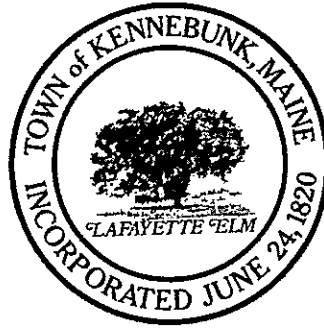


Town of Kennebunk, Maine



Planning Board

MEETING MINUTES

January 30, 2023

In Person Meeting, Town Hall, 3rd Floor, 1 Summer Street, Kennebunk

This meeting was held in person and televised on Cable TV Channel 5.
It is available for public viewing at any time at TownHallStreams.com.

Present: Chris MacClinchy [Chair], Richard Smith [Vice Chair], Robert Metcalf [Member], Janice Vance [Member], Edward Trainer [Member], and Daniel Kiley [Alternate];

Absent: None;

Also Attending: Christopher Osterrieder [Town Engineer and Director of Community Development], Karen Winton [Deputy Director, Community Development], and Brittany Howard [Town Planner], Miriam Whitehouse [Select Board], and William Ward, Jr. [Select Board].

1. **Call to Order:** Chair and presiding officer C. MacClinchy called the meeting to order at 7:00pm on January 30 2023. The meeting was held in person and five voting members were present: C. MacClinchy, J. Vance, R. Smith, R. Metcalf, and E. Trainer.

2. Agenda Items

a. Workshop LD 2003

B. Howard opened the session with an explanation of "LD 2003". LD 2003, she explained, is a new Maine law otherwise known as "Act to Implement the Recommendations to the Commission to Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions". It is a state law which amends prior laws to "remove unnecessary regulatory barriers" to boost housing production in the state. LD 2003 went into effect on August 8, 2022. Among other features, the law requires municipalities in Maine to amend their Ordinances to comply with the state's new housing standards by July 1, 2023.

Howard went on to identify the several main Ordinance areas which Kennebunk would need to amend to comply with the law: principally (1) the Affordable Housing Density Bonus; (2) Residential Area – Housing Increased Density; and (3) Accessory Dwelling Units [“ADUs”]. C. MacClinchy asked Howard to explain the time parameters to make these Ordinance changes, and B. Howard cited these dates:

- February 13, 2023 Define preliminary zoning amendments;
- March 13, 2023 Public hearing to solicit public input and comments;
- March 27, 2023 A second public hearing on the topic.

B. Howard explained the reason for the timing. The dates, times, and locations of the two public hearings had to be posted at Town Hall at least 13 days before the actual meeting date, she said, and published in the local newspaper 12 days beforehand as well. Board members voiced disappointment that there was little time available to (a) obtain state definitions of the terms cited in the new law, (b) deliberate at the Planning Board level on the specific kinds of Ordinance revisions to be made, and (c) solicit, obtain, and incorporate public feedback.

C. Osterrieder addressed the Board, offering examples of the kinds of Ordinance changes required by the new law. He suggested that the Planning Board would perhaps want to focus on several priorities -- to include setting a minimum size for Accessory Dwelling Units, deciding whether coastal properties could be “ADU-rented”, and so on.

The new state law, Osterrieder remarked, better defines the income requirements for affordable housing. However, a number of other terms in the law were not clearly defined and required clarification. “We need to get feedback from the state, as well,” Osterrieder said.

Because of the need for state clarification of many terms, C. Osterrieder concluded that Kennebunk may have to take action in two stages: (1) make zoning revisions in order to achieve compliance with the new law first; and (2) then fine-tune Kennebunk’s Ordinance – particularly as regards local guidelines for affordable housing.

“Overall,” Osterrieder said, “the state is encouraging us to relax some standards such as parking requirements” to help promote and expand affordable housing.

E. Trainer agreed with the two-stage approach and the need to achieve “basic compliance” with the new law as an immediate priority. With regards to accessory dwelling units, C. MacClinchy said that stipulating a minimum size for a dwelling unit could be easily done as Kennebunk currently has a maximum but no minimum limit. The Town specifically has a 650 sq. ft. ADU maximum limit at this time.

R. Smith asked whether ADUs could be prevented from being used as short-term rentals, and C. Osterrieder answered in the affirmative. C. MacClinchy remarked that the Planning Board would surely need time beyond July 1, 2023 to create a short-term rental policy. Discussion ensued [Metcalf, Vance, Kiley, Smith] about (a) whether ADUs could and should be restricted to full-time occupancy exclusively; (b) whether the Town

could say that ADUs cannot be used for short term rentals; (c) whether a dwelling could be used as a short-term rental in the summer but as an ADU in other months, and (d) whether an ADU should be limited to use as a primary residence. C. Osterrieder suggested that the Board tap Town Attorney Natalie Burns for guidance on these questions.

E. Trainer noted that tearing down a house would cause the land to become “vacant property”. Developers might tear down dwellings simply for density advantage rather than convert, repair, and possibly divide the original structure into multiple dwellings. There was, he suggested, potential for abuse via “tear-downs” as well.

W. Ward, Jr. addressed the Board next, noting that many beach properties were non-conforming and would not qualify for ADU additions. The requirement to build beach buildings on stilts also added to the construction expense. It was unlikely, he said, that many beach-front properties would add or create ADU dwellings.

D. Kiley suggested that, as the Board looks at Ordinance changes, “we should prepare for worst-case scenarios... with what someone could do with a parcel of land”. He called on the Board to, in effect, “stress test” the Ordinance changes it contemplates before enacting them.

R. Metcalf re-initiated a discussion about minimum dwelling size and housing quality. D. Kiley asked if ADUs were required to meet insulation, heating, and other Code requirements, and C. Osterrieder answered in the affirmative.

Without taking a vote and after much discussion, Board members eventually and informally agreed to these initial propositions:

- The minimum size of a ADU should be 800 (eight hundred) square feet;
- Forty percent (40%) of a dwelling unit should not exceed 800 (eight hundred) square feet;
- The Ordinance should be amended to permit only two (2) parking spaces for every three (3) affordable housing units; and,
- Tearing down a dwelling to get a Density Bonus was collectively recognized as an issue.

B. Howard then called the Board’s attention on the Affordable Housing Density Bonus. To comply with Maine’s new housing law, she said, the Board would specifically need to:

- Amend the “Affordable Housing” Definition contained in Kennebunk’s Article 2 and Article 10 Section 12.
- Amend the following Kennebunk districts to permit affordable housing in each: Village Residential, West Village Residential, Downtown Business, Upper Square, York Street Mixed Business and Residential, and Portland Road Mixed Use.
- Amend Article 10 Section 12, Affordable Housing as follows:

- Update rental and housing income percentages based on the Area Median Income Limits published by the US Dept. of Housing and Urban Development.
- Meet LD 2003's density allotment of 2.5 times the base density of the district in which a project is proposed.
- Change Kennebunk's parking requirement to meet LD 2003's two (2) off-street parking spaces per three (3) units of affordable housing. And,
- Amend the Town's water and wastewater requirements to consistent with LD 2003 as well.

R. Smith asked how many affordable housing units within a single family subdivision had been built in Kennebunk. R. Metcalf ventured that "only about 15" had been built over the past decade. "The economics put off many developers," Metcalf said.

D. Kiley questioned how the Board proposed to deal with buildings in Kennebunk's Historic Overlay District being torn down. Should a vacant lot in the Historic zone, he asked, be used for affordable housing units? Would that not change the "historic" character of that overlay district, one of the appealing features of Kennebunk most cited in different polls? Kiley concluded that affordable housing guidelines might have to be different in different sections or zones of Town.

J. Vance concurred, recommending that the Planning Board consider establishing guidelines regarding the demolition of historic buildings as well as the post-demolition use of a historic property. Could, she asked, historic buildings be salvaged in some way and converted into affordable housing?

R. Metcalf suggested that C. Osterrieder, K. Winton, and B. Howard look at the Ordinance changes required by the new law and itemize, summarize, and "red-line depict" how the Ordinance should be revised. The Planning Board, Metcalf said, would then deliberate on these findings and recommendations. C. Osterrieder agreed.

D. Kiley questioned whether changes of housing guidelines in the Ordinance were likely to trigger a significant increase in the number of requests for waivers and exceptions brought before the Board. The Board, he suggested, would want to prepare for that possibility.

Public commentator Wayne Berry addressed the Board next, criticizing it for "sounding negative" about the state's new law and housing changes. "This is an opportunity to enhance housing in Kennebunk," Mr. Berry insisted. He urged the Board to embrace the new law as an opportunity for more benefit for Kennebunk residents. R. Metcalf responded to the remarks, assuring the commentator and public at large that the Planning Board was, in fact, much favorably disposed to enable and enlarge affordable housing in Kennebunk. The Board, Metcalf said, was perhaps perplexed with the promulgation of a new housing law without municipal input, with a short implementation time frame, but without clear definitions. Even so, Metcalf affirmed, the Board was responding and would continue to respond positively to the new law and affordable housing.

b. Other Agenda Items

There were none.

3. Review of Meeting Minutes

C. MacClinchy then led the Board in a page-by-page review of the minutes of its meeting of January 9, 2023. A number of errors were identified and corrected.

Motion: **Move that the Town of Kennebunk Planning Board approve the Minutes of its meeting of January 9, 2023 as corrected.**

Moved: R. Metcalf

Second: R. Smith

Vote: **Voice and show of hands vote, 5 in favor, none opposed; the motion carried.**

4. Other Business

Appointment of a Board Secretary: With the departure of Secretary David Smith, the Board was without a Secretary. Brief discussion ensued on the matter.

Motion: **Move that the Town of Kennebunk Planning Board appoint Janice Vance as Board Secretary**

Moved: R. Metcalf

Second: R. Smith

Vote: **Voice and show of hands vote, 4 in favor, none opposed, 1 abstention [Vance]; the motion carried.**

Feedback from David Smith: B. Howard then read a letter from D. Smith thanking the Board for its tribute to him upon his departure.

5. Adjournment: There being no further business, the Chair adjourned the meeting at 8:50pm.

Motion: **Move that the Planning Board of the Town of Kennebunk adjourn this meeting.**

Moved: J. Vance


Second: R. Metcalf

Vote: **Show-of-hands vote, 5 votes in favor, none opposed; the motion carried.**

Respectfully submitted by
J. Schlagheck, Clerk

Adopted by the Planning Board in its Meeting of February 13, 2023

Signed by:

 2/13/23

PLANNING BOARD

