

Kennebunkport Planning Board
September 4, 2019 ~ 7:00 PM
Kennebunkport Village Fire Station, 32 North Street

A regular meeting of the Planning Board was held on Wednesday, September 4th, 2019. The meeting convened at 7:00 p.m. in the Kennebunkport Village Fire Station.

Members Present: Mr. Tom Boak (Chair), Ed Francis, D. Scott Mahoney, Larry Simmons, George Lichte
Mr. Lichte and Mr. Simmons will have voting privileges for this meeting.

Approval of Minutes: Mr. Lichte made a motion to approve the minutes from the August 21st, 2019 Planning Board meeting. Mr. Francis seconded the motion and the vote was unanimous.

Items:

1. 190701 Kennebunkport Conservation Trust / Richardson & Associates, Authorized Agent - Site Plan Review – Public Hearing - 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 addressed the Board and gave a detailed synopsis of the Application utilizing enlarged site plans, drawings and photographs of the property.

Mr. Boak asked the Board members if they had any questions for the Applicant before opening the Public Hearing.

Mr. Lichte asked about the proposed enclosed dog park. Mr. Massengaile responded the dog park is initially seen as a pilot space. Mr. Russ Grady, KCT Board member, addressed the Board stating the Trust hopes in the future to have a designated small dog enclosure, a larger enclosure for larger dogs and perhaps a small enclosure for dogs that shouldn't be with other dogs. The Trust plans to build phase 1 hoping for the ability to design phase 2 with more fundraising.

Mr. Lichte asked if they anticipate removing any trees. Mr. Grady replied there are some trees that will be cleared where the welcome hut is planned to be built but they will keep the clearing to a minimum.

Mr. Lichte asked about the welcome hut. Mr. Grady explained they would like the welcome hut be off the grid and tied into a solar plane and anticipate it being used as a possible space for an education class or for folks to get water for their dogs.

Mr. Lichte asked if there will be lighting in the welcome hut and along the roadway. Mr. Massengaile responded they have included a lighting fixture they may attach to the cabin that will be less than 900 lumens and there may be some safety lighting for the parking area or at the gate enclosure which would be mounted on a post about 12 feet tall and under 1,800 lumens. Mr. Massengaile added they do not anticipate having any lighting on the roadway.

Mr. Lichte asked if there was any signage to be installed. Mr. Massengaile replied there may be a small trail marker or two but the entrance would have a granite marker similar to the one at the Emmons Preserve.

Mr. Lichte asked about the gate that is currently near the entrance and if they anticipate it being closed. Mr. Grady replied there is a gate there now and it has been open most of the time for years. There will be a gate at the end and the Fire Department will have a key as well as the Bryant family, Mr. Grady added.

Mr. Mahoney asked if there were any dog parks on any of the Trust's other properties. Mr. Grady replied No there are not. Mr. Mahoney then asked if they considered installing a dog park at any of their other properties. Mr. Grady responded the Trust has always encouraged folks to walk their dogs on the trails either on a leash or under voice control and since he has been involved with the Trust there haven't been any issues; however we have been looking for some time to find a property to do something like this as an alternative.

Mr. Mahoney then asked the Applicant how many dogs they estimate will be using the property per day. Mr. Grady answered he doesn't know which is why they are only proposing one enclosure for now.

Mr. Mahoney asked what the closest proximity is to other homes or neighborhoods. Mr. Grady replied the closest neighbor is 750 feet from the property line.

Referring to the proposed pond on the property, Mr. Boak voiced the Board's concern that it will create a breeding habitat for mosquitos. Mr. Massengaile responded they will do their best to control the mosquito population without impacting any of the natural habitats.

Mr. Francis commented this Application is for a conditional use and asked how the Board goes about approving this when it feels like this is in a conceptual phase. Mr. Grady clarified this Application is seeking approval to build a pond where one already exists, to build an ADA compliant trail, to construct a welcome hut, and an off-leash dog park.

Mr. Gilliam cautioned the Board is tasked with deciding what is in your jurisdiction and what is not in your jurisdiction.

Mr. Francis questioned about the proposed lighting on the property. Using the enlarged site plans, Mr. Massengaile indicated where the proposed specific fixtures would be located and the height of the goose-head fixture to illuminate the parking area.

Mr. Boak asked when the Applicant begins to build the welcome hut, they will need to come to the Code Enforcement Office for building permits, correct? Mr. Gilliam responded yes, the practical application of a plan like this the Code Enforcement Office expects the building permit application should be what's shown on the approved Site Plan. It is important to note what the plan is and that there was discussion from the Applicant about phasing, Mr. Gilliam added, and in the end the Board should have their Findings be consistent with the Site Plan being approved.

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

Mr. Lichte made a motion to approve the Application. Mr. Mahoney seconded the motion and the vote was unanimous.

Mr. Lichte will prepare the Findings of Fact to be read at the next Planning Board meeting on September 18th, 2019.

2. 190401 Henry Family Trust / Ambit Engineering, Inc., Authorized Agent – Site Plan Review – Findings of Fact/Decision – for approval to install a 4' x 134' bark mulch walkway, 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

This item was deferred until the end of this meeting.

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

3. 190602 Kennebunkport Marina / Sebago Technics, Authorized Agent – Site Plan Review – Reopen Public Hearing – 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 and Forest Zone.) Ed Francis, Case Manager

Mr. Boak introduced the Agenda item and asked the Applicant's representative to provide a summary of the Application.

Mr. Steve Doe of Sebago Technics addressed the Board stating the business owner Mr. Shawn Dumas is also in attendance to answer questions about the revisions to this Application. Mr. Doe read through his letter outlining the proposed changes. Some of the items discussed were:

1. In response to Mr. Wyman's concern having the entrance directly across from his driveway, the access road has been moved to be across from Tucker's Lane and have applied for a Maine Department of Transportation (MDOT) permit for the new driveway entrance location.
2. After a site walk, the Cemetery Committee did find the cemetery on the property which is a 12-foot by 12-foot area typical of old cemeteries and in the location similar to where Josephine Hunt said it would be. If this project is approved, the Applicant will install granite posts around the cemetery, clear it from old vegetative growth, retain all trees in the area, and establish a 35-foot setback around the cemetery. Because of the discovery of the cemetery, the location of the proposed building has been moved to the front corner of the property and will be 50 feet from the Right of Way of Log Cabin Road and 75 feet from Fairfield Hill Road. Mr. Doe also added the building will be wood construction and look more like a barn.
3. With these new changes and moving the entrance, the amount of paved area has been decreased significantly by almost 8,000 square feet and since the proposal is for less than an acre of impervious surface it does not require a stormwater permit but rather a Permit-By-Rule from the Maine Department of Environmental Protection (Maine DEP).
4. As requested by the Board, Mr. Dumas supplied a letter from the Maine DEP on the top washing of the boats.
5. To address concerns from the Lovejoys about seeing the building from their property, the separation between their land and the building is 160 feet and a buffer of evergreens will be added to the existing deciduous trees.
6. All power utilities will be underground.
7. In response to neighbors' concerns about lowered property values, Mr. Doe explained they have submitted a realty report that concluded a commercial property in a residential area would not affect property values.
8. As requested by the Board, Mr. Doe provided computer generated images of the proposed building including buffer landscaping.
9. Applicant provided evaluation of the culverts on the property and concluded there were no obstructions or capacity issues.
10. New proposed building has been discussed with the Fire Chief and there will be smoke detectors and heat sensors installed in the building as well as a utility backup.
11. There will be "No Parking" signs installed for the Fire Lane.

Mr. Boak opened the Public Hearing.

Mr. Alan Lovejoy of 95 Log Cabin Road addressed the Board and read a prepared statement detailing his reasons why this proposal does not fit in the area and is not the best use of the property.

Ms. Kate McKiernan, co-owner of the abutting property once owned by Margaret Collingsworth addressed the Board to read a prepared statement by her brother, also an owner. Ms. McKiernan also pointed out that this Application does not meet the guidelines for approval as set forth in Article 10.10.A.1.a through p in the Land Use Ordinance.

Mr. Jack Hunt of 79 Log Cabin Road addressed the Board in agreement with other abutters who believe this proposal does not fit in with the character of the area and expressed his concerns that the property will become a place for teenagers to hang out at night for possibly nefarious purposes.

Mr. Matt Wyman of 90 Log Cabin Road addressed the Board and asked to be notified prior to any trees being cut down near his property.

Ms. Erin Wyman, also of 90 Log Cabin Road addressed the Board to express her apprehension on the proposed building not having a fire suppression system and questioned if this was the best use of the land being so close to their farm and its many animals. Ms. Wyman expressed a number of specific concerns regarding the Application including increased noise, traffic and its effects on their animals.

To address the many concerns raised about fire on the property, Mr. Boak asked if there will be a fire suppression system. Mr. Doe replied there is no fire suppression but there will be a fire detection system and the Fire Chief will have keys to the lock box.

Mr. Boak closed the Public Hearing.

To aid the Board in their deliberations, Mr. Gilliam read through Article 10.7.A.1. Performance Standards items a. through g. in the Land Use Ordinance. After a brief discussion the Board members agreed the Application meets all of the applicable standards.

Mr. Boak suggested the Board members do the same procedure for each item in Article 10.10.A.1. The results and discussion are listed below under each item.

a. The proposed use does not meet the definition or specific requirements set forth in this Ordinance or will not be in compliance with applicable state or federal laws;

The Board members agreed to defer discussion on this item until the end of their deliberations.

b. The proposed use will create fire safety hazards by not providing adequate access to the site, or to the buildings on the site, for emergency vehicles;

The Board members were in agreement the Application will not create a fire safety hazard.

c. The proposed exterior lighting will create hazards to motorists traveling on adjacent public streets or is inadequate for the safety of occupants or users of the site or will damage the value and diminish the usability of adjacent properties;

The Board members agreed there will be minimum lighting and will not create a hazard to motorists.

d. The provisions for buffers and on-site landscaping do not provide adequate protection to neighboring properties from detrimental features of the development;

The Board members agreed this is an allowed conditional use within the Farm & Forest Zone and agreed the proposed design and vegetative buffers are adequate to protect neighboring properties from detrimental features of the development. Mr. Lichte suggested the maintenance of the vegetative buffers should be noted in the Findings of Fact. The Board members agreed unanimously with Mr. Lichte's suggestion.

e. The proposed use will have a significant detrimental effect on the use and peaceful enjoyment of abutting property as a result of noise, vibrations, fumes, odor dust, glare or other cause;

The Board members unanimously agreed the Application will not have a significant detrimental effect on the use and peaceful enjoyment of abutting properties.

f. The provisions for vehicular loading and unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets will create hazards to safety;

Relying on the report submitted by the Maine Department of Transportation, the Board members unanimously agreed the Application would not create safety hazards for vehicular loading/unloading or for vehicular and pedestrian circulation.

g. The proposed use will have a significant detrimental effect on the value of adjacent properties which could be avoided by reasonable modification of the plan;

The Board members agreed the Application would cause no significant detrimental effect on the value of adjacent properties.

h. The design of the site will result in significant flood hazards or flood damage or is not in conformance with applicable flood hazard protection requirements;

The Board members unanimously agreed this item is not applicable to the Application.

- i. Adequate provision has not been made for disposal of wastewater or solid waste or for the prevention of ground or surface water contamination;
- j. Adequate provision has not been made to control erosion or sedimentation;
- k. Adequate provision has not been made to handle storm water run-off or other drainage problems on the site;
- l. The proposed water supply will not meet the demands of the proposed use or for fire protection purposes;

The Board members were in unanimous agreement the Application was in compliance with the provisions as stated in Article 10.10.A.1.i,j,k, and l in the Land Use Ordinance.

m. Adequate provision has not been made for the transportation, storage and disposal of hazardous substances and materials as defined by state law;

n. The proposed use will have an adverse impact on significant scenic vistas or on significant wildlife habitat which could be avoided by reasonable modification of the plan;

The Board members agreed unanimously the above two items (m. & n.) are not applicable in the review of this Application.

o. The proposed use will cause unreasonable highway or public road congestion; or

p. Existing off-site ways and traffic facilities cannot safely and conveniently accommodate the increased traffic generated by the development as far away from the development as the effects of development can be traced with reasonable accuracy.

Again, relying on the report submitted by the Applicant from the Maine Department of Transportation who has reviewed and approved this Application, The Board unanimously agreed the above two items (o. & p.) are not a cause for Site Plan Review denial.

Mr. Francis made a motion to approve the Application. Mr. Simmons seconded the motion and the vote was unanimous. Mr. Francis will prepare the Findings of Fact to be read at the next Planning Board meeting.

4. 190702 Paul & Lisa Henderson / Peterson Design Group, Authorized Agent – Site Plan Review – Public Hearing - for approval to remove an existing two family dwelling and rebuild same in a more conforming location outside of the floodplain. (2 Maine Street, Assessor's Tax Map 11, Block 3, Lot 1 in the Village Residential, Shoreland and Resource Protection Zones.)

Mr. Boak introduced the Agenda item.

Mr. Erik Peterson representing Paul and Lisa Henderson, addressed the Board and gave a brief summary of the Application. Mr. Peterson outlined the owners intend to keep the building as a two family dwelling but raise the structure up onto a pier foundation to keep it out of the floodplain. Mr. Peterson also noted the lot coverage will be decreased from 48.9% to 36.17%.

Mr. Lichte asked the Applicant to comment on concerns raised at the last meeting on the amount of glass and the risk of having birds injured from flying into the glass windows. Mr. Peterson responded they have altered the façade that faces the Mill pond as every window will have a screen and the remaining glass areas will have grills on the windows.

Mr. Boak opened the Public Hearing.

Mr. David James, an abutter across the Mill pond addressed the Board to express his concern about the traffic issues that will be created during construction and to ask if the parking spaces are side by side. Mr. Peterson responded the parking area on the right of the house is side by side and the parking area on the left is back to back spaces.

Ms. Lisanne James, of 17 North Street addressed the Board to state her concerns about extreme lighting on the building. Mr. Peterson replied he does not see this property as some lit up spectacle but rather to have typical residential lighting.

Ms. Abby Troiano of 4B Maine Street addressed the Board in concern about the parking area during the deconstruction and construction. Ms. Troiano also stated she would like to be advised on the vegetative buffering between her property and the Applicant's property. Mr. Peterson responded the Applicants want to plant along the edge in order to maintain some privacy for both properties.

Mr. Boak closed the Public Hearing.

Mr. Boak asked about the Maine Department of Environmental Protection permit. Mr. Peterson replied he has filed a Permit By Rule with the Maine DEP and it is past the 14 day waiting period which means he has been granted the approval.

Mr. Boak made a motion to approve the Application. Mr. Simmons seconded the motion and the vote was unanimous. Mr. Boak is the Case Manager for this Application and will prepare the Findings of Fact to be read at the next Planning Board meeting.

Due to the late hour of the meeting, Agenda Items #5 and #6 will be deferred until the next Planning Board meeting on September 18, 2019 and will be moved to the beginning of that Agenda.

5. 190801 Apple Blossom Lane, LLC Subdivision / Longview Partners, LLC, Authorized Agent – Preliminary Subdivision - Initial Review – for approval to create two new lots on a 23.36 acre parcel. (Apple Blossom Lane, identified as Assessors Tax Map 12, Block 002, Lot 1J in the Goose Rocks Zone.)

6. 190803 Hidden Pond / Sebago Technics, Authorized Agent – Site Plan Review – **Initial Review** – for approval to revise a previously approved Plan by building the 10 previously approved units, but in a new location within the existing site. Construction of fire lanes and roadways to access these units will be done at the same time. 9356 Goose Rocks Road, identified as Assessor's Tax Maps 38, Block 001, Lot 08 (Phase II) and Map 37, Block 003, Lot 3 (Phase I) in the Free Enterprise Zone.)

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

Submitted by: Patricia Saunders, Planning Board Recording Secretary