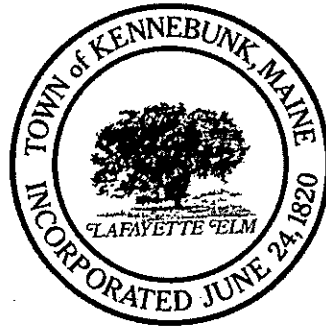


Town of Kennebunk, Maine



Planning Board

MEETING MINUTES

January 9, 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 TownHallStreams.com.

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

Absent: None;

Also Attending: Brittany Howard [Town Planner], and Jim Logan [Longview Partners, LLC].

1. **Call to Order:** Chair and presiding officer C. MacClinchy called the meeting to order at 7:01pm on January 9, 2023. The meeting was held in person and five voting members were present: C. MacClinchy, J. Vance, R. Smith, R. Metcalf, and D. Smith.

2. Agenda Items

a. **Public Hearing – Special Exception – Wetland Crossing for Driveway – 19 Harrieket Road – Map 64 Lot 9**

B. Howard re-introduced this application from property owner Karen Andrews for a Special Exception to fill approximately 286 sq. ft. of Priority 3 wetlands at 19 Harrieket Road for a driveway crossing. The land is currently vacant, Howard said, and zoned Branch Brook Aquifer Zones A and B ["BBA" and "BBB"] as well as Shoreland Overlay District.

Howard reminded the Board that it had conducted a site walk of the property on December 3, 2022. The Conservation Commission, she said, had reviewed the plan and, in a memorandum dated November 21, 2022, voiced no objection. The Town Engineer

had called for the addition to the plan of a culvert invert at elevation 63.5, and the applicant complied. However, Howard read into the record at today's meeting an additional communiqué from the Town Engineer recommending that:

“...The applicant include a note on the plan that identifies the need to properly manage the flow in the stream so as to not create undue erosion. This may involve by-pass pumping or temporarily damming up the stream depending on the time of year and amount of flow.”

Howard likewise reported that the applicant had submitted a letter from the Kennebunk, Kennebunkport and Wells Water District confirming that the District also had no objection to the proposed wetland crossing.

J. Logan, representing the owner, then addressed the Board. He stated that the direction of the water flow depicted in the plan was correct; the plan did not need revision. He also confirmed that a shared driveway “was not being considered”. The exception for the wetland fill was only 286 sq. ft. — “one of the lowest requests brought to this Board” — and was exclusively for the private “driveway”.

J. Vance noted that, during the Planning Board's site walk, she saw a second ditch which ran parallel to the horizontal ditch alongside Harrisecket Road. She asked that it not be filled to continue to serve its utility function, and J. Logan agreed to honor the suggestion.

E. Trainer remarked that the Conservation Commission had cited in its correspondence that it had several questions about the project. Had, Trainer asked, those questions been addressed? J. Logan responded in the affirmative.

C. MacClinchy then opened a public hearing and invited public comments and questions. As there were none, he subsequently closed the public hearing. However, Planning Board members had several additional observations and comments of their own.

R. Metcalf stated that he would not vote on this application as he had not attended the site walk. Metcalf also suggested that the hammerhead be shifted about five (5) feet toward the road as the location currently envisioned was very close to a building.

R. Smith asked if a fire hydrant was already in place for fire suppression. J. Logan replied that a “fire tank” was in place for the entire neighborhood.

There being no other comment, C. MacClinchy proceeded to the Findings of Fact

**Town Of Kennebunk
Planning Board
Special Exception
FINDINGS OF FACT**

1. Property Owner: Karen Andrews & Alexandra Buck
2. Site Location: 19 Harrisecket Road, in the Branch Brook Aquifer Protection District Zone A & B,

Shoreland Overlay

3. Assessor's Map: 64 Lots: 09
4. Description of proposed use: Special Exception and Permit to Fill and Grade in the Shoreland Zone – the installation of a driveway to access uplands with a 286 sq. ft. fill
5. The Kennebunk Planning Board has reviewed the above noted proposal utilizing the following set of approval criteria from Article 7, Special Exceptions, of the Kennebunk Zoning Ordinance and determined:
 - (1) The proposed use will not create hazards to vehicular or pedestrian traffic on the roads and sidewalks serving the proposed use as determined by the size and condition of such roads and sidewalks, lighting, drainage, intensity of use by both pedestrians and vehicles and the visibility afforded to pedestrians and the operators of motor vehicles;
Met: X Not Met: Not Applicable:
with the following conditions or comments:
 - (2) The proposed use will not cause water pollution, sedimentation, erosion, contaminate any water supply nor reduce the capacity of the land to hold water so that a dangerous, aesthetically unpleasant, or unhealthy condition may result;
Met: X Not Met: Not Applicable:
with the following conditions or comments: The proposal was reviewed and signed off on by the Town Engineer and Kennebunk, Kennebunkport, and Wells Water District.
 - (3) The proposed use will not create unhealthful conditions because of smoke, dust, or other airborne contaminants;
Met: X Not Met: Not Applicable:
with the following conditions or comments:
 - (4) The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard or unreasonably restrict access of light and air to neighboring properties;
Met: X Not Met: Not Applicable:
with the following conditions or comments:
 - (5) The proposed location for the use has no peculiar physical characteristics due to its size, shape, topography, or soils which will create or aggravate adverse environmental impacts on surrounding properties;
Met: X Not Met: Not Applicable:
with the following conditions or comments:
 - (6) The proposed use has no unusual characteristics atypical of the generic use which proposed use will depreciate the economic value of surrounding properties; and
Met: X Not Met: Not Applicable:

with the following conditions or comments:

- (7) If located in the Shoreland Area Overlay District, the proposed use:
- (a) will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
Met: X Not Met: Not Applicable:
with the following conditions or comments:
 - (b) will conserve Shoreland vegetation;
Met: X Not Met: Not Applicable:
with the following conditions or comments:
 - (c) will conserve visual points of access to waters as viewed from public facilities;
Met: X Not Met: Not Applicable:
with the following conditions or comments:
 - (d) will conserve actual points of access to waters;
Met: Not Met: Not Applicable: X
with the following conditions or comments:
 - (e) will conserve the town's Open Space Plan priority areas;
Met: X Not Met: Not Applicable:
with the following conditions or comments:
 - (f) will avoid problems associated with flood plain development and use;
Met: X Not Met: Not Applicable:
with the following conditions or comments:
 - (g) will protect archaeological and historic resources as designated in the comprehensive plan and State Historic Pres. Office; and
Met: X Not Met: Not Applicable:
with the following conditions or comments:
 - (h) will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat.
Met: X Not Met: Not Applicable:
with the following conditions or comments:
- (8) If located in the Resource Protection District, the following additional standards are met for any residential use proposed:
- Met: Not Met: Not Applicable: X
with the following conditions or comments: The property is not located in the Resource Protection District.

- (9) If located in the Branch Brook Aquifer Protection District the proposed use:
- (a) the proposed use meets the specific requirements set forth in this Ordinance and will be in compliance with all applicable state and federal laws;
Met: X Not Met: Not Applicable:
with the following conditions or comments:
 - (b) the proposed use will meet all applicable performance standards;
Met: X Not Met: Not Applicable:
with the following conditions or comments:
 - (c) the proposed use will not create the risk of bacterial or viral contamination of groundwater in Zone A.;
Met: X Not Met: Not Applicable:
with the following conditions or comments:
 - (d) the proposed use does not involve uses or activities which could cause a violation of the performance standard for pollution levels;
Met: X Not Met: Not Applicable:
with the following conditions or comments:
 - (e) any control measures proposed to prevent adverse impacts on water quality are adequate and reliable, considering the threat to water quality which would result if control measures failed;
Met: X Not Met: Not Applicable:
with the following conditions or comments:
 - (f) the use will not involve disposal of solid waste, hazardous materials or leachable materials (other than specifically allowed by Ordinance); and
Met: X Not Met: Not Applicable:
with the following conditions or comments:
 - (g) oil, fuel, and other petroleum products stored on-site will be properly contained so as to prevent contamination of the groundwater from leaks or spills.
Met: X Not Met: Not Applicable:
with the following conditions or comments:
- (10) For Special Exception requests regarding Telecommunications Facilities the Board has considered the following additional issues in making its decision:
- Met: Not Met: Not Applicable: X
with the following conditions or comments: The application is not for the installation of a Telecommunications Facilities.

6. The Kennebunk Planning Board has reviewed the above noted proposal utilizing the following set of approval criteria from Article 10, Section 3-G Roads, Driveways and Parking Areas of the Kennebunk Zoning Ordinance and determined:

(1) Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body, tributary stream or wetland.

Met: Not Met: Not Applicable:
with the following conditions or comments: This application is for a driveway not a public road.

(2) New roads and driveways are prohibited in a Resource Protection District, except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

Met: Not Met: Not Applicable:
with the following conditions or comments: The property is not in the Resource Protection District.

(3) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical:

Met: Not Met: Not Applicable:
with the following conditions or comments:

(4) Road and driveway grades shall be no greater than ten (10) percent, except for short segments of less than two hundred (200) feet.

Met: Not Met: Not Applicable:
with the following conditions or comments:

(5) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip:

Met: Not Met: Not Applicable:
with the following conditions or comments:

(6) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient column or heat to erode the road, driveway or ditch.

Met: Not Met: Not Applicable:
with the following conditions or comments:

(7) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis To assure effective functioning.

Met: X Not Met: Not Applicable:
with the following conditions or comments:

Based upon the above noted findings, the Kennebunk Planning Board votes the following:

Approves:

Approves with conditions: 4-0-1

- Per the Town Engineers memo dated 1/9/2023, include a note on the plant that identifies the need to properly manage the flow in the stream so as to not create undue erosion. Which may involve bypass pumping or temporarily damming up the stream depending on the time of year and amount of flow.
- Upon installation of the culvert, if elevations vary from the supplied plan (greater than six (6) inches) than the Town Engineer will be called onsite to review the installation.

Denies:

APPROVED BY: _____ DATE: _____

****PLEASE NOTE THAT AFTER PLANNING BOARD APPROVAL, THE APPLICANT MUST RECEIVE A CHANGE OF USE PERMIT AND/OR BUILDING PERMIT FROM THE BUILDING INSPECTOR BEFORE BEGINNING WORK AT THE SITE.**

A PERMIT GRANTED BY THE PLANNING BOARD UNDER THE PROVISIONS OF THIS ARTICLE (7) SHALL EXPIRE IF THE WORK OR CHANGE INVOLVED IS NOT COMMENCED WITHIN ONE (1) YEAR OF THE DATE ON WHICH THE PERMIT IS GRANTED, AND IF THE EXTERIOR WORK OR CHANGE IS NOT SUBSTANTIALLY COMPLETED WITHIN EIGHTEEN (18) MONTHS OF THE DATE GRANTED.**

Motion: Move that the Town of Kennebunk Planning Board approve the Findings of Fact [for this application from], property owner Karen Andrews, 19 Harris-ecket Road, Branch Brook Aquifer Zones A and B, Map 64 Lot 9, for a Special Exception to fill 286 sq. ft. of wetland with the following conditions:

- **Per the Town Engineers memo dated 1/9/2023, include a note on the plant that identifies the need to properly manage the flow in the stream so as to not create undue erosion. Which may involve**

bypass pumping or temporarily damming up the stream depending on the time of year and amount of flow.

- Upon installation of the culvert, if elevations vary from the supplied plan (greater than six (6) inches) than the Town Engineer will be called onsite to review the installation.

Moved: D. Smith

Second: R. Smith

Vote: **Show of hands vote, 4 in favor, none opposed, 1 abstention [Metcalf]; the motion carried.**

b. Sketch Plan – Multifamily – Oakwood – Map 47 Lot 100

B. Howard then introduced the application of Centore Design/Build, Inc. for approval to build two two-families, each to house two residential units (for four residential units in total) on a vacant lot off Oakwood Lane. The four units would each have their own decks, one-car garage, and two exterior tandem parking spaces accessed by a 217 sq. ft. private, common driveway.

However, the proposed tandem parking feature, Howard said, would require a waiver. Another waiver, she added, would be needed for the proposed buffer.

J. Logan, representing this applicant, addressed the Board. This project, he said, had no wetlands and dry soil per initial soil tests. The land mass included more space than needed for the project.

Logan went on to attempt to justify a buffer of less than 50 feet. The “L”-shaped configuration of the property, he said, did not lend to a 50-ft. buffer. On the other hand, large trees on the property would be preserved. He then urged the Planning Board to set a site walk date before there was snow accumulation.

E. Trainer observed that there were drainage issues on this and neighboring properties, and the applicant’s final plan would need to take them into account. Trainer also expressed concern about the request to waive the 50-ft. buffer requirement. “Such a waiver,” Trainer cautioned, “would need compelling justification.”

R. Smith asked for detail about the buffer being proposed. B. Howard related the dimensions of the buffer cited in the plan. They were slightly different on different sides of the housing units. R. Smith countered that the Zoning requirement was clear: a larger buffer was required for multifamily units constructed in the midst of single-family homes. R. Smith concurred with Trainer that a detailed and compelling justification of the buffer waiver was imperative.

R. Smith also asked if any of the units would be “affordable”, and J. Logan responded in the negative. “Affordable housing,” Logan stated, “is not a viable option in Kennebunk given the cost of materials and construction.”

R. Metcalf concurred with R. Smith and E. Trainer about the buffer. “This is a developed neighborhood,” Metcalf said, “and it should be protected.” Metcalf also observed that

some mature trees were likely to be lost despite J. Logan's insistence that most of the large trees on the property would be preserved.

D. Smith expressed concern about the ability of Fire and Rescue vehicles to maneuver on the private roadway leading to both duplexes. He observed that parked cars in front of the garages of the four units and guest spill-over parking on the street would impede the movement of emergency vehicles and apparatus. D. Smith concluded that an "independent hammerhead" might be needed. J. Logan responded that the Fire Department would make its recommendation.

In response to the comments of several Planning Board members about the buffer, J. Logan also stated that his group would submit a much more detailed buffer plan. "This is simply a preliminary sketch plan," he countered.

J. Vance voiced similar concerns about the driveway, hammerhead, and buffer. She inquired whether the driveway or roadway to the two duplexes would remain private, and J. Logan answered in the affirmative. Vance also asked if the "empty space" at the rear of the property could be kept permanently undeveloped. J. Logan responded that such a condition was not required as the space in question did not meet the Town's minimum space requirement for putting up an additional residential building.

D. Kiley asked how guests or visitors unable to park on a unit driveway would be able to park on the 20-ft. roadway being proposed. "The space is limited," Kiley said.

C. MacClinchy questioned whether the back duplex could be rotated in order to achieve a better hammerhead and to avoid light trespass into abutting properties. A discussion ensued about driveway parking. B. Howard noted that the Town's Ordinance requires 2.5 parking spaces for multifamily units, but two of the spaces in this case would be back-to-back parking spaces immediately behind each garage door. Members ultimately questioned whether several additional parking spaces could be created — possibly in the space between the two duplexes — to accommodate guests and free up roadway space for the Fire Department.

Members and J. Logan then discussed possible site walk dates. They agreed to hold a site walk on Saturday, January 21st at 8:00am, and asked Logan to mark the center line of the proposed roadway, the closest points of the buffer, and other features. C. MacClinchy explained, too, that the public was welcome to attend the site walk and could ask questions there.

3. Review of Meeting Minutes

C. MacClinchy then led the Board in a page-by-page review of the minutes of its meeting of November 28, 2022.

Motion: **Move that the Town of Kennebunk Planning Board approve the Minutes of its meeting of November 28, 2022 as corrected.**

Moved: D. Smith

Second: R. Smith

Vote: **Show of hands vote, 4 in favor, none opposed, 1 abstention [Metcalf had not attended the meeting]; the motion carried.**

4. Other Business

Workshop: B. Howard advised the Board that its next meeting on January 23, 2023 would be a workshop.

Training Opportunities: C. MacClinchy then announced that there were MMA training programs available on line in February for Planning Boards. He urged members interested in participating in such training to contact B. Howard to reserve a space.

Retirement of David Smith: As this was D. Smith's last Planning Board meeting, the Board formally thanked him for his 25 years of distinguished service on the Board. Board members presented Mr. Smith with a congratulatory plaque. "Your input to this Board has been invaluable," R. Smith said. Other members commended David Smith's guidance, friendship, and insightfulness. D. Smith, in turn, expressed his great pleasure in having served the community via his Planning Board affiliation.

5. Adjournment:

There being no further business, the Chair adjourned the meeting at 8:35pm.

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

Moved: D. Smith


Second: R. Smith

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 January 30, 2023

Signed by:

 2/13/23

PLANNING BOARD