

Kennebunkport Planning Board
October 16th, 2019 ~ 7:00 PM
Kennebunkport Village Fire Station, 32 North Street

A regular meeting of the Planning Board was held on Wednesday, October 16th, 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, Ed Francis, Neil Higgins, Larry Simmons

Approval of Minutes: Mr. Boak and Mr. Simmons noted a few corrections to be made to the minutes from the October 2nd, 2019 Planning Board meeting. Ms. Pearlmutter made a motion to approve the corrected minutes from the October 2nd, 2019 Planning Board meeting. Mr. Simmons seconded the motion and the vote was unanimous. Mr. Francis noted for the record that he did view the video of the October 2nd, 2019 meeting prior to tonight's meeting.

Items:

~~**1. 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.) *George Lichte, Case Manager* **Continued to 11/06/19 agenda at request of Applicant's Agent.**~~

~~**2. 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.) *Larry Simmons, Case Manager* **Continued to next agenda at the request of Applicant's Agent.**~~

3. 190901 Mark Messer & Elizabeth Carlson – Site Plan Review – **Initial Review Continued** – 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 and using an enlarged map of the properties, described his proposal for road improvements. Mr. Messer indicated on the enlarged map which areas of the road he would like to keep at the current 12 foot width, which areas he would widen to 16 feet and which area he would widen to the 20 feet along with identifying where the hammerhead turn would be located and a passing lane area between the two significant wetlands.

Mr. Mahoney asked if his proposal is the same as the Fire Chief's recommendations. Mr. Messer indicated on the map which area the Fire Chief had requested be widened further and reminded the Board members that they have the authority to grant his request to preserve the wetland areas and not have the road further encroach on those areas.

Mr. Mahoney asked what the Fire Chief was recommending in the wetland areas. Mr. Messer responded he believed the recommendation was to widen it to 16 feet.

Mr. Francis asked Mr. Messer from what part of the Land Use Ordinance is he citing that the Planning Board may grant such a request. Mr. Messer responded it is Article 6.14.E. that states "*The Planning Board may reduce or modify the driveway/private road standards where strict adherence to the limitations cannot be met when considering a pre-existing right-of-way, or cannot be met due to environmental concerns.*"

Mr. Francis commented that Mr. Messer is focusing his proposal on environmental concerns. Mr. Messer agreed with Mr. Francis' statement adding there would also be less of a cost with his proposal.

Mr. Francis noted the Fire Chief's letter suggests the road remain at its current width of 12 feet from Wildes District Road up to Mr. Messer's current driveway and then widen it to 16 feet up until the hammerhead turn at the end of the Mr. Messer's new driveway.

Mr. Francis commented that he is not comfortable granting any applications that go against the Fire Chief's recommendations as he is not just responsible for the safety of fire equipment, he is responsible for the fire safety of the entire town.

There was a brief discussion with the Applicant on the specific section lengths of the road that the Fire Chief is suggesting should be widened.

Mr. Gilliam suggested since the 12 foot wide road has 2-foot shoulders on each side, if those shoulders were reinforced with retaining walls the width would be increased to 16 feet without increasing the impacts by fill extensions into the wetland areas.

Referring to the Fire Chief's letter, Mr. Francis commented Chief Everett stipulated that a deed restriction should be put in place prohibiting any further subdivision of the back lot. Mr. Higgins asked if there could be a stipulation put in the deed that if the last lot is subdivided the road would have to be widened to 20 feet. Mr. Messer agreed to that condition.

To summarize, Mr. Messer indicated which sections of the road the Fire Chief agreed could remain at 12-feet wide, which section would be improved to 16 feet wide, where the pullover area would be located and the hammerhead would be 20-foot wide by 30-foot deep at the end of the road along with a deed restriction prohibiting further subdivision of the last lot.

Mr. Francis asked the Applicant to present this compromised plan to the Fire Chief to ensure he is in agreement. Mr. Messer agreed with Mr. Francis' suggestion.

Mr. Simmons suggested the Applicant provide a description of the proposed modifications as well as a revised site plan.

On the section of the road that would remain at 12-feet wide, Mr. Messer agreed with Mr. Gilliam's suggestion to stiffen the existing 2-foot shoulders on either side of the travel way so the total width would be 16 feet.

Mr. Francis asked the Board to quickly review the 5 conditions the Fire Chief stated in his letter for this proposal. Those conditions are listed below.

1. *The hammerhead is constructed to be 20 feet wide and 30 feet deep on each side of Ledge Rd. (in general area as illustrated)*
2. *A pull over area be constructed on the right side of Ledge Rd. facing in, between the two culverts. This area shall be at least twelve feet wide and as long as possible, approximately 35-40 feet, while not impacting the wetlands noted on the site plan you provided.*

Mr. Messer agreed to comply with items #1 and #2.

3. *Both the hammerhead and the pull over area need to be maintained for use in all seasons. An agreement, in writing, as to who is responsible for this maintenance shall be added to the right of way language.*

Mr. Francis questioned who would be responsible for the maintenance and plowing of the pullover area and the hammerhead. Mr. Messer responded there is a road maintenance agreement among the homeowners that includes a formula to calculate each homeowner's financial responsibility.

4. *The map provided shows some of the proposed hammerhead on the Sharpe's property. I am fine with that if all landowners agree.*

Mr. Messer clarified the map the Fire Chief was shown was not to scale and the hammerhead turn will be located completely within his property line and is not on the Sharpe's property.

Mr. Gilliam suggested that if there is an exhibit that talks about the maintenance of the road within the Right of Way it makes sense that particular piece is added the property description of the Right of Way and added to the property deeds as well as obtaining an updated survey.

5. *The property your new house is going on is deed restricted against further development.*

Mr. Messer agreed to this deed restriction.

Mr. Simmons made a motion to find the Application conditionally complete pending final approval by the Fire Chief and receipt of an updated survey. Mr. Mahoney seconded the motion and the vote was unanimous.

A Public Hearing will be held at the next Planning Board meeting on November 6, 2019.

4. 190902 Kennebunkport Heritage Housing Trust 2 / Sebago Technics, Authorized Agent – Sketch Plan – for a proposed five (5) lot affordable housing residential subdivision. (Main Street, identified as Assessor's Tax Map 22, Block 9, Lot 21 in the Cape Porpoise West Zone.)

Mr. Boak introduced the Agenda item.

Mr. Patrick Briggs, president of the Kennebunkport Heritage Housing Trust addressed the Board stating this is the very beginning of the Trust's first building project that will contain 5 or 6 houses.

Mr. Gilliam disclosed as a town employee as the Director of Planning, he is an ex-officio member of the Kennebunkport Heritage Housing Trust although he is not a voting member and serves only in an advisory capacity.

Mr. Steve Doe of Sebago Technics addressed the Board using enlarged site maps of the property and gave a detailed presentation of the proposed sketch plan. Some of the items discussed by Mr. Doe are listed below.

- The property is located where the town skating rink is along Main Street.
- There is a stream that divides the parcel where the wetland areas are primarily confined to the stream and the balance of the site is mostly wooded.
- Proposal is to create 5 lots with 6 affordable homes.
- 4 of the lots will have a single family residence on them and will be a minimum of 20,000 square feet.
- A duplex unit will have a 30,000 square foot minimum land area.
- The development is designed to create a village for these homes with 2 buildable areas on the property.
- The east cluster will contain 1 single-family home with 1 duplex.

- The opposite side of the property where the skating rink is located will have a private, paved road along the western edge of the property with 3 homes fronting on that street.
- The central area where the wetlands are will be an open area.
- The private road will be 20-foot wide with 3-foot shoulders and will have a hammerhead turn at the end.
- The houses with frontage on Main Street will have public water.
- The homes located in the back of the property may be on wells due to the cost of running a main water line.
- All homes will be on private septic systems. Jim Logan has identified 2 passing test pits on all of the lots.
- Utilities will be in overhead power lines in order to keep the cost down.
- There will be an easement deed restriction and a long term lease of each lot will be executed with each homeowner.
- The trust will retain limited oversight rights, restrict resales to ensure continuing affordability, and preserve rights for certain common uses such as a trail system in the lease documents.

Mr. Doe concluded his presentation by stating there may be modifications to this plan such as home sites and septic system locations.

Mr. Francis asked if they envision having a Homeowners Association. Mr. Doe replied yes it would be part of the lease agreement.

Mr. Boak commented the deed provided in the sketch plan shows the property is still owned by the town. Mr. Doe responded the property has been transferred to the Trust and will provide a correct deed copy with the Preliminary Site Plan Application.

Mr. Boak also suggested providing a copy of the site map that indicates the Shoreland overlay zone.

Mr. Boak stated he is concerned about who actually owns the septic system on the leased land. Mr. Doe replied the homeowner owns the septic system as part of the property.

Ms. Pearlmutter commented it is ambiguous who has responsibility when referring to leasing property, homeownership and the responsibilities among them.

Mr. David Kling, board member of the Kennebunkport Heritage Housing Trust addressed the Board to explain the lease is a 100-year land lease which is a model that other housing trusts have followed and was decided upon in order to maintain control of resale value, maintenance upkeep, etc. Mr. Kling added in that lease there will be a very clear layout of who is responsible for what. The term of the lease will run with the land for 100 years so that makes the building financeable with a bank, Mr. Kling added. Mr. Kling concluded by stating the goal is to keep the houses affordable for the homeowner so the homeowner will be able to sell to another.

Mr. Kling also noted the lease document will be a standard lease and is currently being reviewed by counsel and should be available to be included with the Preliminary Site Plan Application.

Mr. Mahoney asked what the price of the homes would be. Mr. Kling replied they are trying to keep the cost down but may be somewhere between \$220,000 - \$270,000.

Mr. Higgins asked when the original party purchases one of the structures and then they go to sell it, how will that work? Mr. Briggs replied the new buyer has to meet the requirements but it would be done as you would for any home.

When the Preliminary Application is submitted, Mr. Simmons asked if a funding plan could be included in that application.

Ms. Pearlmutter raised her concern about the wetlands that have already been filled in for the ice skating rink adding there should not be any more impact to the wetlands. Mr. Doe explained what was filled in was about 3,400 square feet and there will have to be a little fill added for the driveway and if they go beyond the 4,500 square foot limit, they are required to go through the permitting process with Maine Department of Environmental Protection.

Ms. Pearlmutter also suggested integrating other environmental requirements such as installing bird friendly glass, maintaining significant trees and requiring homeowners to have trees planted and minimal lawns with no pesticides.

The Board members discussed the possibility of having a site walk on the property. Dates of a site walk will be scheduled with the Applicant and the Code Enforcement Office.

5. 190903 Kennebunkport Conservation Trust – Site Plan Review – Initial Review – for approval to create a parking area as an accessory structure to the preserved land it will allow access to and will be available for use by Edwin L. Smith Preserve. (Guinea Road, identified as Assessor's Tax Map 16, Block 2, Lot 1E in the Farm & Forest Zone.)

Mr. Boak introduced the Agenda item.

Mr. James Lowery, a volunteer on behalf of the Kennebunkport Conservation Trust addressed the Board and gave a brief overview of the Application noting the plan is to have 10 parking spaces on Guinea Road across from the Smith Preserve trails. In order to mitigate any potential headlight issues for abutting neighbors, Mr. Lowery stated Mr. Tom Bradbury was suggesting having a single entrance into the lot and a single entrance out of the lot.

Mr. Boak noted that parking is a conditional use in the Farm & Forest Zone and the property is currently in use as a farm of some sort. Mr. Lowery added it is also used for field trips.

In order for the Board to determine the potential impact on abutters, Ms. Pearlmutter asked for a complete site plan of the property indicating where the proposed parking lot would be located along with neighboring properties. Mr. Lowery agreed to provide that information and noted there is no proposed lighting on the property as most activity occurs during daytime hours.

Mr. Francis suggested the Applicant provide documentation that addresses the requirements of the Land Use Ordinance, in particular, Article 10.6.C.

Ms. Pearlmutter also suggested adding shrubs on top of the proposed berm as a buffer for the neighboring property. Mr. Lowery agreed that was their intent and will include it on the site plans.

Mr. Higgins suggested the permitted use of the property is agricultural and the Applicant is requesting to change the use to a park. Mr. Lowery apologized he could not speak exactly what the use is at the present time but would clarify that for the next meeting.

Ms. Pearlmutter made a motion to continue this Initial Review until the next Planning Board meeting. Mr. Simmons 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