

Kennebunkport Planning Board
June 3rd, 2020 ~ 6:00 PM
Virtual Meeting (Via Zoom)

A virtual meeting of the Planning Board was held on Wednesday, June 3rd, 2020. The virtual meeting convened at 6:00 p.m. via Zoom.

Members Present: Mr. Tom Boak (Chair), Nina Pearlmutter, Ed Francis, Charles Simmons, John Harcourt. D. Scott Mahoney and George Lichte joined later in the meeting.

Approval of Minutes: Mr. Simmons made a motion to approve the minutes from the March 4th, 2020 Planning Board meeting. Mr. Francis seconded the motion and the vote was unanimous.

Items:

1. ~~200201 Seaside Hotel Associates d/b/a/ The Nonantum Resort~~ Site Plan Review ~~Public Hearing~~ for approval to add a new roof over an existing deck to include stairs to an open air deck near the existing in ground pool as well as add a concrete apron to the existing apron at one end of the pool 95 Ocean Avenue, Assessor's Tax Map 8, Block 1, Lot 13 in the Riverfront Zone. **Tabled to a future meeting at the request of the Applicant.**
2. **200203 Kennebunkport Heritage Housing Trust 2 / Sebago Technics, Authorized Agent** Preliminary Subdivision - **Initial Review** – for approval to create 4 lots consisting of 2 single family dwellings and 2 duplex units on a 4.47 acre parcel. Main Street, Assessor's Tax Map 22, Block 9, Lot 21 in the Cape Porpoise West Zone.

Mr. Boak introduced the Agenda item. The Applicant was not signed into the virtual meeting so Mr. Boak moved onto the next Agenda item.

After the Board reviewed Items #3 and #4, Mr. Steve Doe signed into the virtual meeting and shared on the screen the site plan documents submitted with the Application. Mr. Doe stated the proposal is to create 4 lots with 6 dwelling units: 2 single family dwellings and 2 duplexes. There will be a turnaround at the end of the development, Mr. Doe added, and indicated on the map where the septic systems, houses, and parking spaces for each dwelling would be located. Mr. Doe also stated all the units will be served by public water. To address concerns from abutters, Mr. Doe indicated where a line of evergreen trees would be planted to create a buffer.

Mr. Gilliam reminded the Board members that there are also members of the Kennebunkport Heritage Housing Trust signed onto to the meeting to answer any questions as well.

In reference to the public water main connections, Mr. Francis asked what fees would be associated with doing that. Mr. Doe replied there will be costs associated with that and they will provide a cost estimate with the Final Application.

To provide some additional information to the Board, Mr. Gilliam explained that since this completed Application was received at the time when the Town suspended meetings, the Code Enforcement Office did engage Acorn Engineering to review the stormwater plan and who did provide commentary back to Sebago Technics which were addressed by the Applicant. Mr. Gilliam added he just wanted to let the Board know that a peer review was completed, and he can provide copies of that review to the Board.

Mr. Francis asked what the plans are for the existing well on the property. Mr. Doe responded he assumes it will be kept for irrigation purposes as it was formerly used to fill the ice rink that is on the property. Mr. Gilliam added that due to the location of the where the septic system will be installed on Lot 4, that well will not be able to be used for drinking purposes. Ms. Pearlmutter asked if the well water has been tested. Mr. Gilliam replied he does not believe it has been tested since this project has moved forward under the guidelines it will have public water.

Mr. Gilliam informed the Board members that Patrick Briggs and Patrick Clancy from Kennebunkport Heritage Housing Trust are available online to answer questions about the proposed homes. Mr. Doe offered from a footprint standpoint that the wider units are to be 1-story tall and the skinnier unit is proposed as a 2-story structure.

In reference to the lease agreement contained in the Application, Mr. Boak asked if the common expenses that will be billed out to the individual homeowners will include plowing for the common driveway and how will the maintenance of the septic system be split between the homeowners. Mr. Briggs replied the common expenses are associated for the whole road including the common driveway and the costs of the septic would be distributed among the 2 homeowners that share it.

Mr. Boak also asked if FEMA insurance was included in the mandatory insurance required. Mr. Gilliam explained flood insurance would not be required for these homes as they are not in a designated flood area.

Mr. Gilliam also clarified that each of the proposed duplex units would have their own individual septic tank but would share a common leach field.

Ms. Pearlmutter asked if one resident ruins the shared septic field would both homeowners be responsible and is there going to be anything put into the lease about not damaging the septic fields. Mr. Gilliam responded that typically the maintenance costs of the field would be shared and there would be no reason to use water softeners for these properties since they will be connected to town water.

Ms. Pearlmutter commented the Board has received a letter from an abutter with several concerns about the lease and suggested the Applicant review the letter and provide the Board with a response to those concerns. Ms. Pearlmutter also questioned why there was no reference in the proposed lease agreement that required homeowners to be good residents in the town with regards to preservation of the natural wildlife through the use of bird friendly architecture and pesticide-free lawn care.

Mr. Briggs acknowledged he received a copy of the abutter's letter Ms. Pearlmutter was referring to and would be happy to provide the Board with responses to the questions raised in it.

Mr. Clancy explained the single-family homes are approximately 1,170 square feet with 3 bedrooms and the 2-story homes are approximately 1,650 square feet, also with 3 bedrooms. Mr. Clancy also informed the Board that by the time they start construction the Trust will have 6 homebuyers with mortgage commitments. Homeowners will also be required to take some homeowner education courses, Mr. Clancy added.

Mr. Boak added he would also like see such things as the kind of lawn fertilizer to be used included in the lease paperwork.

Mr. Francis questioned whether it is fair to levy such broad constraints such as bird friendly architecture and preservation of trees as Ms. Pearlmutter has suggested on this Application when the Board has not done so in the past with other subdivision applications.

Ms. Pearlmutter stated she would like to see an ordinance change since this Application is basically the town looking for people to move in and be good residents without requirements of maintaining wildlife and the natural environment.

Mr. Boak, Ms. Pearlmutter, Mr. Francis, and Mr. Gilliam had a brief conversation regarding possible ordinance changes or changes to the Kennebunkport Subdivision Regulations on the preservation of wildlife habitats and the environment.

Mr. Doe offered they did prepare a grading plan which shows 2 trees near the skating rink have already been cleared and will only be a small amount of additional clearing primarily to accommodate the septic fields. There will also be some control in the homeowners' documentation preventing further clearing of trees due to the wetlands in the area as well, Mr. Doe added.

Ms. Pearlmutter reiterated her concern is mostly with the architecture to prevent bird crashes and use of pesticides that could potentially drain into the creek. Mr. Dow offered he believes the windows will be double-hung windows with screens and agreed to a restriction on the use of pesticides on the property.

There were no further questions from the Board members.

Ms. Pearlmutter made a motion the Board finds this Preliminary Plan complete. Mr. Boak seconded the motion and the vote was unanimous.

Mr. Boak announced a Public Hearing will be held virtually at the next Planning Board meeting on June 17th, 2020. Mr. Boak volunteered to be Case Manager for this Application.

3. **200301 Edward & Lonna Bassett** – Minor Subdivision Change - **Initial Review** – for approval to add .59 acres to their land through a purchase to create a larger buffer. Ox Plow Lane Assessor's Tax Map 37, Block 3, Lot 4 in the Free Enterprise Zone.

Mr. Boak introduced the Agenda item.

Mr. Ed Bassett addressed the Board explaining a few years ago they purchased an acre of land with their neighbor and split it. That neighbor is looking to sell her property, Mr. Bassett continued, and he is asking for permission to un-connect that half acre of land on her lot and add it his lot to provide a larger buffer. Mr. Bassett added the additional 0.59 acres lot is undeveloped and will remain undeveloped.

Mr. Gilliam uploaded the map of the properties from Mr. Bassett's Application from the town website and explained this Application is before the Board because it is a minor revision to a previously approved Subdivision Plan.

Mr. Francis questioned whether lot 11 would become a non-conforming lot if this Application were approved. Mr. Gilliam explained both lots will remain legally conforming lots for the zone.

Mr. Harcourt made a motion to find the Application complete. Mr. Simmons seconded the motion and the vote was unanimous.

Mr. Gilliam explained because this Application comes before the Planning Board through the Subdivision Regulations and not through the Site Plan Review process, the Planning Board has the option to decide whether or not to hold a Public Hearing.

Mr. Harcourt made a motion to not hold a Public Hearing for this Application. Mr. Boak seconded the motion.

Mr. Francis questioned if there was a reason this Application was time sensitive and suggested perhaps the Board hold a Public Hearing but have a Findings of Fact completed to be read in the event there are no substantive issues raised at that same meeting after the Public Hearing.

Mr. Harcourt withdrew his motion and Mr. Boak concurred with Mr. Harcourt's withdrawal.

Mr. Boak announced a Public Hearing will be held at the next Planning Board meeting. Mr. Harcourt was assigned as Case Manager to prepare the Findings of Fact.

4. **200503 Michael McKellar d/b/a New Point, LLC – Site Plan Review - Initial Review** – for approval to convert an existing landscape equipment warehouse back to its original permitted use as a lobster and seafood distribution warehouse. 184 Beachwood Avenue, Assessor's Tax Map 24, Block 1, Lot 14B in the Farm & Forest Zone.

Mr. Boak introduced the Agenda item.

Mr. Michael McKellar addressed the Board stating the property located at 184 Beachwood Avenue is currently under contract and has been operating as Terrapin Landscaping. Mr. McKellar explained he is hoping to start a new company of his own, New Point Lobster Company, and use the property as a seafood distribution warehouse and office space. Mr. McKellar further explained he is asking for a change of use from the current landscaping warehouse to a seafood distribution warehouse where he will be buying packaged fresh and frozen seafood that will be stored in a cooler or freezer. The seafood is pre-packaged so there will be no processing or live lobster tanks, Mr. McKellar added, which will then be packed in Styrofoam boxes for UPS to deliver to restaurants, retail customers and fulfillment for e-commerce online customers. Operating hours will be roughly Monday through Saturday, 7:00am to 5:00pm, Mr. McKellar continued. Acknowledging past concerns from abutters, Mr. McKellar stated there will be no large trailers making deliveries as he will do his own pick-up using one small refrigerated cargo van. A cooler and freezer will be installed on the property each being approximately 8'x12' with 3/4-horsepower to 1.5-horsepower compressors, Mr. McKellar stated. Mr. McKellar concluded by stating there will most likely only be one other employee working on the premises.

Mr. Boak questioned if the category of the change of use on the Application was correct as Mr. McKellar stated there will be no fish processing done on the property. Mr. Gilliam clarified it is a landscaping warehouse with outdoor storage being converted to a warehouse with interior storage and cooler, both of which are conditional uses in the Farm & Forest Zone.

In reference to a 23-year-old report from Al Frick included in the Application, Mr. McKellar informed the Board he recently had the septic inspection done and found everything was satisfactory. Mr. McKellar added the inspector did recommend there were 3 small trees, approximately 8 inches in diameter, on the north side of the property by the road that should be taken down because the roots are intruding into the leach field.

Due to some issues raised by abutters regarding noise and equipment, Mr. Gilliam suggested the Applicant review the letters from the abutters and address his neighbors' concerns by the next meeting.

Mr. Boak called on each Board member if they had any questions for the Applicant.

Ms. Pearlmuter commented that the Purchase and Sale Agreement has expired. Mr. McKellar stated that has been extended and he will provide a copy of the extension. Mr. Gilliam explained the town has received a separate letter of authorization from the current property owner Mike Corsie, that allows Mike McKellar to appear before the Planning Board so he has been specifically authorized beyond the Purchase and Sale Agreement. Mr. Gilliam further explained that the letter of authorization gives Mr. McKellar permission to apply for a change of use for 184 Beachwood Avenue and states that if he does not close on the sale that the current use still remains authorized. So if for some reason if the sale didn't happen after the Board agreed for a change of use, then Mr. Corsie does not have to come back to the Board to change the use back to what it was, Mr. Gilliam concluded.

Ms. Pearlmuter asked the Applicant if he would consider a restriction that keeps the business as wholesale and not retail. Mr. McKellar replied he has no intention of doing any retail business out of that location and would agree to such a restriction.

Mr. Mahoney asked from a wholesale perspective if there was a capacity limit to the amount of daily outgoing packages. Mr. McKellar replied there is probably a box limit because of the Styrofoam coolers but if his business was that large he would want to move to a larger facility closer to the highway.

Mr. Francis asked the Applicant if he could review all the comments made by abutters and address in writing his response to their concerns so that the Board has that information prior to the next meeting. Mr. McKellar responded he would happy to provide his responses to the Board. Mr. Gilliam agreed to distribute Mr. McKellar's responses to the Board members once received and to post that on the town website as well.

Mr. Simmons asked if there were any modifications that need to be done to the facility such as fire suppression system or eyewash station. Mr. McKellar replied modifications are not necessary but there is one section of the building that needs to be torn down which is where the cooler and freezer will be placed with entrances to each from the inside of the building. There are other cosmetic items to be done to the building such as painting and putting new drywall in as well, Mr. McKellar added.

Mr. Simmons expressed concern over what type of coolant the freezer and cooler uses in the event there are toxic substances. Mr. McKellar replied he did not know what type of coolant they use but he would find out and inform the Board accordingly.

Mr. Francis made a motion the Application is complete. Mr. Simmons seconded the motion and the vote was unanimous. Mr. Boak announced a Public Hearing will be held at the next Planning Board meeting on June 17th, 2020 and asked if anyone had any questions or comments regarding this Application to please submit them in writing to Lisa Harmon in the Code Enforcement Office.

Mr. Simmons was assigned as Case Manager for this Application.

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

Submitted by: Patricia Saunders, Planning Board Recording Secretary