

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

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

Members Present: Mr. David Kling (Chair), Greg Reid, John Hathaway, Peter Fellenz, Helen Conaty, Tom Boak

Approval of Minutes: A motion was made to approve the minutes from the December 2nd, 2015 Planning Board meeting. The motion was seconded and the vote was unanimous.

Items:

1. **151101 Kennebunkport Police Department / Sebago Technics, Authorized Agent** – Site Plan Review – **Continued Review** – for approval to build a 1,513 square foot addition to the existing Police Department. [101 Main Street, identified as Assessor's Tax Map 22, Block 003, Lot 13 in the Cape Porpoise West Zone.]

Mr. Kling introduced the Agenda item noting the Board has received a revised site plan for this Application.

Mr. Will Conway of Sebago Technics addressed the Board and gave a brief summary of the proposed plan. Mr. Conway explained they have revised the parking area to accommodate the 10'x 20' space size as required in the Land Use Ordinance. The second change made to the previously submitted plan, Mr. Conway added is the parking spaces are moved further away from the Seavey's property, with improved traffic circulation in the lot and a combined impound/dumpster area. The second curb cut was also eliminated from this revised plan, Mr. Conway noted. With the guidance of Mr. Jim Stockman and the Lighting Committee, Mr. Conway also stated the light intensity has been lowered as well.

Mr. Gilliam addressed the Board to confirm the following items:

- The parking spaces meet the Ordinance requirements
- The lighting requirements of the pole locations, lights, and the fixtures all meet the Town requirements.

Mr. Kling confirmed with the Applicant that the cedar fence between the lot and the Seavey property will be extended. Mr. Conway indicated on the enlarged Site Plans where the extended fence would be located.

There were no further questions from the Board members.

Mr. Reid made a motion the Application is complete. Mr. Fellenz seconded the motion and the vote was unanimous. Mr. Kling announced a Public Hearing would be held at the next Planning Board meeting on January 6th, 2016.

2. **150904 Fishing Pole Lane, LLC d/b/a Hidden Pond / Sebago Technics, Authorized Agent** – Site Plan Review – **Public Hearing** – for approval to and revision of a previously approved Plan as follows:
 - Clarifying and/or receiving approval of the uses permitted inside and outside the Event Barn;
 - Removing the limit on 2 events per year;
 - Adding 78 Seats to Earth Restaurant;
 - Utilizing 2 existing sheds near restaurant for dining;
 - Adding parking for Earth Restaurant;
 - Building an addition to the Event Barn;
 - Grant approval of two additional sheds in the Service Yard;
 - Grant approval of additional Accessory Sheds throughout the property;
 - Convert the Farm Building to allow retail sales; [356 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. Kling introduced the Agenda item and explained the procedure for this portion of tonight's meeting.

Mr. Steve Doe of Sebago Technics addressed the Board, along with Attorney Ralph Austin and Deb Lennon and gave a brief summary of the Application. Referring to Mr. Austin's letter to the Planning Board dated December 14th, 2015, Mr. Doe utilized enlarged site maps of the property to note the following items:

1. Approval to increase the seating at Earth Restaurant from 60 seats to 138 seats
2. The septic system has been increased at the restaurant
3. Add 13 parking spaces along the road entering the site which will meet the Town requirement for restaurant parking
4. Access road will be designated as one way with parking spaces along the side for employee parking
5. Grant approval for 2 dining sheds. Seating for these sheds are included in the 138 total seats at the restaurant
6. Install a grease trap in the small kitchen in the event barn

7. Grant approval for a patio in the back of the event barn that is now within setback requirements due to a land swap with the Kennebunkport Conservation Trust
8. Grant approval for a covered outdoor space on west side of the event barn to be used as a food service area
9. Grant approval for added enclosed storage area on the east side of the event barn
10. Convert the Farm building to a retail sales store

Mr. Doe added the septic system at the Farm building has been performing properly and nitrate studies have been conducted on the monitoring wells since 2010 and there have been no nitrate levels in those reports.

Mr. Austin commented in regard to the septic system at the Farm building, should the remaining cottages be built the monitoring of the test wells would resume.

Mr. Kling asked the Applicant to explain the direction of the flow of the septic systems serving the restaurant and the event barn. Mr. Doe indicated on the enlarge site plans where the nitrate flows traveled from each location.

Mr. Austin addressed the Board to discuss the limitations on outside events at Hidden Pond. There is a limitation of no more than 2 weddings or outside events per year at the Farm location, Mr. Austin began and added the Applicant is not asking to increase that limit. In reviewing previous approvals for this site, Mr. Austin stated there was no limitation set on the number or type of event at the Event Barn. The Applicant is requesting that there continue to be no limitations of events at the Event Barn, Mr. Austin added. Such events will be limited to those guests of Hidden Pond or will be brought in by trolley from other KRC properties, Mr. Austin concluded.

Ms. Conaty asked if any guest at a function would have to be staying at a KRC property in order to attend an event at the Barn. Mr. Austin confirmed that is what the Applicant is requesting. Mr. Hathaway expressed his disapproval at opening events at Hidden Pond so that other guests at other locations can attend. Mr. Austin pointed out that stipulating any guests to Hidden Pond are also guests of any KRC property, would allow KRC to control how many attend such happenings.

Ms. Conaty asked how the Applicant could enforce such a stipulation. Ms. Debbie Lennon addressed the Board stating it would be enforced through the room blocks and the contract process at the point of sale which is how they would enforce use of the trolleys at the properties.

Ms. Conaty asked if they would make sure everyone attending was staying at one of the KRC properties. Ms. Lennon replied that yes that would be their intent. Ms. Lennon explained that 85% of guests attending a function at Hidden Pond are staying at Hidden Pond. Mr. Hathaway cautioned the concern is not the 85% but rather the other 15% that has historically been an issue and questioned how the Applicant was going to police the situation.

A lengthy discussion ensued among the Board members and the Applicant on the means of controlling attendance at events held on the property. Mr. Hathaway stated his concern with the Applicant is a credibility issue based on past violations. Mr. Austin offered there have been very few noise complaints and have held many events there without any problems. Mr. Fellenz stated his opinion that the real issue is how to guarantee compliance with whatever approvals are granted. Mr. Austin responded that the Board needs to look at each individual issue to check if there is compliance.

Mr. Reid suggested the Applicant paint a line down the secondary access road. Mr. Doe replied they are proposing to paint a line and mark each parking space for the employee parking. Mr. Reid questioned the practicality of having all of the employees park along that road.

Mr. Boak stated there were some items in the Application that required after-the-fact building permits and asked if that was strictly the concern of the Code Enforcement Office and not for the Planning Board to review. Mr. Gilliam responded that all permits have been issued for the well houses.

Mr. Boak also suggested the dishwasher located in the kitchen area of the Event Barn be removed. Mr. Doe replied it is a residential dishwasher not a commercial dishwasher so it would not be a problem for the septic system. Ms. Lennon indicated from the audience they would be willing to take it out if required.

Mr. Kling opened the Public Hearing.

Mr. Craig Praskavich of 342 Goose Rocks Road addressed the Board expressing his concerns about an increase in traffic flow on the service road. Mr. Doe explained the service road would be made one way coming into the property so all traffic would be exiting through the main entrance. Mr. Praskavich also expressed concern on the resort expanding its operation. Mr. Doe again responded this Application is to bring the property up to conformance where it is today and there is no expansion planned.

Mr. Peter Dollard of 28 Ox Plow Lane addressed the Board stating his concern about sewage pollution and asked who is responsible in the event of a septic failure and what assurances do the neighbors have that the situation is taken care. Mr. Dollard also stated there have been serious issues with noise pollution where events have been longer, louder and more frequent than allowed. Mr. Dollard also noted he has written 2 letters to the Board of Selectmen complaining about the noise levels from events held on the property and has not received any reply from the town.

Mr. Kling asked Mr. Dollard where the events were held that he could hear the noise at his house. Mr. Dollard replied he could not tell from what venue at Hidden Pond the events were held and indicated on the Applicant's enlarged site plan where his property is in relation to the Applicant.

Mr. Dollard also made the comment that commercial developers who build without obtaining the necessary permits are not done by mistake and asked if there were any consequences for the Applicant for doing such. Mr. Kling suggested Mr. Dollard read the Board of Selectmen's Memorandum of Understanding which deals with the enforcement issues for this Applicant and explained it is not in the purview of the Planning Board to exact punishment for violations.

Ms. Gerry Serreze of 34 Ox Plow Lane addressed the Board asking to clarify an item on the notice served regarding the Public Hearing. Mr. Kling explained the Applicant is asking to retain the 2 outside events per year and continue the lack of restrictions on events at the Event Barn. Ms. Serreze also asked if the retail sales at the Farm building would be open to the public. Ms. Lennon replied it is not intended to be as it is for in-house guests and is not advertised as such. Mr. Kling added it is designed mainly for guests but it is open to the public.

Ms. Merle Westbrook, of 28 Ox Plow Lane expressed her concern about the septic system and asked how many people are currently allowed in the Event Barn. Mr. Doe responded the Barn was designed from the original approval for 30 seats but is not being used in that manner because all food is brought in and not prepared on-site. Mr. Doe explained the Applicant is asking for 80 seats in the Event Barn.

Ms. Westbrook asked what facilities do people use at the outside events. Ms. Lennon explained they bring in port-a-potties for the tented events at the Farm.

To clarify, Mr. Gilliam stated in looking at the previous approvals for this Applicant the site was developed in two phases where Phase I contained approval for 2 outside events and Phase II had the Event Barn which is one of the things the Applicant needs to get clarification on types of events, frequency and nature of the events. The Event Barn was represented as an accessory structure to this site, Mr. Gilliam added.

Mr. Ed Bassett of 35 Ox Plow Lane addressed the Board asking the Board members to provide clear and specific definitions on events held on the property and have specific limitations to the nature of those events. Mr. Bassett also asked that testing continue to be done on the wells as his property directly abuts the Farm area. Mr. Bassett summarized his objectives as follows:

- Agreement as to how long an event should be
- Agreement as to the definition of what an outside event is
- Agreement as to what is an inside event
- Agreement on whether a combined inside/outside event is either one
- Agreement that Hidden Pond events should be restricted to only Hidden Pond guests and not the consolidation of the rest of the hotels.

Mr. Bassett also asked if it were possible to have No Parking signs put up along Goose Rocks Road when there are events at Hidden Pond as cars have been parked along the sides of the road. Mr. Bassett also pointed out that trolleys bringing people onto the property are supposed to leave but most times they are parked along the access road.

Ms. Ann Hand of New Adams Road addressed the Board questioning what would be the response of the town to a homeowner if they built something before seeking approval. Ms. Hand expressed she also has trust issues with the Applicant and asked what the guarantees would be that any approvals would be met. Ms. Hand also wondered if people who book these events at Hidden Pond are told of the restrictions on noise and hours allowed for the event.

Mr. Fellenz responded to Ms. Hand's comments that there has been punitive action taken for past serious violations but the real question going forward is how the Planning Board builds in some guarantees. Mr. Austin offered one of the restrictions on the outside events is all amplified music will end at 9:00pm.

Pat Dufosse of 8 New Adams Road addressed the Board in agreement with Mr. Bassett's previous statements and suggested having a guard at the entrance to check if those attending an event are current guests of the Applicant. Ms. Dufosse also expressed concern about the nightly bonfires on the property and said the abundance of alcohol being served is not a good combination.

Mr. Dollard asked if in the future there was a problem with pollution in the well water what would be done for that. Mr. Doe replied if the well becomes contaminated then it is our responsibility to provide you with a remedy. Mr. Austin offered his agreement to the Board exacting a condition of approval it would be Hidden Pond's responsibility to determine the source of the pollution and to correct the problem.

Mr. Richard Dufosse of New Adams Road asked if there is a plan for a Phase III on the property. Mr. Reid responded there are cottages already approved that haven't been built yet but those were part of Phase I so there is no Phase III in the plan.

Mr. Dufosse also questioned opening events at the Event Barn to other KRC properties which could potentially allow five times more people than the 80 seat limit. Ms. Lennon dismissed that from occurring as only those people attending the event would have invitations. Mr. Hathaway agreed with Mr. Dufosse's point arguing that the seating in the restaurant was limited to 60 initially but 138 people regularly showed up.

Mr. Kling acknowledged Ms. Dufosse's statement that the users of those events on the property may not be aware of the restrictions imposed by this Board.

In listening to the comments made by abutters, Mr. Austin suggested the Applicant prepare a set of conditions or compliance controls that could assist the Board in their deliberations and would also be in accordance with the Consent Agreement with the Board of Selectmen.

Mr. Kling closed the Public Hearing.

Mr. Fellenz made a motion to continue the review of this Application pending receipt of additional information from the Applicant. Ms. Conaty 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