

# Kennebunkport Planning Board

## September 1st, 2021 @ 6:00 PM

### Virtual Meeting Via ZOOM

A virtual meeting of the Planning Board was held on Wednesday, September 1st, 2021 via the ZOOM format. The meeting convened at 6:00 p.m.

Members Present: Ms. Nina Pearlmutter (Vice Chair), Ed Francis, D. Scott Mahoney, Larry Simmons, John Harcourt  
Mr. Harcourt will have voting privileges for this meeting.

Approval of Minutes: Mr. Francis made a motion to approve of the minutes from the August 18<sup>th</sup>, 2021 Planning Board meeting. Mr. Simmons seconded the motion, and the vote was unanimous.

#### Items:

1. **210405 Joseph A. Rizzo** -- Preliminary Site Plan Review – **Public Hearing** – for approval to extend the private road Campbell Lane to serve an additional 1.4-acre lot that would be created out of an existing 27-acre lot. (Beachwood Avenue, Assessors Tax Map 13, Block 3, Lot 3.) *George Lichte, Case Manager*

Ms. Pearlmutter introduced the agenda item.

Mr. Joe Rizzo addressed the Board stating this Application is to get permission to extend and improve an existing Right of Way currently called Campbell Lane.

Mr. Gilliam displayed the site plans on the screen as Mr. Rizzo gave a brief summary of each page of the plans including the boundary and wetland survey, the survey of the adjacent lot that has the Right of Way, the proposed upgrade to the current Right of Way and the proposed extension and addition of a hammerhead turn. Mr. Rizzo also discussed the design of the proposed hammerhead turn and culvert to be put in.

Ms. Pearlmutter asked if they were planning on filling in wetland areas to establish the road. Mr. Rizzo replied yes, they will add under 4,000 square feet of material and are only required to file for an Army Corps of Engineers permit since the Maine DEP determined on their site visit that they are not required to complete a Tier 1 application because there is no connection to a wetland that is significant and there are adding less than 4,000 square feet of material.

Ms. Pearlmutter then asked if the Board is waiting for approval from the Army Corps of Engineers on this. Mr. Rizzo replied he does not need Army Corps of Engineer approval they just need to notify them once the work begins.

Mr. Francis asked if there was a final agreement reached between himself and the abutter whose land has the Right of Way. Mr. Rizzo replied he does not have anything in writing, but the neighbors were present at the last meeting, and everything is amicable with the neighbors about this proposal.

Mr. Simmons asked what the total length of the proposed extension is. Mr. Rizzo responded the entire road is between 400-500 feet and the extension is about half of that. Mr. Simmons then asked if a fire hydrant is needed there. Mr. Rizzo replied No.

In reading the Maine Department of Environmental Protection letter, Mr. Simmons stated the letter mentions a vernal pool and wetlands of significance and asked if that was something the Board should be concerned with. Mr. Rizzo replied he does not believe so as the area where the road is being extended was deemed not to be connected to any wetland of significance and is not in the vernal pool and is an extension of an existing corridor way.

There were no further questions from the Board members.

Ms. Pearlmutter opened the Public Hearing. There were no comments or questions from the viewing audience. Ms. Pearlmutter closed the Public Hearing.

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

**2. 210501 Bowsprit Kennebunkport, LLC / William R. Walsh, III, PE, Authorized Agent**  
-- Final Subdivision Application -- **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.) *Ed Francis Case Manager*

Ms. Pearlmutter introduced the agenda item.

Mr. Bill Walsh along with Amy Goldenfarb joined the meeting.

Ms. Pearlmutter commented that since Mr. Boak could not attend tonight's meeting, he has provided her with a list of questions for her to ask of the Applicant.

Ms. Pearlmutter asked Mr. Francis if he would prefer to hand off this Application to another Planning Board member to be Case Manager. Mr. Harcourt volunteered to be the Case Manager for this Application. Mr. Francis accepted Mr. Harcourt's offer to take over the Application as Case Manager.

Ms. Pearlmutter then asked Mr. Walsh to give a description of the final plan.

Mr. Walsh addressed the Board members and provided the site plans on the screen for the viewing audience. Mr. Walsh provided a summary of the Application, some of the items mentioned are noted below:

- The property is located between Main Street/Route 9 and Wildes District Road with the corner piece owned by the Kennebunkport Conservation Trust.
- It is a 3.4-acre parcel with an existing home and detached garage.
- The property is mostly wooded and there is ledge throughout the site.

- The property is in the Cape Porpoise West Zone.
- The plan proposes to divide the parcel into 4 lots with an open space lot that each of the 4 house lots will have access to.
- There are 3 driveways for the four proposed lots: one off of Route 9 and the other 2 off of Wildes District Road.
- The combined driveway entrance off Wildes District Road is to obtain proper sight distances in both directions due to the topography of the property.
- Each lot will be serviced with town water and sewer.
- Have provided Homeowners Association documents with the Application.
- Also provided correspondence from the Kennebunk Kennebunkport Wells Water District regarding the water tank on the adjacent lot stating they have no issue with the proposed development and the Applicant agrees to notify them before blasting will occur.

Mr. Walsh concluded his presentation by noting they are requesting a waiver from Article 12 regarding street design standards for the width of the driveway to lot 1 from 18 feet to 14 feet.

Mr. Walsh also added he has had conversations with Mike Claus, Superintendent of Kennebunkport Public Works Department who asked the Applicant to put in a paved 4-foot shoulder along the edge of Wildes District Road in lieu of a sidewalk.

Referring to the list of questions Mr. Boak gave her, Ms. Pearlmutter asked if Acorn Engineering should review the stormwater report which is Attachment 6 in the plan and the cost estimates in Attachment 8. Ms. Pearlmutter agreed with Mr. Boak's request noting she would like to see Acorn's opinion on the drainage and elevation.

Referring to the map on post development drainage, Ms. Pearlmutter also asked about the tree line surrounding the proposed house areas on lot 2, 3, and 4. Mr. Walsh explained those areas are the approximate clearing areas. Ms. Pearlmutter then commented since there's much more clearing than there is right now on the whole that, it would be good to get Acorn Engineering's opinion since the change in the topography may mean more stormwater runoff due to the elevation of the property. Mr. Walsh indicated on the site plans where the storm water would be a channelized flow going down to a culvert into a level spreader.

Ms. Pearlmutter asked Mr. Gilliam to offer his opinion whether a review by Acorn Engineering is necessary. Mr. Gilliam stated he is happy to forward the Board's request to Acorn Engineering and ask for their review. Mr. Gilliam also pointed out that one of the things the Board is looking at here is current grades and elevations and he anticipates because of the nature of the site there will be a fair amount of blasting which will change the topography. Mr. Gilliam added he believes after the blasting is done; the topography will most likely not look as severe as what is there now because they will have leveled off building sites as a result. Mr. Walsh added the runoff will be back into a sheetflow form and not into a concentrated form. Mr. Walsh offered to have it be a condition of approval that the proposed driveways need to sheet off into vegetative areas or to use a level spreader to disperse the runoff.

Ms. Pearlmutter asked if the cost estimates in Attachment 8 should be reviewed independently as well. Mr. Gilliam explained the cost estimations in a project like this are complicated because we are talking about elements that are required improvements for a subdivision and typically

when you're dealing with a subdivision there is a lot of road work which we don't have here so the majority of the costs is work that will have to be done right away with the sight distance piece. Mr. Gilliam also added that before a permit to begin work is issued, the Code Enforcement Office always asks for actual contract numbers for the improvements instead of estimates because the reality is the market out there will dictate what the costs will be and the town will wind up taking an actual contract number and match it up with what the Applicant has identified here then put on an additional 25% to what will take place.

Mr. Simmons agreed it would be beneficial to have Acorn Engineering review the stormwater management plan.

Citing another question raised by Mr. Boak, Ms. Pearlmutter questioned the KKW Water District's letter that cited the nearest fire hydrant was 6 miles away on Cat Mousam Road. Mr. Walsh responded there is a hydrant closer to the property and will ask the Water District to provide a new letter that reflects that.

Ms. Pearlmutter asked Mr. Gilliam if a Maine Department of Environmental Protection permit was required. Mr. Gilliam replied no the Applicant has obtained a Maine Department of Transportation approval for the driveway entrance on Route 9 and the Wildes District Road entrances are under the town's jurisdiction which have been discussed already.

Ms. Pearlmutter then asked if there was an erosion and sedimentation plan submitted. Mr. Walsh responded it was included in the final plan set on Plan C2.2 that shows the erosion control and the measures we're using.

Referring to the Homeowners Association documents, Mr. Francis asked if the Board has a copy of the restrictive covenants in the Bowsprit Subdivision. Mr. Walsh replied yes and indicated on the screen the copy of the Homeowners Association Declaration of Restrictive Covenants.

Mr. Francis then asked if the common area will be deeded to the Homeowners Association and if there are restrictions such as no motorized vehicles, etc. Ms. Goldenfarb responded that she intends the open space to be a passive area so there will be some restrictions on it.

Mr. Francis also asked if there was mention in the Homeowners Association documents about who plows the shared driveway for lots 1 and 2. Mr. Walsh suggested that would be specified on the deeds for lots 1 and 2. Mr. Gilliam offered there should be a road maintenance agreement between those 2 lots and it is his understanding that most banks now if there is shared access they want to see a maintenance agreement in place before financing gets approved for properties.

Mr. Mahoney asked where the variance is that was requested for the 14-foot width on the shared driveway for lots 1 and 2. Mr. Walsh indicated on the site plans where the section of driveway is that they are requesting to be 14-feet wide. Mr. Mahoney then asked if the Fire Department was ok with this request. Mr. Walsh replied yes.

Mr. Francis made a motion the Application is complete. Mr. Simmons seconded the motion, and the vote was unanimous. A Public Hearing will be held at the next Planning Board meeting.

**Adjournment:** A motion was made to adjourn. It was seconded, and the vote was unanimous.  
**Submitted By:** Patricia Saunders, Planning Board Recording Secretary