

Kennebunkport Planning Board
June 7th, 2017 ~ 7:00 PM
Kennebunkport Village Fire Station, 6 Elm Street

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

Members Present: Mr. Peter Fellenz (Chair), Russ Grady, Tom Boak, D. Scott Mahoney, Mark Messer, Nina Pearlmutter

Approval of Minutes: Mr. Boak made a motion to approve the minutes from the May 17th, 2017 Planning Board meeting. Mr. Mahoney seconded the motion and the vote was unanimous.

Items:

1. **140401 State of Maine Department of Environmental Protection – Site Plan Review – Findings of Fact** – for approval to replace a 33-year-old aluminum air monitoring shelter with a new shelter. The property is located on Ocean Avenue, identified as Assessor's Tax Map 07, Block 001, Lot 08 in the Cape Arundel, Shoreland and Resource Protection Zones. *Tom Boak, Case Manager*

Mr. Boak read the Findings of Fact into the record. Mr. Messer made a motion to approve said Findings. Mr. Mahoney seconded the motion and the vote was unanimous.

Mr. Messer commented the Board should make a practice of formally reviewing Article 10.10 before final approval.

2. **170402 Binnacle Hill Subdivision/Sebago Technics, Authorized Agent –Final Subdivision Review – Public Hearing** – for approval of a 15 Lot cluster subdivision on New Biddeford Road, identified as Assessor's Tax Map 41, Block 002, Lots 8C & 8D in the Goose Rocks and partial Shoreland Zone.

Mr. Fellenz introduced the Agenda item and asked the Applicant to provide a brief summary.

Mr. Steve Doe of Sebago Technics, along with Geoff Bowley and Attorney Ralph Austin addressed the Board stating not much has changed in this Application since its Preliminary Site Plan approval. The Applicant is for a single-family cluster subdivision with approximately 1,000-foot-long road. Public sewer and water will be brought into the site along with a force main where the town will provide sanitary stubs for the 18 houses along New Biddeford Road to be able to tie into the sewer line, Mr. Doe also stated. Mr. Doe added they are in the process of obtaining their DEP permit and have just received notice they will have their Army Corps of Engineers permit shortly.

The Board members had no further questions or comments for the Applicant.

Mr. Fellenz opened the Public Hearing.

Ms. Lisa Miller of 4 Henchy Way addressed the Board and thanked the Applicant and the town for their continued communication and transparency during this process. Ms. Miller also stated there is a utility easement and a provision for access to the abutting Ghayour property and asked whether the sewer stub line would be of a size to accommodate any additional development on the abutting parcel or would they need create their own separate line. Mr. Doe replied the proposed line for Binnacle Hill is not sized to handle any capacity to the additional parcel because that sewer connection would be off of the Henchy line not New Biddeford Road.

Mr. Doe also added that to put a burden on this developer to oversize a sanitary line would diminish his line's capacity. Mr. Gilliam explained that the town has dealt with this particular maintenance issue before when installing the pump station at the end of Turbat's Creek Road which was originally designed for the Shawmut Inn that no longer exists and since then has presented an on-going maintenance issue for the town because there isn't enough flow for the size of the lines. To speculate on a development potential could lead to some unintended detrimental effects for this particular project, Mr. Gilliam added.

Mr. Roger Miller, also of 4 Henchy Way, addressed the Board to ask Mr. Gilliam to explain the blasting ordinance. Mr. Gilliam replied the blasting companies are required to do pre-blast surveys for anyone that is within 500 feet of the blast site. The town only handles the notification process by verifying that certified mailings have gone out to anyone within 500 feet of the blast site, that those mailings were sent in a timely manner and that the blasting company carries the appropriate liability insurance, Mr. Gilliam concluded.

Mr. Miller asked if there are any specific hours that blasting is allowed. Citing Articles 6.16 and 6.17 of the Land Use Ordinance, Mr. Gilliam responded that blasting in connection with construction projects may occur between the hours of 7:00 a.m. and 7:00 p.m.

There were no further comments from the audience in attendance.

Mr. Gilliam reminded the Board that the Public Hearing needs to be kept open in order to receive the remaining permits from the Applicant.

Mr. Austin asked the Board to consider keeping the Public Hearing open to receive the DEP and Army Corps of Engineers permits but would like the hearing to be limited to those two issues.

Mr. Boak made a motion to continue the Public Hearing exclusively for the purpose of receiving the Maine Department of Environmental Protection permit and the Army Corps of Engineers permit and for public input specifically limited to those two issues. Mr. Mahoney seconded the motion and the vote was unanimous.

- 3. 170403 Wahwa Family Limited Partnership / Prock Marine, Authorized Agent – Site Plan Review – Public Hearing** – for approval to remove the existing concrete dock and install a new timber dock with granite support pier, access landing and seasonal float. The property is located at 22 Agamenticus Avenue, identified as Assessor's Tax Map 30, Block 003 Lot 30 in the Cape Porpoise East, Shoreland and Resource Protection Zones.

Mr. Fellenz introduced the Agenda item and asked the Applicant to provide a brief summary of the Application.

Mr. Steve Durrell of Prock Marine, representing the Wahwa Family Trust addressed the Board stating this proposal is to remove an existing 11-foot-wide by 105-foot-long concrete structure and replace it with a 60-foot-long by 8-foot-wide timber and granite structure.

Mr. Fellenz asked the Applicant to provide a picture of the property to aid the viewing public.

Mr. Fellenz asked the Board members if they had any questions or comments for the Applicant.

Mr. Boak commented the property is in a Velocity Zone and offered it should be noted as such in the Findings of Fact along with the fact that this dock is grandfathered as well.

Mr. Fellenz noted Mr. Boak's comments and opened the Public Hearing. There were no comments or questions from the audience in attendance. Mr. Fellenz closed the Public Hearing.

Mr. Messer suggested the Board members review each item in Article 10.10.A. and 10.10.B. since that is what the Board members are approving in the Findings of Fact.

Mr. Gilliam offered his opinion that procedurally when the Board reads those sections as part of the Findings of Fact it is so that the Board knows what it is they are voting on.

The Board members had a brief discussion on procedure and agreed for this Application to read through each item in Articles 10.10.A. and 10.10.B. in the Land Use Ordinance.

Mr. Gilliam suggested perhaps the Board members would like to schedule a workshop on the handling of a hearing in the near future.

Mr. Boak read through each item in Article 10.10.A.1.a through p. The Board members unanimously agreed the Applicant meets each standard or the standard was not applicable to this particular Application.

Mr. Boak then read through each item in Article 10.10.B.1.a through h. The Board members unanimously agreed the Applicant meets each standard or the standard was not applicable to this particular Application.

Mr. Messer noted the Planning Board members agreed the Applicant complies with the requirements stated in Article 5.11 of the Land Use Ordinance.

For the record, Mr. Fellenz noted the Public Hearing has been closed.

Mr. Grady made a motion to approve the Application. Mr. Mahoney seconded the motion and the vote was unanimous. Mr. Grady was assigned as Case Manager to prepare the Findings of Fact to be read at the next Planning Board meeting on June 21st, 2017.

- 4. 170502 Mills Road Subdivision /Attar Engineering, Authorized Agent – Public Hearing** of a Sewer Extension Application on Mills Road, identified as Assessor's Tax Map 23, Block 001, Lot 19A in the Free Enterprise and Shoreland Zones.

Mr. Fellenz introduced the Agenda item.

Mr. Michael Sudak of Attar Engineering addressed the Board stating this Application is to propose a 14-lot subdivision at 98 Mills Road that will be serviced by public sewer and private drilled wells.

Mr. Gilliam reminded the Board members that this Public Hearing is just for the portion of the sewer that is located in Mills Road.

Mr. Sudak explained there is approximately 900 feet of 2-inch force main which will connect to 1-inch grinder pumps to each of the dwellings. Mr. Sudak also noted he has submitted revised details on the clean-out of all manholes with a couple of modifications showing they will be property anchored as per Mr. Allan Muir's request.

Mr. Gilliam confirmed receipt of those comments along with a copy of the peer review conducted by Pinkham & Greer which states there is adequate capacity of the extension all the way to the treatment plant.

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

Mr. Grady made a motion to authorize the Planning Board Chairman to issue correspondence recommending the Board of Selectmen to approve this Sewer Application. Mr. Boak seconded the motion and the vote was unanimous.

- 5. 170501 Sarah Yates / Walsh Engineering Associates, Inc., Authorized Agent on behalf of David McCullough - Site Plan Review – Initial Review** – for approval to create a private road over a tributary to serve the back lot on the property. The property is located at 97 Goose Rocks Road, identified as Assessor's Tax Map 16, Block 003 Lot 07 in the Goose Rocks, Shoreland and Resource Protection Zones.

Mr. Fellenz introduced the Agenda item stating this Application is exclusively for approval to build a road.

Mr. Bill Walsh of Walsh Engineering addressed the Board and noted he is representing David McCullough as part of Woody Creek Properties. Mr. Walsh explained the property is on the south side at 97 Goose Rocks Road where it was divided into 2 lots in 2011; the front lot being 5.57 acres and the back lot is 7.7 acres. There is a 4-foot-wide brook that runs through the middle of the property which has a large watershed upstream, Mr. Walsh added.

Utilizing an enlarged site plan, Mr. Walsh indicated where the brook, watershed and proposed right of way would be pointing out where 2 new culverts will be installed in accordance with Army Corps of Engineers specifications. Mr. Walsh also noted they have filed a Permit By Rule with the Maine Department of Environmental Protection and have received approval and are awaiting their permit from the Army Corps of Engineers.

Mr. Messer asked if the Applicant needs to acquire any other permits. Mr. Walsh responded they only need the Maine DEP, the Army Corps of Engineers and the Kennebunkport Planning Board's approvals.

Mr. Gilliam commented both the Kennebunkport Police Department and the Highway Department have reviewed the entrance and signed off on the project stating there is adequate site distance.

Mr. Grady asked Mr. Gilliam if the town had any concerns with this Application. Mr. Gilliam replied the town has no issues.

Ms. Pearlmuter asked the Applicant why they don't simply build a bridge? Mr. Walsh responded that a bridge is much more expensive and personally he would not do the project.

Mr. Grady made a motion the Application is complete pending receipt of the Army Corps of Engineers permit and the Maine DEP Permit By Rule. Mr. Mahoney seconded the motion and the vote was unanimous.

- 6. Other Business:** Discussion of composting toilet for Rotary Park and authorization for Code Enforcement to proceed with permitting without full Planning Board review.

Mr. Gilliam explained the hut that was used as the attendant's building for the Dock Square Municipal lot is being re-purposed into a composting toilet for the Rotary Park on Beachwood Avenue.

Mr. Mahoney made a motion to delegate this matter to the Code Enforcement Office. Mr. Boak seconded the motion and the vote was unanimous.

Ms. Pearlmuter made a comment reminding the Board members that every entity that comes before the Board should be treated equally and that no person/abutter/property owner should be treated more favorably than another.

The Board members had a brief discussion on the timing and content of the workshop. Mr. Gilliam offered to notify the Planning Board members of possible dates and times for a workshop to be held and the Board members could respond via email.

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

Submitted by: Patricia Saunders, Planning Board Recording Secretary