

Kennebunkport Planning Board
August 21, 2019 ~ 7:00 PM
Kennebunkport Village Fire Station, 32 North Street

A regular meeting of the Planning Board was held on Wednesday, August 21st, 2019. The meeting convened at 7:00 p.m. in the Kennebunkport Village Fire Station.

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

Approval of Minutes: Ms. Pearlmutter noted there were a few typographical errors and made a motion to approve the corrected minutes from the July 17th, 2019 Planning Board meeting. Mr. Francis seconded the motion and the vote was unanimous.

Mr. Lichte made a motion to approve the minutes from the August 7th, 2019 Planning Board meeting. Ms. Pearlmutter seconded the motion and the vote was unanimous.

Items:

1. **190603 Kennebunkport Conservation Trust / Tim Spang, Authorized Agent** – Site Plan Review – **Public Hearing** – for approval to remodel an existing trail and create new trail to a proposed labyrinth. (57 Gravelly Brook Road, identified as Assessor's Tax Map 25, Block 1, Lot 1A in the Farm and Forest Zone.) *Tom Boak, Case Manager*

Mr. Simmons will have voting privileges for this Application.

Mr. Boak introduced the Agenda item.

Mr. Tim Spang addressed the Board and gave a brief summary of the Application noting the labyrinth has a setback of 92-105 feet from the river and they will be disturbing approximately 6,000 square feet of earth.

Mr. Boak asked the Board members if they had any questions for the Applicant. The Board had no questions.

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

Mr. Francis made a motion to approve the Application. Mr. Higgins seconded the motion and the vote was unanimous.

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

2. **190701 Kennebunkport Conservation Trust / Richardson & Associates, Authorized Agent** – Site Plan Review – **Initial Review** – for approval to create a nature park and preserve with new trails and a welcome hut. (Mills Road, identified as Assessor's Tax Map 42, Block 1, Lot 2A1 in the Goose Rocks Zone.)

Mr. Boak introduced the Agenda item.

Mr. Robert Massengaile of Richardson & Associates representing the Kennebunkport Conservation Trust addressed the Board and gave a detailed presentation on the Application to create a nature park and preserve on a 48.5 acre parcel of land to potentially connect in the future to another 500 acres of Trust property. Utilizing enlarged site plans, maps and photographs of the property, Mr. Massengaile explained in detail some of the features listed below:

- The first 500 feet of the parcel is in the Goose Rocks Beach Zone with the remainder of the property being in the Free Enterprise Zone
- Propose to build a community building as a welcome center from 800 to 1,100 square feet.
- Will utilize the existing gravel road into the site.
- Are working with the Bryant Family who still maintain easement rights for a portion of the property and will have gated access
- Vehicles will be prohibited from using the trails
- The northwest corner of the site will be undisturbed
- Will install ½ mile of fully accessible trail system that is ADA approved
- Will contain a parking area to accommodate 9-10 cars with 2 ADA spaces
- Will also include an enclosed off-leash dog area with waste receptacles.

Mr. Massengaile also noted they have met with Fire Chief Everett and included his letter of support with the Application. Mr. Massengaile also described their storm water plan with a bio-filtration system.

As an attempt to be proactive, the Trust has developed a plan to conduct water sampling to determine if any changes need to be made based on any potential impact to the ecosystem, Mr. Massengaile concluded.

Mr. Bill Walsh of Walsh Engineering addressed the Board to provide a more detailed presentation on the storm water collection and bio-filtration systems which include a raingarden and water sampling to determine what the existing E.coli issues are.

Mr. Francis asked the Applicant if they know the source of the E.coli issues. Mr. Walsh replied it is part of the Goose Rocks Beach E.coli issues that have been well documented in the past few years. Mr. Gilliam commented the town is an active member in the Maine Healthy Beaches program that conducts regular water quality testing.

Referring to the proposed dog park, Mr. Lichte asked if the Applicant had a system to dispose of pet waste. Mr. Walsh responded there will be receptacles and waste bags available on site.

In reference to the manmade pond on the site, Ms. Pearlmutter asked if they plan to monitor the pond for oxygen content as it could become stagnant and give off carbon dioxide. Mr. Walsh replied from their planning discussions they decided it would be best to drill some wells out there to feed into the pond so there will be enough water coming into it. Ms. Pearlmutter suggested perhaps having some sort of aeration system to monitor the levels. Mr. Walsh agreed with Ms. Pearlmutter's comments noting he has found a combination tends to work best.

Ms. Pearlmutter asked if the wetland purification area is going to be underwater plants, algae, and marginal plants. Mr. Walsh explained in more detail the type of plants that would be around the pond based on the model from UNH that has had much success in the past.

Mr. Francis asked if they anticipate having to do mosquito control. Mr. Massengaile replied they are more thinking of having a screened area and controlling the mosquitos through aeration and certain types of filtration that will help manage the population along with other natural elements that perhaps eat the larvae.

Ms. Pearlmutter asked why they chose to include a dog park. Mr. Massengaile stated part of their thinking was to have a place on the site for Trust staff to develop some programming and see it as an opportunity to create an experience where people can learn protocols and etiquette and to offer an alternative from the beach or other places in town.

Ms. Pearlmutter asked how big the designated pollinator area is. Mr. Massengaile replied right now the pollinator prairie is approximately 20,000 square feet that is in the upland and will be mowed or managed once a year.

Referring to the welcome center, Ms. Pearlmutter asked if there will be windows and if so will they be made of bird friendly glass. Mr. Massengaile replied yes there will be screened windows and acknowledged there is room for adjustments if necessary to ensure the safety of the birds.

Ms. Pearlmutter asked if there is going to be lighting on the property at night. As with most Trust properties, the use hours of use will be dawn to dusk, Mr. Massengaile answered, adding there may need to be lighting at the lower gate on Mills Road where the lock box system would be located but any lighting would be less than 1800 lumens and no taller than 15 feet in height. Ms. Pearlmutter commented that keeping the lighting to a minimum would aid in conserving the dwindling number of lightning bugs.

To clarify the Planning Board's role for this Application, Mr. Francis noted the proposed community building is a conditional use in the Goose Rocks Beach Zone. Mr. Massengaile corrected Mr. Francis's statement that the building will be located in the Free Enterprise Zone. Mr. Gilliam added a park is listed as conditional use in the Land Use Ordinance.

Mr. Francis questioned why the Applicant referred to this proposal as a gateway park. Mr. Massengaile explained if you look at the larger scale map of Kennebunkport there is a 500 acre parcel of Trust property just north of this site so in terms of a gateway it would be the front door to that additional acreage.

Mr. Francis and Mr. Massengaile had a brief discussion on whether this property would be used seasonally or the possibility of having a gate where people could gain access to the park after completing some sort of registration and training. Mr. Massengaile agreed to provide the Board with more specifics on the seasonal usage at the next meeting.

Mr. Francis asked what the development timeline would be for this project. Mr. Massengaile replied it would be a phased development as the Trust is a non-profit and would be working within the confines of their fundraising efforts.

Mr. Russ Grady, representing the Conservation Trust, addressed the Board to explain this property would be like their many other properties where vehicle traffic will be prohibited on the trails and would be open dawn to dusk with the main road being plowed in the winter for folks who want to snow shoe on the trails.

There were no further questions from the Board members.

Mr. Higgins made a motion the Application is complete. Ms. Pearlmutter seconded the motion and the vote was unanimous.

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

Mr. Boak announced there will be a Public Hearing held at the next Planning Board meeting on September 4th, 2019.

3. **190401 Henry Family Trust / Ambit Engineering, Authorized Agent** – Site Plan Review – **Findings of Fact/Decision** – for approval to install a new 4' x 134' bark mulch pathway, a 4' x 60' fixed pier, a 3' x 33' gangway and a 10' x 20' float located by two helical moorings. (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.) *Neil Higgins, Case Manager*

Mr. Boak introduced the Agenda item.

Before reading the prepared Findings of Fact, Mr. Higgins read a section on page 3 of said Findings and asked the Board members if they felt the language was sufficient to explain the Planning Board's decision.

The Board members had a lengthy discussion on specific language to be included in the Findings of Fact. Mr. Gilliam cautioned the Board to tie their decision specifically to the performance standards.

After some further discussion, the Board came to a consensus on the language to be included in the Findings of Fact. Mr. Higgins will make the agreed upon corrections and will read the Findings of Fact at the next Planning Board meeting.

4. **190602 Kennebunkport Marina / Sebago Technics, Authorized Agent** – Site Plan Review – **Continued Deliberations** – for approval to build two new boat storage buildings with a paved storage yard. (83 Log Cabin Road, identified as Assessor's Tax Map 2, Block 1, Lot 10 in the Farm & Forest Zone.) *Ed Francis, Case Manager*

Mr. Boak introduced the Agenda item noting the Board has received some significant modifications since the last meeting when the Public Hearing was closed. Mr. Boak offered to the Board two decisions to be made: 1) accept or reject this latest revision of the Application, or 2) allow the Applicant to present the new information and hold a Public Hearing at the next meeting.

The Board members deliberated whether to allow the Applicant to present the new revisions to the Application and hold a Public Hearing on this new information at the next Planning Board meeting or to have the Applicant make their presentation at the next meeting and hold the Public Hearing then as well.

Mr. Gilliam provided the Board with the official rules for re-opening a Public Hearing which are from Article 14 of the Kennebunkport Planning Board Rules and Regulations: "*Conclusion of Hearing. A Public Hearing is closed by a vote of the Board, and no further testimony or other evidence shall be received, except as follows:*

Record Left Open. Upon a request made prior to the close of the Hearing, the Presiding Member may permit persons participating in the Hearing to file written statements with the Board for inclusion in the record, such time and upon such notification to the other participants as the Presiding Member shall determine.

Hearing Re-opened. At any time prior to final decision, the Chair or a majority of the Voting Members may re-open the record for further proceedings after proper notice has been given to interested persons and to the public. "

After some deliberations, the Planning Board members agreed it would be best to defer this Agenda item until the next Planning Board meeting in order to allow the Board members and the general public some time to review the proposed changes. A Public Hearing will also be held at the next Planning Board meeting to allow abutters and other members of the public an opportunity to ask questions or voice concerns regarding the Application.

5. **190702 Paul & Lisa Henderson / Peterson Design Group, Authorized Agent**– Site Plan Review – **Continued Deliberations** – for approval to remove an existing two family dwelling and rebuild same in a more conforming location outside of the floodplain. (2 Maine Street, identified as Assessor's Tax Map 11, Block 3, Lot 1 in the Village Residential, Shoreland and Resource Protection Zones.) *Ed Francis, Case Manager*

Mr. Erik Peterson of the Peterson Design Group addressed the Board stating Paul and Lisa Henderson have recently purchased the two family dwelling at 2 Maine Street. Due to the existence of some structural flaws, the Applicant has decided it is best to remove the existing house and rebuild a new dwelling in a more conforming location outside of the floodplain, Mr. Peterson explained. Mr. Peterson added the owners wish to keep the structure a two family dwelling by putting each unit side by side and construct it completely in the upland area so no portion would be in the flood zone. In order to have enough space for the required 2 parking spaces for each unit, Mr. Peterson explained, a new curb cut will need to be made which will require permission from the Maine Department of Transportation due to the fact that portion of Maine Street is a state road. Mr. Peterson also noted they have filed a permit application with Maine Department of Environmental Protection.

Ms. Pearlmuter asked what the elevation of the new house would be. Mr. Peterson replied it will be 1 foot taller than the existing house which is approximately 26 feet.

Ms. Pearlmuter commented the mill pond, where the house is situated, is a significant bird pond and suggested the Applicant install bird friendly glass or alter the design to avoid harming any migratory birds.

Mr. Peterson and Ms. Pearlmuter had a brief discussion on the types of bird friendly glass available on the market. The Applicant agreed to do some research on how to make the water side more bird friendly.

There were no further questions from the Board members.

Mr. Francis made a motion the Application is complete. Mr. Higgins seconded the motion and the vote was unanimous. A Public Hearing will be held at the next Planning Board meeting on September 4th, 2019. Mr. Boak was assigned as Case Manager for this Application.

6. **OTHER BUSINESS:** Discussion of proposed changes to Subdivision Regulations in light of Road Acceptance Policy of the Board of Selectmen – **Public Hearing** to move forward with modifications.

Mr. Boak introduced the Agenda item and the Board members had no comments on the proposed changes to the Subdivision Regulations.

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

Mr. Francis made a motion to accept the proposed changes. Ms. Pearlmutter seconded the motion and the vote was unanimous.

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

Submitted by: Patricia Saunders, Planning Board Recording Secretary