Town of Kennebunk
Planning Board
Meeting Minutes

Monday, March 14, 2016

Present: Richard Smith – Vice Chair, David Smith – Secretary, Matthew Randall, Alexsandra Jean – Alternate, Janice Vance – Alternate

Not Present: Chris MacClinchy - Chair, Robert Metcalf

Also Attending: Judy Bernstein – Town Planner

1. Open Meeting

R. Smith called the meeting to order at 7:02 pm. Today is Monday, March 14, 2016.

2. Approval of Minutes of Previous Meetings

No minutes were available for approval at this meeting.

3. Public Hearing on Proposed Amendment to Zoning Ordinance Article 8, Section 6.B.7.3, regarding Accessory Use called Renting of Rooms

Before beginning this discussion, R. Smith made both J. Vance and A. Jean voting members of the board for the duration of the meeting.

J. Bernstein provided a summary of this discussion. The proposed amendment is to increase the number of rooms a Bed & Breakfast (B&B) can rent to 8, should all other standards of performance be met. The request for this amendment was generated by Mr. and Mrs. Daamen, who own a small B&B on Summer St.

The Daamens had met with Town Planner, J. Bernstein, previously to look at the ordinance and figure out how the amendment could be made to help not just them, but the Town of Kennebunk. There are a number of confusing pieces to the current ordinance.

As of the last meeting of the Planning Board on February 22, 2016, it was determined that the Board is not comfortable making the change to the ordinance as originally proposed. Tonight,

the Daamens would like to present an amended version of their proposed amendment. This would allow rental of up to 6 rooms within the Suburban Residential zone. Also, they are keeping this a very simple amendment, and are not adding additional performance standards as was discussed during the February 22, 2016 meeting.

R. Smith invited the Daamens to present any new information they have to the Board.

John Daamen presented. He has presented this suggested amendment to the zoning ordinance to the Economic Development Committee. They voted unanimously in support of the amendment, with Mr. Daamen abstaining from the vote. He also discussed this amendment with the Lower Village Board who stated that they had no objections, but were not going to vote on the matter as it didn't pertain to them.

R. Smith asked one question. Originally, this proposal talked about expanding into other zones, and he wanted to know what the plan for that in this new proposal.

Mr. Daamen answered that the original plan was too expansive, and so they condensed it to apply only to their area.

R. Smith opened up for questions from the Board.

J. Vance stated that she had no questions at this time.

M. Randall asked were there any other inns in this zone that will benefit from this change.

J. Bernstein clarified that inns are a separate entity under the ordinance, and that this proposal only applies to B&Bs.

Mr. Daamen answered that the Houndstooth Inn is the only other establishment in the area, but that property is currently for sale as a residential property. They have had 4 rooms for rent in the past.

D. Smith asked what the restrictions would be in terms of the Historic Overlay vs. regular Suburban Residential.

J. Bernstein answered that there really are no differences planned, nor are there differences in the current regulations.

D. Smith asked if there is any effect due to the historic overlay.

J. Bernstein stated that there really isn't. If there are changes to the site they will need to go through the historic preservation committee as usual, but as long as they follow those regulations there are no additional restrictions to the renting of rooms.

R. Smith asked if the Historic Preservation Committee would also review the creation of parking in a historic area.

J. Bernstein stated that she believed this is true, but was not certain if they were not paving.

R. Smith confirmed that they would need to talk with Historic Preservation before creating parking. He continued on to ask if a property owner wanted to expand into renting 6 rooms and needed to create parking in regular Suburban Residential, what rules would they need to follow.

J. Bernstein stated that adding parking is enough of a change that she believes it would need to go through a site review. They would need to demonstrate that they have enough space, and show a building inspector that they have adequate facilities such as water and septic.

A. Jean stated that it would all come down to enforcement. She sited her neighbor who calls themselves a B&B and didn't create any additional parking on the property.

J. Bernstein stated that the example would be a code issue, and should be pursued along those lines for enforcement.

R. Smith asked what the official rules for creating parking are.

M. Randall read off the ordinance for the Board.

R. Smith summarized that for the rental of 6 rooms, a property must provide a minimum of 8 parking spaces with more for any additional staff. He continued that if they make changes to their property to add those 8 parking spaces, it changes the ambiance of the neighborhood. What keeps people in check?

M. Randall indicated that state law should keep people in check. By law, anything over 4 rooms for rent is considered a business and requires a permit.

Mr. Daamen also stated that by permit they are currently allowed to have 5 rooms for rent, and that they also have a Health Department permit for such. He continued that typically the owners of a B&B live on the property and keep guests in line so as not to upset their neighbors.

R. Smith asked if there were any additional questions from the Board.

There were none.

R. Smith opened the Public Hearing for comment and/or questions.

There were no members of the public in attendance.

R. Smith closed the Public Hearing.

R. Smith stated that the Planning Board must pass this amendment to the ordinance on the Board of Selectmen with a Positive, Negative, or Neutral recommendation. It needs to be clear what the Planning Board is recommending.

D. Smith moved that the Kennebunk Planning Board pass along to the Board of Selectman with a Positive Recommendation this amendment to the ordinance which would allow the renting of up to 6 rooms within the Suburban Residential Zone.

J. Vance seconded this motion.

R. Smith opened it up for final discussion from the Board.

M. Randall asked what, if anything, this amendment changes for the Code Enforcement Officer.

J. Bernstein answered that Code Enforcement would need to check that it meets all standards for septic, parking, fire regulations, etc. with any change of use.

A. Jean added that Code Enforcement is very busy, and he cannot always enforce this.

The Vote was 4 in favor, 1 opposed. This amendment will be presented to the Board of Selectman with a Positive Recommendation from the Planning Board.

R. Smith added for the record that his reason for dissenting is that while he has no particular issue with the proposal, he believe that they are changing the ordinance for an entire zone to benefit 1 property. No one else has come before this Board to raise this issue.

Mr. Daamen stated that being on the Economic Development Committee, he believes that this change is not just for his property. His hope is that being able to have a legal B&B with enough income to be sustainable will help support the preservation of some of the historic homes. He and his wife had proposed this amendment not just for themselves but for their whole neighborhood.

4. Workshop Discussion regarding Other Amendments requested by Board and Staff

Re-Wording in Subdivision Review Standards

J. Bernstein stated that one request the Planning Board has made is for changing the wording within the Subdivision Review Standards as they relate to an open-space or cluster subdivision. As part of the standard, the applicant must show the cluster subdivision as well as a standard subdivision plan with the same number of lots.

Currently, during the sketch plan stage, the applicant must show a conventional plan layout as well as the proposed open-space or cluster plan. She added that the zoning information was not included within the Board packets, but she will get the information to the Board for review.

J. Bernstein is asking, would the Board like to add a line which stated that the conventional plan layout must show not just Shoreland zoning, but all possible well and septic sites to prove that they conform to all state standards. Also, she asked if there is anything more than they would need to show that so that she can draft some appropriate language for the Board to review.

M. Randall asked what the specific items that the Board reviews currently are.

J. Bernstein answered that for a sketch plan, the Board reviews: the application, the sketch plan at 1:100 that shows the approximate location and dimensions of the lots, streets, and approximate topography. Also, they must show the location of significant site features, the approximate location and dimension of open space areas, perimeter boundaries, and a vicinity map to show where in Town the lot is located.

The current languages states only that applicant proposing an open-space plan must submit 10 copies of a plan that shows the proposed site meets conventional standards. This needs to be clarified.

R. Smith stated that the language must be clear that when an applicant proposes a cluster subdivision, it can't be to just get more houses on a piece of property. The purpose of allowing these plans is that the applicant can add the same number of houses in a development and the Town gets to have some open space.

J. Bernstein noted that there are some density bonuses available. Some are just not worth it, but it may be a good idea to look into if there are some other density bonuses which could be offered. She also suggests that the language explains that requiring a conventional plan layout is to show that the site could support the same number of houses appropriately. May also want to

add that the applicant could need to have an additional meeting with the Board after the site walk to discuss any concerns.

D. Smith stated that he wished he had all the printed regulations in front of him. He stated that the applicant is made aware of what areas must be flagged for a site walk. Does the Board ask for a list of any waivers that will be required during the sketch plan?

J. Bernstein answered that no, the Board does not ask for waivers during the sketch plan.

D. Smith asked if this would be useful to the Board to ask for that.

J. Bernstein stated that typically applicants don't get into that level of detail until later in the process.

D. Smith stated that he is not suggesting that they do the engineering at this point, but would be helpful to ask them to identify any likely waivers which will be coming forward.

M. Randall agreed, some waivers are conceptual while others are not.

J. Bernstein suggested that some waivers could be brought up during sketch plan, as long it is clear that the Board is not providing approval on those waivers at this point. The Board could provide feedback about what questions and/or concerns will come up that the applicant must address with a particular waiver request.

M. Randall suggested that it is a good idea for some of the big waivers that the applicant knows will be coming are brought forward earlier in the process. This could save the applicant a significant investment in engineering details that aren't needed because the Board won't provide approval of the waiver.

J. Bernstein stated that the "good" development folks do know what is going on. Frequently they sit down with her as the Town Planner to go over all the standards and see where the plan needs to go and how hard it will be to get certain waivers.

A. Jean stated she had no questions or comments at this time.

J. Vance stated that what J. Bernstein is suggesting makes sense, without being able to read the standards at this time. It does provide more clarification to the applicant about the expectations. The application process is a very collaborative effort between the Board, Town of Kennebunk staff, and the applicant.

D. Smith stated he had just a couple of housekeeping notes on the parts of the ordinance he did have in front of him.

1. On the first page, D2 should say "… in different color flagging *from* property corners…"
2. Part E – "If Sketch Plan submitted is significantly different *from* what the zoning…"

R. Smith noted that the ordinance needs to make sure that applicants understand the importance of the open space concept and what the intention is. That will help them understand the need to base the number of lots on a conventional configuration when creating an open space concept.

M. Randall noted that most things can be overcome if the applicant is willing to throw enough money at it. They need to show that this is a reasonable plan even in a conventional layout.

R. Smith noted that he would like the standards to state why each of the requirements are included, so that the applicant understands the intention behind the requirements.

M. Randall asked if J. Bernstein would check with Natalie Burns [Town Attorney] regarding guidance on how far the Board can go with a sketch plan. The Board cannot design a plan for the applicant.

A. Jean stated that the ordinance does clearly show that the sketch plan is a workshop meeting between the Board and the applicant.

R. Smith suggested moving this discussion forward.

D. Smith stated that while he isn't sure how to word this, the application plan must pass a "straight face test"/ Need to be specific about what is a passable conventional subdivision.

J. Bernstein stated that the applicant cannot just state how many lots fit in the gross acreage, as the Board is asking for net use land, which removes wetlands from the calculations.

R. Smith stated that this discussion will have to be continued when the Board has more background information available to review.

Keeping of Horses

J. Bernstein explained that this was being brought before the Board as the keeping of horses standards currently apply identically to all zones in which horses are allowed. This standard was developed when there were only Village zones. Then the Rural zones were added, which were originally listed under Agricultural zones which had no limit on the animals. When the Town added the rural zones to this ordinance, no one removed the maximum of 4 horses allowable. She is proposing to remove the 4 horse maximum from the rural zones. Can we clarify that as long as can meet the standard of acres the max number of horses doesn't apply to the rural zones.

M. Randall asked if there is a maximum that J. Bernstein would like to propose instead.

R. Smith asked if there is a reason to cap the rural zones.

J. Vance stated that there is a standard for acres and the property owner will need to net out the residential areas. Also, it could be beneficial to do a quick scan to be certain that the topography is supportive of the keeping of animals.

M. Randall suggested it may be good to hear from Animal Control what her thoughts are on this matter.

J. Bernstein will put together some wording to present to the Board.

D. Smith asked about adding a restriction for the protection of adjacent lots. Specifically, what measures are in place to limit the storage of manure? Do we need standards for the removal of animal waste?

J. Vance stated that the Board will likely need to add this to the ordinance. There should be some buffer required.

J. Bernstein stated that she can add a minimum setback for manure storage into the language she is drafting.

5. Other Old/ New Business

<u>Upcoming Agendas</u>

3/28/16 meeting:

- Thompson Road subdivision
- Ross Road subdivision.

Stream Smart Crossings

J. Vance noted that she had attended the workshops regarding stream smart crossings. She said this had some great information about wetland and stream crossings. This could be valuable for everyone on the Board to see. She will bring in the information for J. Bernstein to copy and send out to the Board.

6. Adjournment

D. Smith moved to adjourn at 8:30 pm.

M. Randall seconded the motion.

Vote was 5/0 in favor.

Respectfully submitted by Lynne Capitan.

Signature Page

Rich Smith Vchair 4/25/16

4/25/16

David C. Smith, Secretary 4/25/16

4/25/16

Signature **Date**