

Kennebunkport Planning Board
October 20th, 2021 @ 6:00 PM
Virtual Meeting Via ZOOM

A virtual meeting of the Planning Board was held on Wednesday, October 20th, 2021 via the ZOOM format. The meeting convened at 6:00 p.m.

Members Present: Mr. Thomas Boak (Chair), Nina Pearlmutter, D. Scott Mahoney, Ed Francis, Larry Simmons, George Lichte

Approval of Minutes: Mr. Simmons noted a few minor corrections to be made to the minutes from the October 6th, 2021 Planning Board meeting and made a motion to approve said amended minutes. Mr. Francis seconded the motion, and the vote was unanimous.

Items:

Before continuing with the meeting's agenda, Mr. Gilliam introduced Mr. Eli Rubin, the town's Community Planner, to the Board members.

1. **210802 Sand Dollar Condominium / Sebago Technics, Authorized Agent - Site Plan Review - Continued Public Hearing** - Installation of Shoreland stabilization consisting of riprap and marsh grass plantings. (5 Dyke Road, Assessor's Tax Map 34, Block 3, Lot 11 in the Goose Rocks, Shoreland, and Resource Protection Zones.)

Mr. Boak introduced the agenda item.

Mr. Simmons acknowledged receipt of the Army Corps of Engineers approval and questioned when the Board would receive the Maine Department of Environmental Protection's approval. Mr. Doe explained they are still waiting on the DEP's approval and expect to receive it in January of 2022.

Mr. Simmons asked if the Applicant provided an updated Application cover sheet indicating the property is in the Resource Protection Zone. Mr. Doe admitted he did not provide that and will do so as soon as possible.

Mr. Simmons also noted a discrepancy in the area of the parcel in the Application. Mr. Doe agreed to reconcile the discrepancy and provide the correct information to the Board.

Mr. Simmons questioned if the authorization letter provided in the Application granting Mr. Doe as the agent to act on behalf of the Applicant is sufficient to assume Mr. Doe speaks for all the other owners of the Sand Dollar Condominiums. Mr. Doe responded that all the other owners are in communication with Heather Motes who is the person granting Mr. Doe authorization for this Site Plan Application. Mr. Francis suggested perhaps Ms. Motes could provide a letter stating she is acting on behalf of the Condominium Association and Mr. Doe has been granted the right to act as their agent for this project. Mr. Gilliam noted that the improvements that are proposed on this property primarily affect the units that Ms. Motes owns. Mr. Doe agreed to provide the suggested letter to the Board.

Lastly, Mr. Simmons also asked Mr. Doe to confirm if the proposed thickness of the riprap would be sufficient. Mr. Doe agreed to provide that information.

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

Mr. Simmons made a motion to approve the Application subject to receipt of the requested information. Ms. Pearlmutter seconded the motion, and the vote was unanimous. The Findings of Fact will be read at the next Planning Board meeting.

2. **210405 Ocean Woods / Sebago Technics, Authorized Agent - Site Plan Review - Continued Public Hearing** - For approval of a complete reconfiguration of the existing hotel/motel, by replacing the existing buildings with a new one story, 88-seat restaurant, and pool, with 30 individual one and two bedroom cottages, and a reconfiguration of the parking area to create 68 parking spaces, a new main entrance and use the existing driveway for service vehicles and employees. (71 Dyke Road, Assessor's Tax Map 37, Block 5, Lot 2 in the Goose Rocks Zone.) *Ed Francis, Case Manager*

Mr. Boak introduced the agenda item and asked if Attorney Ralph Austin could join Mr. Doe as a panelist.

Mr. Boak explained the Board received a new sketch plan from the Applicant on October 12th which recognizes the input from the Town Attorney and is significantly different from what was originally presented. Mr. Boak asked the Applicant if they would like to speak about this new plan and reminded them there is a Public Hearing on tonight's agenda for this Application that has been noticed and published on the town's website for several weeks.

Attorney Ralph Austin addressed the Board stating they supposed the Board tonight would first cancel the scheduled Public Hearing since it would be a Public Hearing on an existing Application which they were not moving forward with. Attorney Austin further stated what they submitted is really a sketch plan and shouldn't be subject to any substantive review or Public Hearing because there is no formal Application for it. Attorney Austin asked the Board for some guidance before submitting a formal Application whether they should go ahead with their new proposal or need to make some further changes.

Mr. Gilliam stated it is the purview of the Board what to do with the Public Hearing and offered since the new plans submitted by the Applicant are still just a concept, any discussion the Board members had regarding that would not be prejudicial. Mr. Gilliam did agree with Attorney Austin's statement that the scheduled Public Hearing is on the existing Application which the Applicant is no longer moving forward with.

Ms. Pearlmutter suggested there is some subject matter that covers both the old plan and the new plan in regard to the use and grandfathering which could be addressed this evening but might be better to do it on the new plan since it's basically reduced the area of use.

Mr. Francis asked if the Application has been withdrawn. Mr. Doe replied not at this point but obviously we need to do that. Attorney Austin added it is the Code Enforcement Office's recommendation that we submit a new Application.

The Board members and Mr. Gilliam had a lengthy discussion on procedures for withdrawing an Application and ending a Public Hearing that has been continued to another meeting.

Mr. Gilliam offered from an administrative process it would be cleaner if the Applicant chooses to close the Application or withdraw it and file a new Application with the Board because there are substantial changes to this.

Another lengthy discussion occurred among the Board members on how to proceed.

Mr. Francis made a motion to continue the Public Hearing until the next meeting on November 3rd, 2021. Mr. Simmons seconded the motion. Mr. Simmons clarified the Board is continuing the Public Hearing to the next meeting with the expectation that the Applicant will withdraw the present Application and submit a new Application before the November 3rd, 2021 meeting. The vote was unanimous. Mr. Gilliam clarified that theoretically the Board could end up with two Applications, but it is important to know if they receive a new Application it is because the previous one was withdrawn.

Attorney Austin explained he would convene his team one more time to discuss their next steps to be certain his client wishes to proceed as discussed tonight.

Mr. Boak requested that a representative of the KRC be present at any future meetings especially any Public Hearings to answer questions that arise. Attorney Austin agreed with Mr. Boak's request.

Due to some continued discussion amongst the Board members and Applicant, Ms. Pearlmuter summarized that the Public Hearing that was just voted to be continued to the next meeting will be closed at the November 3rd, 2021 meeting after the old Application is formally withdrawn where upon the new Application will be submitted and it will be presented at the November 17th, 2021 meeting hopefully with the Town Attorney present to answer questions from the Board members.

- 3. 210801 Vincent & Nathan Thelin / Longview Partners Authorized Agent – POSTPONED AT THE REQUEST OF THE APPLICANT.** Preliminary Subdivision Application—Continued Initial Review—To amend a previously approved subdivision resulting in the creation of 1 new lot (245 Arundel Road, Assessor's Tax Map 15, Block 3, Lot 4 in the Farm and Forest Zone.)

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

Submitted By: Patricia Saunders, Planning Board Recording Secretary