

# Town of Kennebunk, Maine



## KENNEBUNK SITE PLAN REVIEW BOARD Thursday March 31, 2016 MINUTES

**MEMBERS PRESENT:** Gary *Dugas*, Chair; Jeanne *Dunn*; Philip *Parker*; Brenda *Robinson*; Matt *Fagginger-Auer*, and Kristi *Kenney*

**MEMBERS ABSENT:** None

**FROM THE TOWN:** Judith *Bernstein*, Town Planner  
Chris *Osterrieder*, Town Engineer  
Edward *Karytko*, Board of Selectmen Liaison

**ALSO PRESENT:** Michael F. *Vaillancourt*, Esq. – Ainsworth, Thelin & Raftice, P.A.  
Dwight M. *Raymond* – Seadog Properties, Owner

### 1. Open Meeting

The Chair opened the meeting at 7:00 p.m.  
The Board members introduced themselves.

### 2. Approval of Minutes of Previous Meeting

*Dugas* asked the Board to consider the minutes of March 17, 2016 and began a page review.

*Robinson* submitted the following corrections and amendments:

- Page 2, Item #3, 4<sup>th</sup> paragraph, line 11: Accessible"; should read, Accessible;"
- Page 3, Item #3, 7<sup>th</sup> paragraph, line 1: borne", should read, borne,"
- Page 3, Item #3, 9<sup>th</sup> paragraph, line 2: The response from *Raymond* did not answer the question from *Kenney*; however, *Osterrieder* remembered submitting a comment addressing the question. *Robinson* asked *Trexler* (Recording Secretary) to review the meeting recorded audio and add *Osterrieder's* statement to the minutes.
- Page 4, Item #3, 5<sup>th</sup> paragraph, line 1: Agenda", should read, Agenda,"

**A motion was made to accept the minutes of March 17, 2016 as amended.**

**MOVED:** *Parker*

**SECONDED:** *Dunn*

**DISCUSSION:** None

**MODS:** As noted

**VOTE:** 5 in favor, 0 opposed; the motion carried.

**Dugas** proceeded to the next agenda item.

**3. Public Hearing on Site Plan Application of Seadog Properties, LLC, & Sealand Properties, LTD, to add proposed Floating Restaurant and Site Improvements to 2 – 4 Harbor Lane**

**Bernstein** reviewed the project as detailed in her memo of March 25, 2016 “*Summary of March 31, 2016, Agenda*” (provided to the Board in the site plan packet). She identified the applicant, owner, site location, and nature of the request. Packet contents of note included:

- A revised set of plans from last month’s meeting;
- Previous Town Engineer, Fire Chief, and Code Officer reviews; and
- Updated Police Chief Letter regarding lighting.

**Bernstein** requested a project summary review from the applicant.

Michael F. **Vaillancourt**, Esq. – Ainsworth, Thelin & Raffice, introduced himself and Dwight M. **Raymond**, Owner, Seadog Properties, and proceeded with his presentation which included new drawings and the following highlights:

- Reduced restaurant seating and parking;
- Reduction of waiver requests;
- Remaining temporary waiver requests for:
  - Sewer and Water District sign offs;
  - Any required State and Federal permits; and
  - Signage code compliance.
- Parking lot changes including:
  - Striping; and
  - Wheel stop location.

**Vaillancourt** asked the Board for any comments or feedback.

There being no new questions from the Board regarding this agenda item, **Dugas** opened the meeting to the public for comment.

John **Brine**, 9 Captain Sawyer Lane, Lower Village, supported the project.

Frank **Handley**, no address given, supported the project referencing the long marine time history of the Town.

Cynthia **Ward**, no address given, supported the project.

Bruce **Kirby**, no address given, supported the project referencing the historical significance of the vessel being a Tall Ship on the Historical Register.

Stephen **Eberle**, no address given, vessel awning designer, supported the project referencing the authentic rigging, decking, and masts of a Tall Ship being a significant tourist asset to the community.

There being no further comments regarding this agenda item, **Dugas** closed the meeting to the public and proceeded with the project review.

Referring to Page 2, Item 3, 2<sup>nd</sup> Paragraph, of **Osterrieder’s** Site Plan Review memo dated March 11, 2016, attachment (ITEM 3a) of **Bernstein’s** memo of March 25, 2016 “*Summary of March 31, 2016, Agenda*” (provided to the Board in the site plan packet), **Robinson** commented that she didn’t

understand the Town Engineer's response:

*"The applicant responded to this comment, though field to ensure adequacy would be an acceptable condition of approval."*

**Osterrieder** replied that "though field" should read "through field verification" because even though the Town doesn't directly instruct the applicant how to accomplish a specific task, it reserved the right to check the work to insure adequate installation.

Referring to Page 1, 1<sup>st</sup> Paragraph, Line 2, of Paul A. **Demers**, CEO, Town of Kennebunk, memo dated March 10, 2016, attachment (ITEM 3c) of **Bernstein's** memo of March 25, 2016 "Summary of March 31, 2016, Agenda" (provided to the Board in the site plan packet), **Robinson** commented that she didn't understand the CEO's incomplete sentence:

*"The being part of a consent agreement to amend a previously approved site plan that was never fully completed."*

**Bernstein** replied that she did not know what the CEO was trying to convey.

There being no further comments regarding this agenda item, **Dugas** proceeded to address the temporary and special waivers.

**Dugas** asked if the Sewer and Water District sign off delay was due to a problem.

**Raymond** replied that the Sewer District is waiting for a sewer line TD Scan and an engineering hookup report from Sebago Technics, both of which will be completed by tomorrow (Friday, April 1, 2016). The Water District is in receipt of the applicant's report and should be in the process of evaluation.

**A motion was made to extend the temporary waiver of the Water District and Sewer District signoffs to be completed prior to permit issue.**

**MOVED:** *Dunn*  
**SECONDED:** *Robinson*  
**DISCUSSION:** None  
**MODS:** None  
**VOTE:** 5 in favor, 0 opposed; the motion carried.

**Bernstein** recommended a motion to include State and Federal permits.

**A motion was made to condition the granting of a building permit on the applicant obtaining any additional required State and/or Federal permits.**

**MOVED:** *Parker*  
**SECONDED:** *Robinson*  
**DISCUSSION:** **Raymond** noted that the Assistant Fire Marshall needs a floor plan for his approval. **David Graham** has been retained to create the layout which is in progress.  
**Bernstein** noted that Fire Marshall's approval is needed prior to issuing an occupancy permit but does not affect the issuing of a building permit.  
**MODS:** None  
**VOTE:** 5 in favor, 0 opposed; the motion carried.

**A motion was made to condition the granting of a building permit on the applicant having all signs up to code.**

**MOVED:** *Dunn*  
**SECONDED:** *Robinson*  
**DISCUSSION:** None  
**MODS:** None  
**VOTE:** 5 in favor, 0 opposed; the motion carried.

There being no further comments regarding this agenda item, *Dugas* proceeded to address the regular waivers.

**A motion was made to waive Article 11, Section 8(6)(e), Driveway Width regarding "the One-way operation driveway's width of 16 - 20 feet" pertaining to the parking lot entrance and travel lane behind the "Pilot House" labeled "21.8 feet" on the plan.**

**MOVED:** *Dunn*  
**SECONDED:** *Robinson*  
**DISCUSSION:** None  
**MODS:** None  
**VOTE:** 5 in favor, 0 opposed; the motion carried.

*Vaillancourt* suggested adoption of the waiver description outlined in Amended Attachment 2, Amended Waiver Request: Parking Lot Design Standards-Article 11 Section 8(6)(e) and (h); (8) and Article 10 Section 9(D)(4)

**A motion was made to waive Article 10, Section 9(D)(4), Parking Design and Functioning Standards: Pedestrian Circulation regarding "separation from vehicle circulation" because the requested waiver will not result in any public safety hazards.**

**MOVED:** *Dunn*  
**SECONDED:** *Robinson*  
**DISCUSSION:** None  
**MODS:** None  
**VOTE:** 5 in favor, 0 opposed; the motion carried.

**A motion was made to waive Article 11, Section 8(6)(h), On Site Circulation/Parking Aisle Width regarding "the Two-way operation circulation/parking aisle width of 24 feet " pertaining to the existing width of 21.8 feet as referenced within the Plan that identifies/delineates current dimensions because the requested waiver will not result in any public safety hazards and the site plan still provides for safe access and egress, with adequate parking and circulation.**

**MOVED:** *Dunn*  
**SECONDED:** *Robinson*  
**DISCUSSION:** None  
**MODS:** None  
**VOTE:** 5 in favor, 0 opposed; the motion carried.

**A motion was made to waive Article 11, Section 8(8)(a) thru (d), Pedestrian Ways Separated from Vehicular Traffic regarding "requirements related to separate pedestrian access" as its application will result in a reduction of available parking spaces and narrow, unsafe vehicular access to the premises. Additionally, such a waiver will not affect general health, safety or welfare.**

**MOVED: *Dunn***  
**SECONDED: *Robinson***  
**DISCUSSION: *None***  
**MODS: *None***  
**VOTE: *5 in favor, 0 opposed; the motion carried.***

***Vaillancourt*** noted that attachment 1 addresses the waiver request for the High Intensity Soil Survey, Article 11, Section 6(B)(3).

***Bernstein*** replied that the High Intensity Soil Survey waiver request was previously approved. Insuring that all pending issues have been addressed, ***Vaillancourt*** listed the following items:

- Attachment 3, waiver request for "Green Space", Article 11, Section 6 and Section 8 which addresses potted plants located throughout the site;
- Attachment 4, waiver request for "Parking Standard", Article 11, Section 8(6) which addresses the unpaved portion of the parking lot; and
- Attachment 5, temporary waiver request for Sewer and Water District sign offs.

***Dugas*** verified that all above listed pending issues have been addressed.

***Robinson*** thanked the applicant for updating the lighting plan with the Police Chief's recommendations.

There being no further comments regarding this agenda item, ***Dugas*** proceeded to address the Findings of Fact.

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**FINDINGS OF FACT**

1. Project Name: 2 – 4 Harbor Lane Floating Restaurant and Site Improvements
2. Date of Action Taken: March 31, 2016
3. Site Location: 2 – 4 Harbor Lane
4. Zoning District: Resource Protection, Shoreland & Lower Village Business
5. Lot Size: Both Lots 1.08 acres
6. Building Size: \_\_\_\_\_ sq. ft.
7. Assessor's Map: 088 Lots: 011 & 012
8. Existing Property Owner: Seadog Properties, LLC, & Sealand Properties, LTD
9. Proposed Property Owner: Same
10. Applicant: Same

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11. The applicant has shown legal interest in the property by deed, option or purchase and sale agreement, or other device (circle one).
12. The Kennebunk Site Plan Review Board has reviewed the above noted proposal utilizing the set of approval criteria in Article 11, Section 8 of the Kennebunk Zoning Ordinance as summarized below and determined.

**Approval Criterion # 1**

*The plan preserves the natural landscape insofar as practical and adequately uses the natural features of the site and/or new landscaping to define, soften, and screen the impacts of development.*

**Criterion is: met X, not met \_\_\_\_, or not applicable \_\_\_\_ with the following conditions, waivers, and/or comments.**

**A waiver of Article 11, Section 6 B (7), Landscape Plan has been previously granted.**

**Condition: The plantings proposed on the plan shall be installed**

**Approval Criterion # 2**

*For a nonresidential project, effective buffers are maintained or created between it and adjoining residential properties and residential zoning districts.*

**Criterion is: met X, not met \_\_\_\_, or not applicable \_\_\_\_ with the following conditions, waivers, and/or comments.**

**None**

**Approval Criterion # 3**

*Filling, excavation and earth moving activity is carried out in a way that keeps erosion and sedimentation to a minimum.*

**Criterion is: met X, not met \_\_\_\_, or not applicable \_\_\_\_ with the following conditions, waivers, and/or comments.**

**None**

**Approval Criterion # 4**

*Adequate provision has been made for surface drainage, so that removal of storm waters will not have an unreasonably adverse effect on neighboring properties, downstream water quality, soil erosion, or the public storm drainage system.*

**Criterion is: met X, not met \_\_\_\_, or not applicable \_\_\_\_ with the following conditions, waivers, and/or comments.**

**None**

**Approval Criterion # 5**

*Adequate provision has been made for water supply and sewage disposal.*

**Criterion is: met X, not met \_\_\_\_\_, or not applicable \_\_\_\_\_ with the following conditions, waivers, and/or comments.**

**The temporary waiver of the Water District and Sewer District signoffs was extended to be completed prior to permit issue.**

**Approval Criterion # 6**

*The site plan provides for safe access to and egress from public and private streets, with adequate parking and internal circulation.*

**Criterion is: met X, not met \_\_\_\_\_, or not applicable \_\_\_\_\_ with the following conditions, waivers, and/or comments.**

**A waiver of Article 11, Section 8(6)(e) regarding Driveway Width has been previously granted.**

**A waiver of Article 11, Section 8(6)(h) regarding On Site Circulation/Parking Aisle Width has been previously granted.**

**Approval Criterion # 7**

*Vehicular access to the site will be on roads which have adequate capacity to accommodate any additional traffic generated by the development.*

**Criterion is: met X, not met \_\_\_\_\_, or not applicable \_\_\_\_\_ with the following conditions, waivers, and/or comments.**

**None**

**Approval Criterion # 8**

*The site plan provides for safe pedestrian circulation, both on-site and off-site.*

**Criterion is: met X, not met \_\_\_\_\_, or not applicable \_\_\_\_\_ with the following conditions, waivers, and/or comments.**

**A waiver of Article 11, Section 8(8)(a) thru (d) regarding Pedestrian Ways Separated from Vehicular Traffic has been previously granted.**

**Approval Criterion # 9**

*Exterior lighting does not adversely affect neighboring properties or streets.*

**Criterion is: met X, not met \_\_\_\_\_, or not applicable \_\_\_\_\_ with the following conditions, waivers, and/or comments.**

**None**

**Approval Criterion # 10**

*Electrical and telephone utility lines and components serving the site will be placed in a manner that is not hazardous or unsightly.*

Criterion is: met X, not met     , or not applicable      with the following conditions, waivers, and/or comments.

None

**A motion was made to accept the Findings of Fact.**

**MOVED:** *Dunn*  
**SECONDED:** *Robinson*  
**DISCUSSION:** *None*  
**MODS:** *None*  
**VOTE:** 5 in favor, 0 opposed; the motion carried.

**A motion was made that “*In their review, the Board finds that the criteria of Article 11, Section 8 of the Zoning Ordinance have been met with the conditions and/or waivers noted above.*”**

**MOVED:** *Dugas*  
**SECONDED:** *Parker*  
**DISCUSSION:** *None*  
**MODS:** *None*  
**VOTE:** 5 in favor, 0 opposed; the motion carried.

**A motion was made that “*Based upon the information above, the Board approves the Site Plan with conditions which are to be completed & evidence filed in the Planning Office prior to permit.*”**

**MOVED:** *Dugas*  
**SECONDED:** *Parker*  
**DISCUSSION:** *None*  
**MODS:** *None*  
**VOTE:** 5 in favor, 0 opposed; the motion carried.

***Bernstein*** requested 3 sets of plans for signature.

***Dugas*** proceeded to the next agenda item.

**5. Other Old/New Business**

***Dugas*** opened a discussion regarding a work shop to address the following issues:

- Design review standards outline checklist for Board use; and
- Additional agenda information including a continuous list of waiver requests.

***Bernstein*** recommended compiling a suggested samples package and forwarding it to Board members for review in lieu of conducting a physical presence workshop.

***Dunn*** suggested email correspondence to work out the details and meeting 1 hour early for the May meeting to finalize the discussion issues.

***Dugas*** agreed.

**6. Adjournment**

*Dugas* asked for a motion to adjourn.

**A motion was made to adjourn the meeting at 7:56 p.m.**

**MOVED: *Robinson***

**SECONDED: *Dunn***

**DISCUSSION: None**

**VOTE: 5 in favor, 0 opposed; the motion carried.**

Date signed: 21 July 2016

Signed by: *Brenda S Robinson*

**Brenda Robinson**