

Kennebunkport Planning Board
June 20, 2018 ~ 7:00 PM
Kennebunkport Village Fire Station, 32 North Street

A regular meeting of the Planning Board was held on Wednesday, June 20, 2018. The meeting convened at 7:00 p.m. in the Kennebunkport Village Fire Station.

Members Present: Mr. Tom Boak (Chair), Nina Pearlmutter, D. Scott Mahoney, Neil Higgins, Edward Francis, George Lichte, Larry Simmons

Approval of Minutes: Ms. Pearlmutter and Mr. Francis noted some minor changes to be made to the minutes from the June 6th, 2018 Planning Board meeting. The Board members agreed with all of the proposed changes. Ms. Pearlmutter made a motion to accept the minutes as amended from the June 6th, 2018 Planning Board meeting. Mr. Mahoney seconded the motion and the vote was unanimous.

Items:

1. **180401 Katherine S. Eraklis / Walsh Engineering Associates, Inc., Authorized Agent** - Site Plan Review – **Findings of Fact** – for approval to Construct a 200+/- riprap revetment along the edge of the cobblestone beach adjacent to the Applicant's property (30 Skipper Joe's Point Road, identified as Assessor's Tax Map 30, Block 6, Lot 7 in the Goose Rocks, Shoreland and Resource Protection Zones.) *Nina Pearlmutter, Case Manager*

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

2. **180402 Robert & Dana Holland / Riverside & Pickering Marine Contractors, Authorized Agent** – Site Plan Review – **Finding of Fact** – for approval to construct a 4"x15' ramp, 4'x35 pier, 4x30' gangway and 10'x20' seasonal float. (155 Wildes District Road, identified as Assessor's Tax Map 33, Block 005, Lot 22 in the Cape Porpoise West, Shoreland and Resource Protection Zones.) *Neil Higgins, Case Manager*

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

3. **180403 Southern York Properties, LLC / Ralph Austin Esquire, Authorized Agent** – Site Plan Review – **Findings of Fact** – for approval to remove an existing single family dwelling and build new in same location. (4 Mill Lane, identified as Assessor's Tax Map 9, Block 1, Lot 15 in the Village Residential, Shoreland and Resource Protection Zones.) *Edward Francis, Case Manager*

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

4. **80201 Binnacle Hill Phase 2 / Terradyn Consultants, Authorized Agent** – Preliminary Subdivision Review – **Continued Public Hearing** – for approval of a thirteen (13) lot cluster subdivision on 24.78 acres. (Henchey Way, Map 41, Block 2, Lot 8 in the Goose Rocks, Shoreland and Resource Protection Zones.)

Mr. Boak introduced the Agenda item.

Mr. Mike Tadema-Weidlant of Terradyn Consultants addressed the Board and gave a brief summary of the Application. Some of the items Mr. Tadema-Weidlant discussed were in response to public input and concerns from the Board members from the last meeting and are noted below:

- Attorney Ralph Austin noted in an email that the developer and later the Homeowner's Association will be responsible to plow Henchey Way where most of the snow will be stored up at the gate. Storm clean-up will involve opening the proposed gate and moving the plowed snow into the snow storage area indicated on the site map.
- The Applicant will explore solutions to screen some of the abutting houses from vehicle headlights coming down Timber Way
- Henchey Way will have signs indicating it is a Private Way and will have a gate at the end leading to Timber Way for emergency vehicle access only
- Regarding the June 18th memo from Acorn Engineering, the peer review agreed with the proposed changes to the Applicant's revised preliminary plans and Mr. Tadema-Weidlant agreed with Acorn's comments and acknowledged intent to comply with Acorn's suggestions.

Mr. Higgins asked the Applicant for clarification on the waiver they are requesting for the road side slopes. Mr. Tadema-Weidlant responded they cited the incorrect section of the Kennebunkport Subdivision Regulations in their May 20th letter. Citing Article 12.2.B.3.b.4, Mr. Tadema-Weidlant stated they are requesting the side slope on the road embankments to be a 2:1 ratio instead of the required 3:1 ratio in order to reduce the fill placed in the wetland crossing areas.

Ms. Pearlmutter expressed her concerns about pedestrian safety and the lack of lighting on Henchey Way and asked if there could be some solution to have low lighting along the walkway.

Ms. Pearlmuter also asked for an explanation on the waiver request for the slope ratios. Mr. Tadema-Weidlant explained when talking about slope ratios it is referring to the relationship of horizontal run to vertical rise which means for every 3 feet of horizontal surface there is a 1 foot vertical rise so a ratio of 2:1 would be steeper than a 3:1 ratio. The rationale for using a 2:1 ratio, Mr. Tadema-Weidlant continued, is that the steeper the slopes the less they encroach into the wetland area. The majority of the road we are proposing 3:1 slopes and it is only those areas where there are wetlands that we are proposing 2:1 slopes, Mr. Tadema-Weidlant added, which will also include an erosion control blanket stabilized with vegetation.

Mr. Mahoney asked if there is more erosion with a 2:1 slope. Mr. Tadema-Weidlant replied if there is a healthy patch of grass it is the same as a 3:1 slope but you can get runoff in a 2:1 slope that is un-stabilized with just loam on it so that is why during the construction process we call for some extra measures to get that grass to grow.

Ms. Pearlmuter asked about the dispute regarding the significant trees on the property and whether a Norway spruce was designated as a significant tree or not. Mr. Tadema-Weidlant responded when the tree survey was done, their consultant found that the tree in question on lot 21 did not meet the criteria for a significant tree meaning it was not greater than 21 inches in diameter at breast height. With permission from the Applicant, the Millers who are abutters to the proposed development hired their own arborist to conduct a survey who found in his opinion the Norway spruce did meet that criteria when measured around a knot in the tree that fell around breast height. Unfortunately, that tree is in an area on lot 21 that would most likely require to be taken down, Mr. Tadema-Weidlant added, however, we think we have done what we can to preserve trees and to preserve habitat with more than half of this site to be left forested.

Ms. Pearlmuter commented she raised the issue of the Norway spruce because there is a lot of wetland area on the property and trees are good for stormwater management. Ms. Pearlmuter also offered her opinion that she would like to see more preservation areas in the final plan.

To clarify, Mr. Tadema-Weidlant explained the wetland areas that are proposed to be disturbed are clearly delineated on the plan and those areas go through a permit process with the Maine DEP and the Department of Inland Fisheries and Wildlife. Similarly, Mr. Tadema-Weidlant continued, the area that is outside the lot boundaries, particularly the uphill side of Timber Way is going to be put into deed protection that will prohibit clearing which will help maintain existing drainage patterns with existing wetland channels.

Ms. Pearlmuter acknowledged the Applicant's efforts to maintain open areas from development and suggested perhaps care ought to be taken on the lots even if there aren't designated significant trees and to look at how those trees serve the surrounding areas.

Mr. Tadema-Weidlant recognized Ms. Pearlmuter's comments and pointed out there is a process outlined in the Homeowner's Association documents where the owners of the lots have to provide a clearing plan to the developer so he can review the limits of clearing throughout the lot.

Mr. Mahoney asked if the Applicant could explain how the gate would function at the end of Henchey Way. Mr. Tadema-Weidlant replied the gate will be locked at the end of Henchey Way so there will be no vehicle traffic passing through and there will be keys left with the Fire Department for emergency access only. The Homeowner's Association will have a key as well, Mr. Tadema-Weidlant added. The gate will remain closed at all times except during plowing operations, Mr. Tadema-Weidlant concluded.

Citing Article 11.5.B.1 in the Kennebunkport Subdivision Regulation, Mr. Higgins questioned whether having a gate at the end of Henchey Way was permitted. The Board members and the Applicant had a brief discussion and determined that particular provision was referring to gated communities and does not refer to emergency access roads. Mr. Gilliam also mentioned there is supportive language in the Kennebunkport Comprehensive Plan that mirrors the Subdivision Regulation prohibiting gated communities and gates on roads of primary access and encouraged the Board to do specific Findings to that interpretation.

Mr. Francis asked if the gate would swing in either direction. Mr. Bowley replied yes, it would make sense.

Mr. Boak asked the audience members in attendance if they had any questions or comments.

Mr. Scott Edmunds, Attorney for the Fetzners, abutters to the Applicant's property, addressed the Board stating he has been in communication with the Applicant throughout this process and is appreciative of the Applicant's responsiveness, and requested the Board place a condition of approval on the final plan that Henchey Way would be limited to vehicular access for the 2 existing houses as well as for emergency vehicles.

Mr. Edmunds also wanted to ensure that the passageway or walkway is on the ocean side or outside of the houses to keep the pedestrian traffic as far away from the existing houses as possible and to ensure there is no sort of motorized vehicles, golf carts, scooters, etc., coming from either Binnacle Hill I or II. On behalf of his clients, Mr. Edmunds strongly opposes any sort of lighting along Henchey Way.

Ms. Lisa Miller of 4 Henchey Way addressed the Board and also expressed her appreciation of the Applicant's responsiveness and asked if the Applicant intends to cut down the Norway spruce tree on lot 21 that they include some landscape buffering. Ms. Miller also requested if the road could remain at 12 feet rather than being widened to 14 feet as proposed. Due to the steep slope of the road, Ms. Miller also asked if the proposed gate could be moved further up the road to the flat area of the road closer to Timber Way which may deter folks from turning around in her driveway.

Ms. Theresa Henchey Debendicts addressed the Board inquiring where the snow storage would be located and asked for more detail on how that will be managed.

Mr. Boak asked if there were any further comments or questions from the public. There were none.

Mr. Boak closed the Public Hearing.

Mr. Boak stated he has prepared a draft of an approval memorandum based on the approval memo from Binnacle Hill Phase I.

As Case Manager, Mr. Boak suggested the Board vote on each of the Applicant's waiver requests.

Regarding Article 12.2.B.3.b.4 of the Kennebunkport Subdivision Regulation, Ms. Pearlmutter made a motion to grant the Applicant's waiver request to allow a 2:1 side slope in areas where there are wetland crossings. Mr. Higgins seconded the motion and the vote was unanimous.

Mr. Boak made a motion to grant the Applicant's waiver request regarding the 1,000 foot road length for dead end streets and the use of a hammerhead instead of a cul-de-sac. Mr. Mahoney seconded the motion and the vote was unanimous.

Mr. Francis made a motion to approve the Applicant's waiver request regarding the shared driveways. Ms. Pearlmutter seconded the motion and the vote was unanimous.

Ms. Pearlmutter made a motion to approve the Preliminary Subdivision Plan. Mr. Boak seconded the motion and the vote was unanimous.

Mr. Boak announced there will be no Planning Board meeting on July 4th and the next meeting will be held on July 18th, 2018.

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

Submitted by: Patricia Saunders, Planning Board Recording Secretary