

**Town of Kennebunk  
Planning Board  
Meeting Minutes  
Monday, February 22, 2016**

**Present:** Chris MacClinchy – Chair, Richard Smith – Vice-Chair, Matt Randall, Robert Metcalf, Aleksandra Jean – Alternate, Janice Vance - Alternate

**Not Present:** David Smith – Secretary

**Also Attending:** Judy Bernstein – Town Planner

**1. Open Meeting**

C. MacClinchy opened the meeting at 7:02 pm. Today is Monday, February 22, 2016.

**2. Approval of Minutes of Previous Meetings**

Approval of minutes was held till the end of the meeting.

**3. Zoning Amendment Application of John and Kathy Daamen regarding the Land Use Category – Renting of Rooms and Furnishing of Board**

C. MacClinchy noted that the Board had started to talk about this at the February 8, 2016 meeting.

J. Bernstein provided an update on this conversation. The Daamens had met with Ms. Bernstein to talk about creating a zoning amendment which would allow a Bed and Breakfast (B&B) to rent more than 4 rooms. Originally, they talked about creating a contract zone on their property to be allowed to rent up to 8 rooms, but J. Bernstein suggested pursuing this amendment instead as it could be of greater benefit to the Town.

While looking into the Standards, J. Bernstein noted that different zones within Kennebunk allow either 4 or 8 rented rooms, and some zone have no limit defined. She noted that the standard is vague, and thought it would be a good idea to have some consistency within the zoning ordinance on this matter. Her recommendation, as Town

Planner, was to amend the zoning ordinance to allow for up to 8 rented rooms, provided they meet some standards of performance.

While the amendment currently being proposed is for the suburban areas, which J. Bernstein pointed out on the map, she suggested that the Board may want to address this matter within a variety of zones to clean up the ordinance and make it more consistent. J. Bernstein offered to provide possible wording for the clarification of the standards, such as need to show proof of adequate septic/ sewer, and a requirement that there is someone on site to manage the room rentals.

John Daamen presented his application. He and his wife own a B&B at 108 Summer St. He has been on the Economic Development Committee for 10 years in addition to being a small business owner. He and his wife wanted to slow down a little, but with only renting 4 rooms there is just not enough revenue to support hiring a housekeeper. He then did some research which supported the thought that 4 rooms for rent is not sustainable for a B&B. He also noted that during the summer, the demand for rooms at his establishment is much higher than his capacity. He would like to capture some of that missed opportunity.

At the Daamens' B&B, there are currently 8 bedrooms: 2 on the top floor (which is the private residence of the Daamens), 4 on the second floor, and 2 on the first floor. His B&B already has all the needed facilities such as parking, and the septic was designed for much more than 4 rooms when it was installed. Mr. Daamen stated that he and his wife applied for the ordinance change, rather than just a variance for themselves, as he felt it would help support business across the town.

C. MacClinchy opened the discussion up for questions from the Board.

A. Jean noted that this application opened up a "whole can of worms" for the Board. She addressed her following to the rest of the Board: She had spoken recently with the Code Enforcement Officer about renting of rooms, due to a personal matter she was addressing with her neighbor. He [CEO] stated that his concern is less about the number of rooms being rented, and more about the number of people as this is what is within the fire code. She asked if they would like to standardize the number of people/ beds rented rather than the number of rooms. Also, she asked where the number 8 came from.

J. Bernstein answered that the number 8 seems to be arbitrary within the standard, there is no definition of a B&B in the Ordinance, which only defines an inn as less than 20 rooms.

A. Jean stated that she would want to make sure that there is a standard for there to be a manager on site, like with hotels and inns.

A. Jean asked what the parking requirements within the standard is. Are they based on the number of rooms or the number of people? She also noted that during her conversation with the Code Enforcement Officer she learned that for fire safety, if there is more than 4 people staying in the home/ building they are required to have sprinklers in the rooms. When the amendment is written, must be specific that all rented rooms must meet all codes.

She concluded that she is very excited about this project, but is just aware that there are a lot of things to discuss in order to amend the entire ordinance.

Mr. Daamen stated that his room has only 2 people per room, as they are all a single bed except for 1 room which has 2 twin size beds.

J. Bernstein clarified that the requirements for parking are: 1 space per rented room, plus 1 per staff, plus extra if there is a public meeting space. She went on to say the Board may want to update this standard at some point.

C. MacClinchy stated that he prefers not to make the standard any more stringent than necessary.

A. Jean stated that the Town should make people more aware of these standards, as they don't have the staff to police it adequately,

A. Jean went on to ask if the ordinance provided a definition of a vacation rental for the whole house.

J. Bernstein said no, there is no definition currently.

R. Metcalf stated that he has no questions at this time.

R. Smith stated that he believed having different number of rented rooms allowed in different zones is entirely appropriate. Each zone has a very different feel, and having different standards helps to preserve that.

R. Smith continued that parking is an issue, with a requirement of a minimum 1 space per room. For example: in Village Residential the zone would get too crowded with too many B&B and parking everywhere.

J. Bernstein stated that it could be added in the performance standards that they must meet the parking standard without disturbing the character of the lot and the surrounding lots.

A. Jean agreed with R. Smith, that a lot of cars does change the feel of the neighborhood.

R. Metcalf noted that in terms of having an existing residence converted to a B&B, there would need to be a minimum of a staff review of the change. Would need to look at the site and determine if they can provide an adequate buffer, etc.

M. Randall asked A. Jean for more clarification about the Code Enforcement Officers comments regarding number of beds vs. number of rooms.

A. Jean stated that he was referencing fire codes, which state that if there are more than 4 people staying in the house, there must be sprinklers in the bedrooms.

M. Randall clarified that this standard is for businesses. He also noted that would need to review current standards that if a B&B were looking to increase the number of rooms being rented, they would need to look at the impact of that increase, specifically regarding fire codes, parking, septic, setbacks, etc.

He added, that he doesn't see an issue in making this amendment. He stated that he was under the assumption that the Code Enforcement Officer would look over all these details when the property owner applied for business status.

M. Randall asked, how many other small B&Bs are in town?

J. Bernstein answered that she had asked the tax assessors, and this information is difficult to find.

Mr. Daamen stated that B&Bs are actually decreasing in number. One reason for this is that they are not sustainable with the current restrictions on how many rooms may be rented.

J. Bernstein stated that if the Board's concern is losing the feel of the zone by allowing more rented rooms, they can certainly add standards for buffering, etc.

M. Randall suggested reviewing the regulations for Kennebunkport, as they have a large number of B&Bs.

R. Smith expressed his concern about homes being turned into B&Bs along Summer Street. He stated he is against raising the number of rented room to 8 and

necessitating 10 parking spaces per home on Summer St. He feels that it is still appropriate to hold it to 4 rooms per B&B.

J. Vance stated that this discussion has been very interesting. She is very much in favor of doing anything to help with the maintenances of these historic homes. For a B&B this seems to be a very appropriate solutions. She added the question, is the intent of this ordinance to allow for long-term rentals or leases? She also stated that this is an ordinance which will need to be looked at zone by zone. It would be good to know how many homes could be affected by this change.

Mrs. Kathy Daamen stated that she is not looking to have any long-term rentals or leases. She said that while it would be good to help the other B&Bs in town, she is really just looking to make their business sustainable. At this time, they are not aware of any other B&Bs which are looking to increase the number of rooms they rent.

J. Bernstein asked the Board if they would be more comfortable if the ordinance was changed from a differing 4 and 8 rooms per house to a universal 6 rooms allowed.

R. Smith reiterated that it is appropriate and beneficial to have different standards for different zones. He stated that if they were going to move forward on this they would have to talk about having a Public Hearing to update the town ordinance. He stated that the Board should look at each zone individually and determine what is appropriate for that zone.

C. MacClinchy added that changing the standard to allow up to 8 rooms to be rented does not mean that every home would be able to do so. They would need to meet standards of performance to be able to set up for that maximum number of rooms.

J. Bernstein agreed that performance standards would be the important issue for having a B&B with more rooms available. The applicant would need to be able to meet all standards for parking, buffering, and utilities. Not all the lots would be able to meet those standards.

M. Randall stated that it appeared the Daamens' B&B looks like a perfect example of meeting the standards for renting more rooms. He asked what this Board can do.

J. Bernstein stated that they could propose this change to increase the number of allowable rooms only within the Suburban Residential Zone. She also noted they could propose a contract zone for the Daamens' property, but this may not be well received as this seems to be done a lot. Also, the Daamens' could apply for a variance for their property, but she wasn't sure they would meet the needs to have that be accepted.

Mr. Daamen stated that a contract zone would not really be any easier. Doing this ordinance change would be the easiest option. He asked the Board to keep in mind that each applicant who wanted to have a larger B&B would need to meet the standards and there would be the option for neighbors to push back on any application.

M. Randall reminded the Board that the B&B business is not sustainable at the current level of restriction. We need to provide standards which are sustainable. As long as all performance standards are met.

R. Metcalf stated that this is not a good option for a Contract Zone, as it is not a matter of public interest to have a zone for only 1 site

R. Metcalf stated his wish for better clarification within the ordinance regarding a B&B vs. Renting of Rooms and Furnishing of Board. A B&B and a Boarding House are very different things.

J. Vance and A. Jean both agreed that this should be better clarified.

R. Metcalf suggested that someone should boil down the stated regulations and the town ordinances to define each and set the standards.

J. Bernstein stated that this is just a title within the ordinance.

R. Metcalf stated that the provision allows for the renting of rooms, but doesn't specify standards for long-term vs. short-term. Also, he suggested that the Town should keep the standard, but create a subsection for B&Bs as they are a business and thus different from renting a room as supplemental income.

C. MacClinchy clarified that the suggestion is to split the ordinance into different sections for B&B vs. Renting of Rooms.

R. Metcalf stated that yes, these are two separate entities and should be treated as such.

J. Bernstein asked how the Board would like to define the numbers on this.

R. Metcalf stated that the Board would need to look at each of these zones individually. He agreed with R. Smith's previous statement that each zone should have its own set of standards.

R. Smith suggested that it would be appropriate to bring the Code Enforcement Officers in to talk about how they might be able to regulate this.

M. Randall stated that there is no point in creating a regulation if you can't police it. He then asked, what regulations can be put in place regarding AirBnB rentals.

C. MacClinchy asked what, besides B&Bs, would fall under this category. As the Town will not be policing AirBnB, could they just change the title of this current ordinance to reference B&Bs?

R. Metcalf pointed out that there used to be a boarding house in Kennebunk, and that would fall under the current policy.

M. Randall suggested keeping the current policy as a safety net and add a subsections specific to B&Bs.

R. Metcalf asked if there is a provision regarding annual rentals vs. short-term stays, such as a B&B

M. Randall summarized that there appears to be 2 options. The Board can change the title of this provision to refer to Bed & Breakfast specifically. Or, the Board can split this into 2 subsections. One would be for B&Bs and the other would be for all other rentals.

Mr. Daamen suggested that B&Bs could be included under the definition of an inn (under 20 rooms) and then many of the standards are already in place.

J. Bernstein noted that many B&Bs will not meet the standards of an inn in terms of room size, shared bathrooms, etc.

R. Smith stated that the Board needs to figure out exactly what this policy means before they start changing it.

R. Metcalf asked what the time line is if this change is going to happen through a Town Warrant. There is a lot of work to be done, and want to make sure that the Board is addressing the applicants' concerns but also not making a mess of the Town Ordinances.

J. Bernstein answered that to make the June warrant, would need to have the Public Hearing by the end of March.

C. MacClinchy asked if the Board would entertain changing the number of rented rooms for the Suburban Residential Zone to provide up to 6 rented rooms.

J. Vance asked how many other B&Bs are in that zone.

Mr. Daamen answered that the Houndstooth is the only other B&B in the zone currently, and they are closing down.

M. Randall suggested that this is possibly one more on Western Ave.

C. MacClinchy asked who on the Board would support work to change the allowable number of rented rooms within the Suburban Residential Zone to increase from 4 to 6 rooms.

M. Randall, R. Metcalf, R. Smith, A. Jean, J. Vance all agreed that they would be willing to look deeper into this.

J. Bernstein clarified that this was the only change that the Board was going to look at this time. They did not want to look into any broader changes without some more information.

M. Randall asked if the Board could get some information from the Code Enforcement Officer and the State regarding regulations.

J. Bernstein noted that there was time to put a post in the newspapers and hold the public hearing on the zoning amendment at the March 14<sup>th</sup> meeting.

R. Smith asked if this needed to be a joint meeting with the Board of Selectman.

J. Bernstein answered that it does not, but that she will ask if they would like to schedule a separate hearing on this matter.

#### **4. Other Old/ New Business**

C. MacClinchy made A. Jean a voting member of the Board for this meeting.

#### Review of minutes for January 11, 2016

Minutes for January 11, 2016 were reviewed and edits/ corrections were made.

R. Metcalf made a motion to approve these minutes as corrected.

R. Smith seconded this motion.

Vote was 5 approved/ 0 opposed.

#### Comp Plan Survey

R. Metcalf updated the group that the Comp Plan Survey had already gone out, so any comments they have will be saved for future surveys. He stated that there will likely be additional surveys as this was a very preliminary step.

J. Bernstein stated that a lot of these questions are going to be confusing for the public.

M. Randall clarified that this was sent to everyone in town.

J. Bernstein noted that there will be a notice included in the tax bill and the survey will also be available online.

#### Updated Language for Open Space Subdivisions

J. Bernstein asked if the Board wanted to add language to the subdivision standards for open space/ cluster plans. They need to show as part of their process how they meet the standard subdivision standards with the number of lots proposed in the cluster plan. She suggested requiring that they flag the standard plan lots as well as the cluster plan lots during the site walk. She will pull together some suggested language for the Board to review.

C. MacClinchy agreed that there appears to be room for improvement.

R. Metcalf noted that they also need to show plans for subsurface sewer and water, etc.

C. MacClinchy stated that this may require a separate site walk, and suggested that the wording make sure that the Board has that option.

C. MacClinchy asked if there were any updates on the Contract Zone discussion.

J. Bernstein stated no. She has done some research, but hasn't found any good wording in regard to public benefit that could be added to Kennebunk town standards. She has looked at neighboring town and other states, but will continue to look.

C. MacClinchy asked about updates to the standards for keeping horses.

R. Metcalf asked if the Board hadn't already addressed this matter.

J. Bernstein stated that the current standards include a limit of 4 horses per lot, which does not make sense in the rural zones. She suggested leaving the limit of 4 in all zones except Rural.

R. Metcalf stated they could just remove the limit language and allow for any many horses as the owner wants, provided they meet the standards for lot size, etc.

J. Bernstein will draft some updated language for the Board to review.

Upcoming agendas

J. Bernstein stated that she does have some things in various stages of submission, but none have been filed yet so not sure when they will come to the board.

C. MacClinchy asked if Aroma Joe's had filed an appeal.

J. Bernstein answered that they are going before the Zoning Board on Monday March 7<sup>th</sup>.

C. MacClinchy stated he will not be at the next meeting, March 14, 2016. However David Smith should be back by then.

**5. Adjournment**

R. Smith moved to adjourn this meeting at 9:46 pm.

R. Metcalf seconded the motion

Vote was 5 in favor/ 0 opposed.

*Respectfully submitted by Lynne Capitan.*

**Signature Page**

---

---

---

---

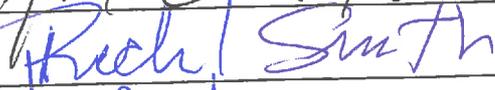
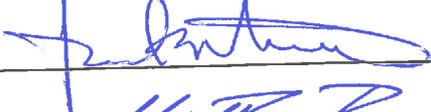
---

**Signature**

**Date**

Town of Kennebunk Planning Board  
Meeting Minutes for February 22, 2016  
Page 11 of 11

Signature Page

 Chair	3/28/16
	u
	u
	3/28/16

Signature

Date