

**Kennebunkport Planning Board**  
**October 2nd, 2019 ~ 7:00 PM**  
**Kennebunkport Village Fire Station, 32 North Street**

A regular meeting of the Planning Board was held on Wednesday, October 2nd, 2019. 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, Larry Simmons, George Lichte  
Mr. Simmons and Mr. Lichte will have voting privileges for this meeting.

Approval of Minutes: Ms. Pearlmutter noted a correction to be made to the spelling of Mr. Jonathon Trudo's name in the minutes of the September 18<sup>th</sup>, 2019 Planning Board Meeting. Mr. Lichte made a motion to approve said corrected minutes. Ms. Pearlmutter seconded the motion and the vote was unanimous.

Items:

**1. 190801 Apple Blossom Lane, LLC Subdivision / Longview Partners, LLC, Authorized Agent** – Preliminary Subdivision – **Public Hearing** – 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.)

Mr. Boak introduced the Agenda item.

Mr. James Logan of Longview Partners addressed the Board. As requested from a Board member at the last meeting, Mr. Logan read a brief narrative description into the record, copies of which will be provided to the Board. Mr. Logan also noted that Apple Blossom Lane will remain a private road. Also noted at the last Planning Board meeting, Mr. Logan explained an amended property deed will be filed removing the restriction that no further subdivision of the lot is allowed.

Ms. Pearlmutter asked if the Applicant needs the approval of all of the other lot owners to release that restriction. Mr. Jonathon Trudo replied that Scott Emmons is changing the deeds for him but his father has already released those conditions. Mr. Logan read the specific language of the easement change to be added to the deeds into the record.

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

Ms. Pearlmutter asked if the Board needed Maine Department of Environmental Protection approval for the road extension for this Preliminary Review. Mr. Gilliam replied he did not think the Board needs it for the Preliminary Review but any Maine DEP permit should be in place for the Final Review.

Mr. Logan noted he will revise the Application to remove the request for the waiver of the specimen trees. Ms. Pearlmutter commented that the Board agreed the Applicant did not have ascertain every specimen tree but to identify those only where the construction was to occur.

Ms. Pearlmutter asked what the actual street address of the property is and what the name of the subdivision is. Mr. Gilliam responded the proposed subdivision name is on the Application as Apple Blossom Estate Subdivision. Mr. Trudo added the street address is 20 Apple Blossom Lane.

In compliance with condition 7.2.D.29, Ms. Pearlmutter asked if the Applicant has identified any historic sites on the property. Mr. Logan responded he did not believe there are any historic sites on the property. Ms. Pearlmutter read Article 7.2.D.29 of the Kennebunkport Subdivision Regulations which states: "*All areas within or adjacent to the proposed subdivision that are either listed on or eligible to be listed on the National Register of Historic Places, or prehistoric sites noted on maps provided by the Maine Historic Preservation Commission (MHPC), or have been identified in the Comprehensive Plan and subsequent amendments or revisions as sensitive or likely to contain such sites*" and asked if the Applicant should submit a waiver from the Historical Society. Mr. Logan explained that part of the Tier 1 Application with Maine DEP there is a requirement that we notify the Maine Historic Preservation Commission who in turn would let us know if they have any record of any historic properties adjacent to the subdivision. Mr. Logan added he expects to have that Tier 1 Application approval to be included in the Final Subdivision Application. Ms. Pearlmutter offered to include in this Preliminary Review approval a statement that indicates the DEP approval is pending and the Applicant expects to receive notification that he has met the requirements of Article 7.2.D.29 of the Kennebunkport Subdivision Regulations.

Ms. Pearlmutter asked about the location of the open space area(s) on the site map. Mr. Logan responded he will indicate the building areas on the plan which will help them identify the open space area(s) and will submit those plans as part of the Final Subdivision Application.

There were no further questions from the Board members.

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

Ms. Pearlmutter was assigned as Case Manager for this Application.

Mr. Simmons made a motion to approve this Preliminary Application. Mr. Mahoney seconded the motion and the vote was unanimous. A letter reflecting the Planning Board's approval will be signed by the Chairman and submitted to the Code Enforcement Office.

**2. 190803 Hidden Pond / Sebago Technics, Authorized Agent – Site Plan Review – Public Hearing** – 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.)

Mr. Boak introduced the Agenda item.

Mr. Steve Doe of Sebago Technics, along with Attorney Ralph Austin, addressed the Board stating they have submitted a letter prior to this meeting to address a few minor questions the Board had from the last Planning Board meeting. Mr. Doe explained they have changed the light fixture so it is more downward directed and dark sky compliant and have worked with the architect to change some of the elevations of the cabins. In response to a question at the last meeting regarding bird strikes, Mr. Doe stated the majority of the windows are double hung windows and most of them will have screens. Mr. Doe also added that SW Cole is performing a hydro-geological assessment of the property that is still ongoing.

For the benefit of the audience in attendance, Mr. Doe then gave a brief summary of the proposed Application using several enlarged site plans.

Ms. Pearlmutter asked if they plan to take out any significant trees. Mr. Doe replied there are 2 big trees; one will be taken down and they will try to retain the other one, otherwise there are not a lot of big trees on the building sites.

Mr. Simmons asked if there has been any study to determine if the water table has decreased. Mr. Doe replied that is why they are conducting the hydro-geologic study as the neighbors are concerned about their wells and have noticed their ponds have gone down.

Mr. Mahoney asked if they are using the original septic system. Mr. Doe responded they will be using the existing septic system that is on the property as there are several septic fields for the whole development. Mr. Doe specified on an enlarged site plan where the septic fields were located, and indicated the direction for the plume that drains towards the river.

Mr. Simmons questioned the Applicant whether they were testing for ammonia not nitrates because most of the affluent stream is after it has been treated as nitrates. Mr. Gilliam offered the Board members if they were interested they could review one of the previous reports submitted by the Applicant. Mr. Doe noted they are providing a de-nitrification system with this proposal.

Mr. Lichte asked if the Applicant has provided a copy of a site plan that shows the cottages which were originally approved and what the overlay is.

Mr. Mahoney asked if there will be the same number of bedrooms and same amount of square footage from the old cottages to the new cottages. Mr. Doe replied yes there is the same # of bedrooms with a maximum of 2 bedrooms per cottage and each cottage will be no larger than 1,100 square feet.

Mr. Boak opened the Public Hearing.

Mr. Ed Bassett of 35 Ox Plow Lane addressed the Board and referring to his letter he previously submitted to the Board, expressed his concern about the addition of 10 more residences and the drain it will put on the aquifer system and his concern with the septic system being able to tolerate the additional cottages.

Mr. Lichte made a motion to continue the Public Hearing until the next meeting.

Mr. Ralph Austin requested from the Board that should the hydro-geologic report come in acceptable and the Board does approve this Application at the next meeting, would it be possible to also have the Findings of Fact read and approved at that same meeting? With agreement from the Board members, Mr. Boak responded they could have a draft Findings prepared in advance for the next meeting.

Mr. Simmons reiterated Mr. Lichte's motion. Ms. Pearlmutter seconded the motion and the vote was unanimous.

**3. 190802 James & Susan McMahon / James Logan, Longview Partners, LLC, Authorized Agent - Preliminary Minor Review – Continued Review** - for approval to amend a lot line. (18 Northwood Drive, identified as Assessor's Tax Map 12, Block 005, Lot 05A in the Village Residential Zone.)

At the request of the Applicant, this Agenda item was deferred until a future Planning Board meeting.

**4. 190901 Mark Messer & Elizabeth Carlson** – Site Plan Review – **Initial Review** – for approval to do road improvements by widening Ledge Road. (7 Ledge Road, identified as Assessor's Tax Map 24, Block 4, Lot 23 in the Village Residential East and Free Enterprise Zones.)

Mr. Boak introduced the Agenda item.

Mr. Mark Messer addressed the Board stating he would like to build a house at the end of the road and the town requires that the width of the road be increased but he would like to keep the road as it is.

Ms. Pearlmuter inquired about the reason why there were two deeds submitted with this Application. Mr. Messer responded the Sharps property shares the driveway and his other neighbors, the Wiewels also have rights to use the road. Ms. Pearlmuter questioned whether there should be authorization letters from the neighbors to Mr. Messer to represent this change to the road. Mr. Gilliam added he does not believe the neighbors have ownership of the road as they only have an easement to use the road. Mr. Messer added his neighbors have an easement for the Right of Way and for the utilities.

Ms. Pearlmuter asked if this Application would require a Maine DEP permit. Mr. Messer replied No he spoke with the Maine DEP and they informed him a permit was not necessary. Ms. Pearlmuter then asked where the hammerhead turn was located. Mr. Messer responded there is no hammerhead turn on the plan. Mr. Boak commented the hammerhead turn was a suggestion by the town's Fire Chief.

Noting the Applicant has stated they wish to keep the road as it is at 12 feet wide, Mr. Mahoney asked Mr. Messer what he thought of the Fire Chief's suggestion. Mr. Messer replied he is fine with putting a hammerhead turn at the end of the road.

Again referring to Chief Everett's letter, Mr. Mahoney asked the Applicant if he would be willing to put in a deed restriction that no more homes are built on the road. Mr. Messer agreed he would be willing to add a deed restriction that the last lot would never be subdivided.

The Applicant, the Board members and Mr. Gilliam had a detailed discussion on the specifics of the Fire Chief's suggestions on possible improvements to be made to the road to accommodate an additional building lot.

After some discussion, Mr. Simmons and Ms. Pearlmuter suggested having a couple of clear areas along the road where cars would be able to pass each other comfortably in addition to creating a hammerhead turn at the end of the road. Mr. Messer acknowledged there are a few areas along the road that could be used as passing areas.

Another brief discussion between the Applicant and the Board members occurred regarding the provisions of Article 6.14 in the Land Use Ordinance. Mr. Messer agreed to provide a modified copy of the site plan that showed the hammerhead turn at the end of the road along with a couple of wider areas on the road for cars to pass each other. The Board agreed it would be necessary to have the Fire Chief approve this revised plan before they could proceed.

Mr. Lichte asked if the Code Enforcement Officer had any objections to the Board's suggestion of the modified site plan. Mr. Gilliam responded that is within the Board's scope of authority to approve such a plan but advised the reason why there is a private road standard is to address fire access.

Ms. Pearlmuter made a motion to continue this Initial Review in order for the Applicant to confer with the Fire Chief on the suggestions made at this meeting. Mr. Lichte seconded the motion and the vote was unanimous.

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

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

**Submitted by:** Patricia Saunders, Planning Board Recording Secretary