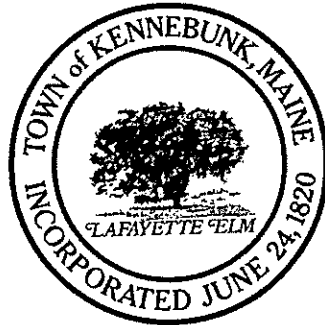


# Town of Kennebunk, Maine



## Planning Board

### MEETING MINUTES

February 27, 2023

In Person Meeting, Town Hall, 3<sup>rd</sup> 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](http://TownHallStreams.com).

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

Absent: None;

Also Attending: Christopher Osterrieder [Town Engineer and Director of Community Development], Brittany Howard [Town Planner], and Jimmy Courbon [Terradyn Comsultants LLC].

1. **Call to Order:** Chair and presiding officer C. MacClinchy called the meeting to order at 7:00pm on February 27, 2023. The meeting was held in person and there were five voting members present: C. MacClinchy, J. Vance, R. Smith, R. Metcalf, and E. Trainer.

## 2. Agenda Items

a. **Subdivision Amendment – Millstone Farm – Millstone Farm Lane – Map 30 Lots 177, 178, 179, and 99-999**

B. Howard introduced this application from Binhill Phase 2, LLC to amend the already approved Millstone Farm subdivision plan to correct a property-line discrepancy with an abutter. The applicant, Howard said, had supplied a new plan showing the corrected property line and all items required by Article 14 of the subdivision standards. The new plan also cites new lot areas from Lot 1, 2, and 3. The new lot areas, Howard confirmed, meet the 20,000 sq. ft. net lot area standard for the district.

E. Trainer inquired how the property line error came to occur as surveying should be an error-free practice. J. Courbon of Terradyn Consultants LLC, representing the applicant, responded that his group had used three [3] points on the new subdivision abutting the property and that was an error. The practice will not be used again going forward, Courbon stated.

C. MacClinchy asked why Lot 3 had not also changed in size. J. Courbon replied that his group had made the Lot slightly wider by gaining some land from the open space.

The Board then proceeded to entertain this motion:

Motion: **Move that the Town of Kennebunk Planning Board deem the plans complete for preliminary review.**

Moved: J. Vance

Second: R. Metcalf

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

After the vote, members agreed to set a Public Hearing date for March 27, 2023.

**b. Ordinance Language Review**

B. Howard next led members in a detailed review of proposed changes to the Town's Ordinance language to align it with recent State legislation.

A recent state law known as "LD 2003" — formally "An Act to Implement the Recommendations of the Commission to Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions" — was passed by the state legislature and subsequently signed into law by the Governor in April, 2022. The law went into effect on August 8, 2022. However, a number of the law's provisions only take effect on July 1, 2023.

The new law seeks to stimulate housing development in general. It requires municipalities to align their local rules and ordinances with the state's housing priorities and to ease zoning and land use restrictions.

Among others, the new law makes these important changes:

- Updates the density allotment to 2.5 times that of an underlying zone for affordable housing in growth areas;
- Eases parking requirements to two (2) off-street parking spaces per three (3) units of affordable housing;
- Requires all zones that permit residential use to allow up to two (2) dwelling units on vacant land;
- Prohibits lots with two (2) existing units — either a two-family or single-family dwelling with an accessory apartment — from adding an additional dwelling unit as of June 14, 2023.
- Permits empty lots to have denser development; and,

- Accessory Dwelling Unit minimums and allowed where residential is a permitted use.

B. Howard went over the many Ordinance changes which she and Town Attorney Natalie Burns formulated to reconcile Kennebunk's zoning and land use regulations with the new law. These numerous changes are cited in their entirety in the "LD 2003 Memo" included with the Agenda of today's (February 27, 2023) meeting and are available for viewing on line as well as at Town Hall.

B. Howard also made clear that neither she nor Town Attorney Burns had drafted a "short term rental policy".

The Board proceeded to examine the proposed Ordinance revisions item-by-item, and generally agree with B. Howard's and N. Burns' proposed changes subject to public input and review. However, members also made a number of revisions of their own and also had questions about the practical and legal implications of the new state law in some instances. Their comments or questions are highlighted below.

- (1) **Definitions:** Members concurred with all of the definitions proposed, but recommended several changes.
  - **"Affordable Housing Covenant":** J. Vance suggested altering the language to cover housing rentals as well as sales. B. Howard will discuss the suggestion with N. Burns and advise.
  - **"Attached Unit":** B. Howard suggested that the Town's Ordinance definition of the term "attached unit" or "accessory unit" be consistent with the new State law. Members ultimately agreed to the following definition: "An 'accessory dwelling unit' is a self-contained dwelling unit located within, attached to, or detached from a single-family dwelling unit located on the same parcel of land. Performance standards are located in Article 10, Section 15." This revision deletes the words "shared wall" in explaining "attachment".
  - **"Area Median Income":** R. Metcalf noted that neither the new state law nor the proposed new Ordinance language for Kennebunk specify whether the term "area" referred to York County, the Town of Kennebunk, or some other geographic area. Members agreed that "York County" should be specified. B. Howard will discuss this modification with N. Burns.
  - **"Two-Family Dwelling Units":** R. Smith suggested that the definition of a "two-family dwelling" specify that the term meant one dwelling unit for one family and one dwelling unit for yet another one family.
- (2) **Tables:** B. Howard asked if members wanted to standardize the Tables in the Ordinance which cite density and land-mass requirements so they break out, if applicable, the requirements for "single-family" and "multi-family" dwellings. Board members concurred.
- (3) **Suburban Residential Zone:** B. Howard will seek clarification from N. Burns as to whether the Suburban Residential Zone becomes a "growth district" as a result

of the new state law. This particular zone, Howard stated, already allows multi-family dwellings and lots.

- (4) **Village Residential District:** Members made no significant revisions of the proposed Ordinance language. An addition to “prohibited uses” was discussed. Members ultimately agreed to have Kennebunk’s Ordinance cite 15,000 sq. ft. per net lot area for (a) multi-family dwellings without sewer, and (b) multi-family lots without sewer in place of the Ordinance language now in place (“not permitted”).
- (5) **West Kennebunk Village Mixed Use:** While Kennebunk’s Ordinance does not currently permit multi-family housing in this zone, multi-family housing on land that is currently vacant becomes possible under LD 2003. The revised Ordinance will need wording to state this, B. Howard said.

Discussion ensued about the implications of affordable housing in all districts in Kennebunk. B. Howard and C. Osterrieder affirmed that parking-space requirements would only be reduced for the specific number of affordable dwelling units created in a complex, not for the multi-family compound as a whole.

- (6) **Contract Zones:** There were no proposed language changes, but B. Howard will contact the Town Attorney to determine how LD 2003 might impact Kennebunk’s Contract Zones.
- (7) **Portland Road Mixed Use:** C. Osterrieder stated that the Portland Mixed Use District might be considered a growth zone, and Board members concurred. An affordable housing provision, B. Howard said, might be warranted.
- (8) **Article 10, Section 8, Water and Wastewater:** Sweeping language changes were proposed and the Board concurred with them. There is no “water and wastewater” policy set forth in Kennebunk’s existing Ordinance, but it is now required as LD 2003 permits multi-family dwellings to connect to public water and sewer or to utilize private wells and engineered septic. R. Metcalf observed that a common well can now satisfy the water requirements of a multi-family development.
- (9) **Article 10, Section 12, Affordable Housing:** Members agreed that the Town’s revised Ordinance should enlarge the list of Kennebunk districts eligible to have affordable housing. Discussion ensued about how some measure of flexibility might be incorporated in Kennebunk’s affordable housing language to, in fact, facilitate and encourage affordable housing but also ensure that quality standards and LD 2003 changes are met. B. Howard will discuss the matter with N. Burns and, specifically, ascertain how the Town might best articulate density bonus and parking requirements.
- (10) **Article 10, Section 15, Accessory Dwelling Size:** Members then discussed the space limitations stipulated by the new State law. LD 2003 specifies that “accessory dwellings” must have a minimum of 190 sq. ft., but allows municipalities to define the maximum sq. footage of such units (with the proviso that the square

footage of an accessory dwelling cannot exceed 40% of the living area of the main, single-family dwelling to which it is linked).

B. Howard provided information about the upper square footage limits currently in place for accessory dwellings in Kennebunk [800 sq. ft.], Wells [600 sq. ft.], Biddeford [900 sq. ft.], Ogunquit [800 sq. ft.], and York [750 sq. ft.]. R. Metcalf reported that Cape Elisabeth has a 1,000 sq. ft. cap.

After extensive discussion, Planning Board members agreed to propose a maximum 1,000 sq. ft. maximum threshold in Kennebunk's Ordinance "so an accessory dwelling affords adequate space and comfort". However, the 40% proviso would also prevail.

- (11) **Empty Lots:** Extensive discussion next ensued about the treatment of empty lots. B. Howard reported that language was recommended by the Town Counsel to state that if a building in existence on or after July 1, 2023 is demolished or taken down on a given property that lot would not qualify for additional dwelling units.

B. Howard observed that Kennebunk's current Ordinance permits the creation of up to four (4) dwellings on an empty lot, provided that setback, water and sewer, and other requirements are met. Could, J. Vance asked, this right be "gamed" so that existing dwellings are torn down in a wholesale fashion to put up multiple dwellings with greater density and less parking? Members did not draw a conclusion, but agreed to continue discussing the matter in future meetings.

After completing this detailed initial review, members agreed to hold a Public Hearing on March 13, 2023 to review the proposed Ordinance language revisions with the public for residents' input. C. Osterrieder and B. Howard volunteered to have visuals (maps, a "plot plan" example, and other visuals) on hand to facilitate public discussion and illustrate how LD 2003 impacts Town housing density and other housing norms. Board members said they would likewise look for ways to illustrate the ramifications of LD 2023 with practical, helpful examples.

### 3. Prior Meeting Minutes

C. MacClinchy then led the Board in a review of the minutes of its meeting of February 13, 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 30, 2023 as amended.**

Moved: J. Vance

Second: R. Smith

Vote: **Show of hands vote, 4 in favor, none opposed, 1 abstention [R. Metcalf had not attended the 2/13/2023 meeting]; the motion carried.**

**4. Other Business**

B. Howard presented the "Findings of Fact" for The Moorings (reviewed 2/13/2023) for signature. She again urged Board members to refrain from posting comments about Planning Board business, meetings, deliberations, and/or Board-related comments of any kind on social media. Board members concurred.

**5. Adjournment:** There being no further business, the Chair adjourned the meeting at 9:29pm.

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

Moved: J. Vance

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 March 13, 2023

Signed by:

  
PLANNING BOARD

3/27/23