family LLC / Trades Center Inc., Authorized Agent -- Site Plan Review -- Continued Initial Review**
-- for approval to convert the second floor of both buildings (previously retail space into two apartments. (24 Ocean Avenue, Assessor's Tax Map 11, Block 9, Lot 10 in the Dock Square Zone.)

Mr. Boak introduced the Agenda item and asked Mr. Gilliam to provide an update.

Mr. Gilliam explained at the last meeting we looked over the Application from Mr. Shmalo to convert Union Square to a Residential Mixed Use and discovered that the Dock Square Zone was not included in the warrant article when the Residential Mixed Use was created. Since then, Mr. Gilliam stated he has had conversations with the Town Manager and Board of Selectmen both of whom are agreeable to drafting a warrant article that would add Residential Mixed Use to the Dock Square Zone as there already are a number of such types of building in that zone. Mr. Gilliam added he is in the process now of crafting the language for the warrant article.

Mr. Gilliam also stated after speaking to Mr. Shmalo, he suggested withdrawing his current Application at this point.

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

Submitted by: Patricia Saunders, Planning Board Recording Secretary