

Kennebunkport Planning Board
June 2nd, 2021 ~ 6:00 PM
Virtual Meeting (Via Zoom)

A meeting of the Planning Board was held on Wednesday, June 2nd, 2021. The virtual meeting convened at 6:00 p.m. via Zoom.

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

Approval of Minutes: Mr. Francis and Mr. Boak submitted corrections prior to tonight's meeting to the minutes of the May 19th, 2021 Planning Board meeting. Mr. Simmons made a motion to approve the amended minutes from the May 19th, 2021 Planning Board meeting. Ms. Pearlmutter seconded the motion, and the vote was unanimous.

Items:

- 1. Henry Family Trust / Civil Consultants, Authorized Agent -- Site Plan Review -- Public Hearing Continued** -- for approval to install a tidal docking structure consisting of a 4' x 134' bark mulch pathway, a 4' x 7' fixed stair, a 4' x 51.56' fixed pier, a 3' x 33' gangway and a 10' x 20' float located by helical moorings. Overall pier length will be 98.77'. (22 Ebs Cove Lane, identified as Assessor's Tax Map 21, Block 9, Lot 52B in the Village Residential East, Shoreland and Resource Protection Zones.

Mr. Boak introduced the agenda item and requested Mr. Geoffrey Aleva be promoted to panelist.

Mr. Aleva addressed the Board and asked for Ms. Lisa Vickers and Attorney Ralph Austin to be promoted to panelists as well.

Mr. Aleva stated based on questions raised at the last meeting on some of the technical aspects of the proposed dock and some environmental concerns he has prepared a memo to the Board that includes his responses along with a letter from the homeowners with respect to their planned usage of the dock and float. Mr. Aleva also provided some additional information regarding the handrail connection to the pier. Referring to the updated plans submitted prior to this meeting, Mr. Aleva also explained the overall length of the pier at low tide and at high tide is under the 100-foot allowance. Lastly, Mr. Aleva provided an update on the skids from information provided by Pickering Marine to show they will maintain the 18 inches of clearance as required by the Army Corps of Engineers and to ensure the float sits level when the tide goes out.

Mr. Simmons thanked Mr. Aleva for providing the requested information and asked to see the dimensions on the site plans including the location of the connection on the seasonal dock. Mr. Simmons also asked if the Applicant could show a plan view with the front elevation view, the side elevation, and all the dimensions to help the Board members confirm independently the dock is less than 100 feet. Mr. Aleva agreed to provide that information to the Board members as Mr. Simmons requested.

As mentioned at the last meeting, Mr. Simmons questioned about the bearing strength of the soil and asked if they were able to characterize the soil in terms of grain size distribution or if they have done a rudimentary bearing capacity test of any sort. Mr. Aleva replied he has not, but he has spoken with Pickering Marine and it was their opinion that the enforced rail on the bottom of the float along with the additional wood on either side would suffice in this area of the mud flats and provide the support required.

Ms. Lisa Vickers of Atlantic Environmental addressed the Board stating she has visited the site at low tide and there may be some compression when the float is sitting on the mud at low tide, but it is not measurable; adding this is a typical design that has been successful throughout the Maine coast.

Ms. Pearlmutter expressed her concern with docks being put in estuaries and the affect that has in changing the sedimentation patterns around them. Ms. Pearlmutter also asked what kind of wood would be used for the float. Mr. Aleva explained the wood is CCA pressure treated wood done by the Koppers Company.

There were no further questions form the Board members.

Mr. Boak opened the Public Hearing. There were no questions or comments from the viewing audience. Mr. Boak closed the Public Hearing.

Ms. Pearlmutter gave a more detailed explanation on research she has done personally on the affects of docks in estuaries.

Mr. Mahoney concurred with Ms. Pearlmutter's comments.

Mr. Simmons made a motion to approve the Application with the condition they will provide an L2 drawing showing the dimensions and planned elevations. Mr. Gilliam suggested receipt of the requested plans can be offered as a condition that they are provided prior to the issuance of a building permit or prior to the reading of the Finding of Facts. Mr. Aleva offered to drop off the requested plans to Mr. Gilliam tomorrow.

Mr. Francis seconded Mr. Simmons' motion. Mr. Boak voted in favor of the motion.

Citing Article 10.10.B.1.b. "*will not result in water pollution, erosion, or sedimentation to surface waters*", Ms. Pearlmutter voted against the motion adding she believes it will change the sedimentation patterns to have a dock in an estuary.

The Board members and the Applicant had a discussion on sedimentation, Maine DEP and Army Corps of Engineers recommendations, and drainage patterns in the estuary.

Mr. Mahoney voted against the motion. Mr. Francis and Mr. Simmons voted in favor of the motion.

Mr. Boak announced the Application has been approved by a 3-2 vote. The Findings of Fact will be read at the next Planning Board meeting.

Mr. Boak suggested the Planning Board begin discussions with the Board of Selectmen about docks in town in estuaries and not having floats sitting in the mud at low tide. Ms. Pearlmutter added in those discussions perhaps it would be beneficial to also discuss having more public docks available to people to launch boats in the attempt to discourage property owners from building their own private docks.

2. 210403 St. Onge Property / Mitchell & Associates, Authorized Agent -- Preliminary Subdivision Review – **Public Hearing** -- for approval to subdivide 5.01 acres to create two lots. (Hillside Drive, Assessor's Tax Map 41, Block 2, Lot 9C in the Goose Rocks Zone.)

Mr. Boak introduced the Agenda item.

Mr. Bob Metcalf of Mitchell & Associates addressed the Board stating the Applicant, Mr. St. Onge is also attending the meeting.

Mr. Gilliam shared the site plans on the screen from the town website.

Mr. Metcalf gave a summary of the Application outlining the boundaries of the two new proposed lots, private access way which was constructed in 2017, identified open space areas for each lot along with the wetland areas, potential building sites, septic fields and well locations.

From discussions with the Fire Chief, Mr. Metcalf explained each house will have a residential fire suppression system installed due to concerns there was not sufficient water pressure to install a hydrant.

Regarding waiver requests, Mr. Metcalf stated they are requesting a waiver due to the road length exceeding the 1,000-foot maximum and a waiver for the open space requirement for subdivisions.

Mr. Boak added the Applicant is also requesting two additional waivers that the Board members will discuss after the Public Hearing.

Ms. Pearlmutter expressed her concern about putting in septic systems so close to wetlands and the ocean and asked what the cost would be to connect to the town sewer line. Mr. Metcalf replied it would be somewhere between \$375 and \$425 per linear foot to extend the sewer line which would be in excess of \$400,000.

Mr. Gilliam reminded the Board the reason this Application is before the Planning Board is Mr. St. Onge is asking to split the lot he purchased from the Henchey family into 2 lots instead of holding the land for 5 years. If he held the property for 5 years, then split it into 2 lots, Mr. Gilliam added, it would not require Planning Board approval. Either way it is permissible for these parcels to be on private septic systems.

Mr. Harcourt expressed his concern over the parcels being on septic systems due to the fact that a portion of Goose Rocks Beach consistently shows high levels of contamination which are brought about by failed septic systems on New Biddeford Road. Mr. Metcalf responded the majority of those failed systems are 20-40 years old.

The Planning Board members, Mr. Gilliam and Mr. Metcalf had a detailed conversation on septic systems and groundwater levels rising, soil conditions and soil classifications.

Referring to the open space requirement in the Kennebunkport Subdivision Regulations, Mr. Francis questioned why the Board was asking the Applicant to impose deed restrictions on the open space areas of each proposed lot. Mr. Francis added that requirement is intended for larger subdivisions which this Application is not. After some discussion, the Board and Applicant agreed to leave the deed restrictions as proposed regarding the open space requirement.

There were no further comments from the Board members.

Mr. Boak opened the Public Hearing.

Mr. Marc Veillett addressed the Board to ask them to consider the future planning of the area and the possibility for further development and impose a mandate to install and extend the town sewer line to this area.

The Board members, Mr. Gilliam, Mr. Metcalf and Mr. Veillett had a lengthy discussion on connecting to the town sewer line, the cost of installing a sewer line and the Applicants waiver request.

Referring to the Subdivision Regulations, Mr. Gilliam pointed out the waiver for connecting to sewer is if the property is within 1,000 feet of the sewer line, which the proposed lots are well beyond 1,000 feet.

Mr. Metcalf explained the road was designed to serve a maximum of 3 potential lots; the Henchey's 20 acres and Mr. St. Onge's proposed 2 lots. Due to the topography of the land, Mr. Metcalf added, although the Henchey property is 20 acres it is not 20 acres of buildable land.

Mr. Veillett offered his opinion that it would be nice to try to find ways for these new lots be on town sewer.

Mr. Dennis Calcutt, an abutter, addressed the Board to voice his concern about septic systems failing and leaching into the wetland and rivers. Mr. Calcutt also had strong concerns regarding drainage coming off the hill onto the properties to the south.

Mr. Calcutt, the Applicant, Mr. Gilliam and the Board members had a lengthy discussion on culvert size and drainage issues after storm events relative to the stream crossing.

As a result of said discussion, Mr. Boak asked the Applicant to provide a letter for the Final Subdivision Review stating a detailed stormwater management plan is not required and is not applicable to Mr. St. Onge's Application. Mr. Metcalf agreed to provide such statement, adding that there is no contributory impact from the development adding to the discharge of water into the culvert.

There were no further comments from the viewing audience.

Mr. Boak made a motion to waive the public water requirement and allow wells. Ms. Pearlmutter seconded the motion, and the vote was unanimous.

Mr. Simmons made a motion to grant the waiver request to have private septic systems on each proposed lot. Mr. Boak seconded the motion. Ms. Pearlmutter asked to see the cost of putting in the sewer line versus the cost of private septic systems. Mr. Simmons added if Ms. Pearlmutter's request could also include a schematic of all the components. Mr. Metcalf agreed to provide the requested information along with the HHE 200 design. The Board members voted unanimously to accept this waiver request.

Mr. Boak made a motion to grant the waiver request for the open space requirement. Mr. Francis seconded the motion, and the vote was unanimous.

Mr. Boak made a motion to grant the waiver request for the road to be in excess of 1,000 feet. Mr. Simmons seconded the motion, and the vote was unanimous.

Mr. Boak made a motion to approve this Preliminary Subdivision Plan. Mr. Simmons seconded the motion, and the vote was unanimous. Mr. Harcourt voted in place of Mr. Mahoney who left the meeting for a short period of time.

3. 210406 250 Ocean Avenue, Ryan Berube / Sebago Technics, Authorized Agent – Site Plan Review – Public Hearing -
- for approval to reconstruct a single-family home in a similar location to what was previously approved by the Planning Board on Ma 15, 2019. (250 Ocean Avenue, Assessor's Tax Map 7, Block 13, Lot 8 in the Cape Arundel, Shoreland and Resource Protection Zones.)

Mr. Boak introduced the Agenda item.

Mr. Steve Doe addressed the Board, shared the site plans on the screen and gave a brief summary of the Application.

Mr. Boak noted there were several conditions from the previous Application for this property that would also apply to this Application. Two of the conditions the Applicant agreed to are:

- Screens will be installed on all windows and either screens or UV decals will be installed on the sliding glass doors to prevent bird strikes,
- No pesticides or herbicides will be used to protect the wetland areas.

There were no further questions from the Board members.

Mr. Boak opened the Public Hearing. There were no comments or questions from the viewing audience. Mr. Boak closed the Public Hearing.

Mr. Simmons made a motion to approve the Application. Ms. Pearlmutter seconded the motion, and the vote was unanimous. The Findings of Fact will read at the next Planning Board meeting.

Mr. Boak announced since the time is now 8:52 p.m. and it will be past 9:00 p.m. when the next 2 Agenda items are completed, Items #7 and #8 will have to be placed on the Agenda for the next Planning Board meeting.

4. **210401 Ivy Subdivision / Sebago Technics, Authorized Agent** -- Final Subdivision Review -- **Findings of Fact** -- for approval of major changes to previously approved subdivision – to subdivide a 7.8 acre lot (previously known as Lot #2 of the Ivy Subdivision approved in 2012), to create 2 lots; one lot will be accessed by Colony Avenue and the other will be accessed by Endcliffe Road. (Endcliffe Road / Colony Avenue known as Assessor’s Tax Map 7, Block 13, Lot 1B in the Cape Arundel Zone.)

Before reading the Findings of Fact, Ms. Pearlmutter noted she read through the former wetland survey mentioned at a previous meeting and as far as she can determine the other significant vernal pool is located on another lot and is part of another subdivision and it is not relative to this Application.

Mr. Francis read the Findings of Fact into the record and noted a minor change to be made. Mr. Boak made a motion to approve said Findings as modified. Mr. Mahoney seconded the motion, and the vote was unanimous.

5. **210402 Cape Arundel Woods / Sebago Technics, Authorized Agent** -- 3rd Amended Subdivision Minor Amendment regarding Lot 2A -- **Findings of Fact** -- for approval to remove a turnaround easement and increase a side yard setback for Lot 2A. (Endcliffe Road, known as assessor’s Tax Map 7, Block 13, Lot 1F in the Cape Arundel Zone.)

Mr. Francis read the Findings of Fact into the record. Ms. Pearlmutter made a motion to approve said Findings. Mr. Simmons seconded the motion, and the vote was unanimous.

6. *****210405 Ocean Woods / Sebago Technics, Authorized Agent** -- Site Plan/Review -- **Initial Review** -- for approval of a complete reconfiguration of the existing hotel/motel, by replacing the existing buildings with a new one store, 88-seat restaurant and pool, with 30 individual 1 and 2 bedroom cottages, and a reconfiguration of the parking area to create 68 parking spaces, a new main entrance and use the existing driveway for service vehicles and employees. (71 Dyke Road, Assessor’s Tax Map 37, Block 5, Lot 2 in the Goose Rocks Zone.) **CONTINUED AT THE REQUEST OF THE APPLICANT.**
7. **210501 Bowsprit Kennebunkport, LLC / William R. Walsh, III, PE, Authorized Agent** – Preliminary Subdivision Review – **Initial Review** – for approval to create a 4-lot residential subdivision that will use both Route 9 and Wildes District Road as frontage for the lots. (164 Wildes District Road, Assessor’s Tax Map 22, Block 3, Lot 6 in the Cape Porpoise West Zone.)

Due to the late hour of tonight’s meeting this Agenda item will be moved to the next Planning Board meeting on June 16th, 2021.

8. **210503 Verizon Wireless / Scott Anderson Esquire, Authorized Agent** – Site Plan Review – Initial Review – for approval to install a small cell wireless communications facility on an existing distribution telephone/electrical pole. Located near 674 Kings Highway (formerly known as 180 Kings Highway, Assessor’s Tax Map 34, Block 2, Lot 14 in the Goose Rocks Zone.)

Due to the late hour of tonight’s meeting this Agenda item will be moved to the next Planning Board meeting on June 16th, 2021.

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

Submitted By: Patricia Saunders, Planning Board Recording Secretary