

Kennebunkport Planning Board
September 16, 2015 ~ 7:00 PM
Kennebunkport Village Fire Station, 6 Elm Street

A regular meeting of the Planning Board was held on Wednesday, September 16th, 2015. The meeting convened at 7:00 p.m. in the Kennebunkport Village Fire Station.

Members Present: Mr. Greg Reid (Vice-Chair), John Hathaway, Peter Fellenz, Helen Conaty, Ray Hilwig, Thomas Boak
Mr. Boak will have voting privileges for this meeting.

Approval of Minutes: Mr. Boak made a motion to approve the minutes from the September 2nd, 2015 Planning Board meeting.
Mr. Hilwig seconded the motion and the vote was unanimous.

Items:

1. **150703 Seaside Hotel Associates, d/b/a The Nonantum Resort** – Site Plan Review – **Findings of Fact** – for approval to remove an existing staircase and replace with a new elevator and staircase that meets current ADA requirements. [95 Ocean Avenue, identified as Assessor's Tax Map 8, Block 001 Lot 13 in the Riverfront Zone.]

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

2. **150801 21 Lands End Lane, LLC / Sandra Guay, Esq., Authorized Agent** – Site Plan Review - **Public Hearing** – for approval to construct a 4'x12' long permanent pier with a 3' wide x 26' long ramp and a 10'x20' seasonal float. [21 Shore Farm Lane, identified as Assessor's Tax Map 21, Block 10, Lot 15 in the Village Residential Zone.]

Mr. Reid introduced the Agenda item. Attorney Ralph Austin addressed the Board on behalf of the Applicant and gave a brief summary of the Application. Mr. Austin noted the Applicant has received permits from the Maine DEP and the Army Corps of Engineers as well as approval from the Kennebunkport Board of Selectmen.

Mr. Reid offered his opinion that this Application conforms to the requirements of the Land Use Ordinance and asked the other Board members if they had any questions for the Applicant. There were no questions from the Board.

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

Mr. Fellenz made a motion to approve the Application as presented. Mr. Boak seconded the motion and the vote was unanimous. Mr. Hilwig was assigned as Case Manager to prepare the Findings of Fact to be read at the next Planning Board meeting.

3. **150401 Kennebunkport Conservation Trust / Sebago Technics, Authorized Agent** – Site Plan Review – **Continued deliberations and Findings** – for approval to construct a Community/Museum/Education Center/Building (Mill) with associated site improvements consisting of refining parking lot, walkways, landscaping and site lighting. [8 Mill Lane, identified as Assessor's Tax Map 09, Block 01, Lot 12 in the Village Residential Zone.]

Mr. Reid introduced the Agenda item and asked Mr. Werner Gilliam to explain the procedural issues pertaining to the Board's review of this Application.

Mr. Gilliam addressed the Board stating Town Counsel has provided the Board with a draft Findings of Fact. Mr. Gilliam suggested the Board members continue with their deliberations specifically on each particular requirement in Attorney Tchao's Findings of Fact and vote on each of those requirements separately. Mr. Gilliam also encouraged the Board to write any changes they agree upon on the draft that will be incorporated onto an electronic version.

Mr. Boak suggested replacing the reference to Exhibit A in Item 5 on page 21 with a prepared list of conditions; copies of which he distributed to the Board members and read into the record. The Board agreed unanimously to discuss Mr. Boak's suggestions when they reached that segment of the Findings in their deliberations.

Mr. Fellenz made a motion the Board members conduct votes of approval/disapproval on each item listed *a* thru *p* of the Findings of Fact. Ms. Conaty seconded the motion and the vote was unanimous.

Mr. Reid read pages 1 thru 3 of the Findings of Fact into the record.

In Item #18.a. on page 3 of the Findings the Planning Board voted 4-1 affirming the Clem Clark Boathouse constitutes a museum as defined in the Land Use Ordinance. Mr. Hathaway voted against the Board's affirmation.

Attorney Tchao stated for the record that the Board members are confirming each of them have read the entire document and if any member is not articulating their reason for voting in favor of the Application it can be assumed they are also agreeing with the statements contained in these Findings of Fact. All Board members agreed with Attorney Tchao's statement.

Referring to Item (3) of the Findings, the Planning Board voted unanimously that the proposed Grist Mill satisfies the definition of a functionally water-dependent use under the Land Use Ordinance.

In reference to Item (4) which states: "*Does the proposed Grist Mill satisfy the definition of an industrial, commercial or manufacturing use under the LUO*" the Board voted 4 to 1 NO. Mr. Hathaway voted Yes to this question citing the running of the grist mill is an industrial, commercial and manufacturing use.

In reference to Section II. *Compliance with Applicable State and Federal Laws* of the Findings of Fact, the Board voted as follows:

[Recorder's NOTE: Items in *italics* are copied from the Findings of Fact. A negative vote on these items constitutes a vote in favor of the Application.]

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

The Planning Board members voted NO unanimously (5-0).

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;

Mr. Fellenz, Ms. Conaty, Mr. Reid and Mr. Boak voted NO. Mr. Hathaway voted YES to the item stating he believes the value of the adjacent properties will be diminished by the proposed exterior lighting.

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

The Planning Board members voted NO unanimously (5-0).

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;

Mr. Fellenz, Ms. Conaty, and Mr. Boak voted NO on this item. Mr. Hathaway and Mr. Reid voted YES on this item citing the noise generated from the traffic will definitely have an impact on the homeowners on this narrow residential street. The final vote was 3 to 2 in support of the Application.

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;

Mr. Fellenz, Ms. Conaty, Mr. Reid and Mr. Boak voted NO. Mr. Hathaway voted YES on this item citing the same reasons stated in the discussions for Item e. The final vote was 4 to 1 in support of the Application.

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 Planning Board members voted NO unanimously (5-0).

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 Planning Board members voted NO unanimously (5-0).

i. Adequate provision has not been made for disposal of wastewater or solid waste or for the prevention of ground or surface water contamination.

The Planning Board members voted NO unanimously (5-0).

j. Adequate provision has not been made to control erosion or sedimentation.

The Planning Board members voted NO unanimously (5-0).

k. Adequate provision has not been made to handle storm water run-off and other drainage problems on the site.

The Planning Board members voted NO unanimously (5-0).

l. The proposed water supply will not meet the demands of the proposed use or for fire protection purposes.

The Planning Board members voted NO unanimously (5-0).

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

The Planning Board members voted unanimously (5-0) this item is Not Applicable.

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 Planning Board members voted NO unanimously (5-0).

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

Mr. Fellenz, Ms. Conaty, and Mr. Boak voted NO on this item. Mr. Hathaway and Mr. Reid voted YES on this item citing the same reasons as discussed on Item *e*. The final vote was 3 to 2 in support of the Application.

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

Mr. Fellenz, Ms. Conaty, Mr. Reid and Mr. Boak voted NO. Mr. Hathaway voted YES on this item citing the same reasons stated in the discussions for Item *e*. The final vote was 4 to 1 in support of the Application.

Mr. Reid read *Item 19. a.* of the Findings of Fact into the record which states: “*Will maintain safe and healthful conditions;*”. At this point in the meeting the Board members had a lengthy discussion on eliminating Exhibit A in the Findings and incorporating specific items from that section into the Conditions of Approval section. Ms. Tchao agreed with the Board’s suggestion and noted all references within the Findings to Exhibit A would be eliminated.

The Planning Board members voted YES unanimously (5-0) on Item 19 *a* thru *h*.

With the guidance of Attorney Tchao, the Planning Board members had a detailed discussion on specific Conditions of Approval to be included in the Findings of Fact. Ms. Tchao summarized the Board members conditions as follows:

“Grist Mill Planning Board Conditions of Approval

4. The applicant shall comply with the following conditions:

- a. Regular hours 9 to 5pm no more than 5 days a week, in season, May through October.
- b. Grinding of grains shall be limited to approved museum hours, no more than 3 days per week.
- c. Parking shall be limited to 10 cars.
- d. The in-town trolley may be allowed on the grounds.
- e. School buses will be allowed on the grounds, no more than one at a time.
- f. Tour buses will not be allowed on the grounds.
- g. Parking in the turnaround/drop off area shall not be allowed at any time.
- h. Park lighting shall be shut off by 6pm.
- i. Non-motorized watercraft may be launched during daylight hours only, with parking only for the period of loading and unloading.
- j. Functions shall be allowed only during museum hours.
- k. Amplified music (indoor or outdoor) shall not be allowed.
- l. All functions shall be supervised by a KCT representative.
- m. Restrooms shall be limited to staff and Center visitors.
- n. Weddings, rehearsals and receptions shall not be allowed.
- o. The park will be open during daylight hours only.
- p. Any function shall be limited to a maximum of 100 people.”

Mr. Reid called for a vote on approval of the Amended Findings of Fact of the Kennebunkport Conservation Trust for a River Heritage Educational Center. Mr. Fellenz made a motion to approve the Application with the conditions as discussed. Mr. Boak seconded the motion and the vote was 4 to 1 in favor of the motion. Mr. Hathaway opposed the motion. The Planning Board members will sign a final copy of the Findings of Fact incorporating all of the amendments discussed and approved, 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