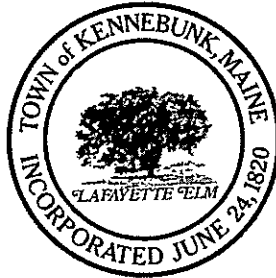


Town of Kennebunk, Maine



Planning Board

MEETING MINUTES

February 28, 2022

Zoom Teleconferencing Meeting

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

Absent: David Smith [Secretary],

Also Attending: Brittany Howard [Town Planner], Jason Vafiades [Applicant], Kylie Raymond [Applicant], Nickolas Raymond [Applicant], and Paul Driscoll [Norman, Hanson & DeTroy].

1. Call to Order: Chair and presiding officer C. MacClinchy called the meeting to order at 7:00pm on February 28, 2021 via Zoom teleconferencing in keeping with the Board's "Remote Meeting Policy" for COVID safety. He elevated alternate member E. Trainer to voting status for the purpose of this meeting. Five voting members in total were therefore present: C. MacClinchy, R. Smith, R. Metcalf, J. Vance, and E. Trainer.

2. Agenda Items

a. Preliminary Subdivision Review – "Kingsmeadow" – Downing Road – Map 30 Lot 41

B. Howard introduced this application, stating that it appeared to be complete for preliminary review. The proposal is for 8 residential lots on 58.8 acres. The land is currently vacant and located in the Rural Conservation, Resource Protection, and Shoreland Overlay zones.

This application, Howard stated, had originally come before the Board in 2021 as a proposal for a subdivision with horse boarding facilities and a track. Since then, applicant has removed the equestrian aspect of the plan and split off a lot on Cricket Lane. B. Howard noted that applicant also seeks to utilize three density bonuses: (1) 10% for 500 feet visual corridor preservation; (2) 15% for Open Space Implementation; and (3) 20% for Energy Efficiency Design.

The Town Planner then observed that Kennebunk's Police, Fire, and Public Services Departments as well as the Town Engineer and Conservation Commission had already reviewed the plan. The Police Department, Howard reported, had no concerns. The Public Services Department stated that the storm water infrastructure should remain the HOA's responsibility. The Town Engineer had yet to provide feedback.

Howard cited a number of minor corrections or updates needed to the plan (missing or outdated data, etc.). Jason Vafiades, the applicant, responded that the adjustments had already been made.

R. Smith observed that the lot lines for Lots 2, 3 and 4 directly abut wetlands, and he questioned whether there would be any buffer. R. Metcalf observed that only Lots 3 and 4 actually abut wetland and should have a "no-disturbance zone" of at least 25 feet. Such buffer limits, Metcalf added, should be clearly set forth in each homeowner's deed. J. Vafiades offered to "pull back the lot lines" or, alternatively, stake the setback. R. Smith deemed that changing the lot lines would be best, and E. Trainer, R. Metcalf, and D. Kiley concurred.

R. Smith inquired what applicant intended to do with the "left-over" land that is not subdivided. J. Vafiades replied that the unused land would be left vacant, and expressed willingness to donate that land to a land trust. If not donated to a trust, the vacant land would be conjointly owned by the homeowners, he said. R. Metcalf and C. MacClinchy urged the applicant to contact the Kennebunk Land Trust.

J. Vance expressed concern that, according to the soil study provided, some lots do not have the type of soil that can accommodate a septic system. J. Vafiades agreed, explaining that six of the eight lots would actually have a shared or "clustered" septic tank with low-pressure feed. The cluster system, he stated, will fully satisfy State requirements, and homeowner documents will spell out cleaning responsibilities. "All in," Mr. Vafiades said, "this shared system will be larger than six individual home systems combined" and the common septic tank would be located in an area where the quality of soil is satisfactory. In response to subsequent questions from R. Metcalf, J. Vafiades specifically affirmed that Lots # 1-6 would be on the cluster system, while Lots #7 and 8 would have individual septic systems.

J. Vance also asked for an aerial view of the subdivision with depiction of neighboring properties. J. Vafiades agreed to provide it and explained that he had purposefully relocated the subdivision's entry away from neighbors' driveways.

R. Metcalf observed that the Planning Board had received written comments from abutters fundamentally communicating two main concerns: (1) the impact of this development on Downing Road traffic; and (2) sight distancing. R. Metcalf asked the applicant to check with the Police Department on the likely impact on pedestrian and bicycle traffic. J. Vafiades agreed to do so.

R. Metcalf then addressed sight distancing, encouraging the applicant to look into ways of preserving more mature trees and maintain more of a "vegetation buffer". R. Metcalf specifically suggested that "some random placement of trees and landscaping would help preserve the visual character" of the property. In response, J. Vafiades affirmed that

there will be a vegetation buffer 500 feet in from Downing Road, but he also agreed to look into preserving more of the property's mature trees.

R. Metcalf then asked the applicant to go over his density bonus calculations, and J. Vafiades did so. The three density bonuses, J. Vafiades concluded, "give us the right to 8.2 lots instead of the 8 lots sought". The applicant nevertheless agreed to B. Howard's suggestion that he provide documentation on "green homes" or specs on the energy-efficient houses previously built by his architect in support of his claimed "energy efficiency" bonus entitlement.

Throughout the hearing, J. Vance and other members of the Board repeatedly expressed concern about drainage, but agreed to await the Town Engineer's [C. Osterrieder] comments on that topic. The Board and applicant ultimately agreed to hold a public hearing on April 11, 2022, giving the applicant time to update his plans (to include a Maine State stamp on the submitted survey) and to respond to any comments on drainage which might come from C. Osterrieder.

Motion: **Move that the Planning Board of the Town of Kennebunk deem the application for the "Kingsmeadow" subdivision, Downing Road, Map 30 Lot 41 to be complete.**

Moved: R. Metcalf

Second: R. Smith

Vote: **Roll-call vote, 5 votes in favor, none opposed; the motion carried.**

b. Contract Zone Proposal — "Pilot House" — 2-4 Harbor Lane — Map 88 Lots 11 & 12

B. Howard summarized this case: Applicant Kyick Holdings LLC seeks a contract zone pursuant to Article 13, Section 2 of the Town's Ordinance. The proposal would fundamentally enable the applicant to: (1) demolish the existing "Pilot House" restaurant and erect a new one in a different location with a different parking layout; (2) add a "BioClean Catch Basin" to improve the treatment of run-off water; and (3) relocate the "Spirit of Massachusetts", a boat, from its permanent mooring onto the property as a dry-docked land structure.

Most of the property, Howard said, is located in the Lower Village Business District ["LVB"] and Shoreland Overlay. The existing structure is non-conforming. However, it was built in 1930 prior to zoning being in place.

If granted, Howard explained in materials she had provided to the Board, the contract zone would permit the applicant to: (1) maximum lot coverage of 30% (instead of the 70% permitted in the LVB and the restaurant's current 100% lot cover); (2) side yard setbacks of 5 feet (versus the LVB's 25-ft. requirement); (3) no riverfront setback (versus the LVB's 25-ft. requirement); and (4) a 5-ft. rear setback (as opposed to the 20-ft. rear setback otherwise required in the LVB). These are the primary reasons for a contract zone.

The boat, Howard said, had been approved for use as a restaurant by the Site Plan Review Board in 2016. However, that Board had expressed concern at that time about

ADA accessibility. If the boat is moved onto land, Howard ventured, the applicant would have to address the accessibility requirement.

The purpose of today's hearing, Howard concluded, is to determine if supplemental information is needed before the Board decides whether or not to forward the petition to the Select Board.

Paul Driscoll, a lawyer representing property and restaurant owners Kylie and Nick Raymond, offered further detail. The purpose of the application, he said, is to create a restaurant space which conforms with LVB requirements but also meets the strategic objectives of the Town's Comprehensive Plan. According to Driscoll, the contract zone would specifically permit (1) a change and improvement of parking, (2) creation of public bathrooms sorely needed in the area; (3) better bus access and maneuverability, as well as (4) improved treatment of storm water runoff.

Owner K. Raymond reiterated these same advantages. However, Board members unanimously observed that applicants' plan did not contain adequate detail or make a compelling case for a contract zone. R. Metcalf stated that the plan did not make clear where the new structure would be located in relation to the existing structure and likewise lacked detail on the existing drainage. "I see clear advantages," Metcalf said, "but a more detailed plan should be provided with input from the applicant's civil consultants about grading, drainage, and storm-water management."

R. Smith inquired whether the new restaurant would be the same size as the existing one, and P. Driscoll responded that the new structure would be "basically the same size". K. Raymond affirmed that the new restaurant would be roughly the same size, accommodate the same number of customers, and have the same number of parking spaces as present. She called the Board's attention to diagrams already submitted which illustrate the locations of the new building and parking array.

R. Metcalf nevertheless asked for more detail on egress, drainage, and structure locations. The current diagram, he said, shows only a 16-foot entry drive, meaning only 8 feet per lane. That, he opined, was tight.

C. MacClinchy agreed that applicants needed to provide more detail on egress, drainage, and the proposed location, entry, and entrance ramps of the new restaurant. D. Kiley concurred and posed questions about the boat's relocation. D. Kiley also noted that the "curb stops" shown in the submitted diagram would be problematic.

E. Trainer voiced the view that this petition was not about the expansion of a restaurant, but rather about the relocation of one with improved parking. He questioned whether the proposed changes would adversely impact the neighboring restaurant, Federal Jack's. K. Raymond responded that the parking spaces being proposed are the same number as at present and are exclusively Pilot House spaces. "We have discussed this project with the abutter [Federal Jack's owner]," K. Raymond said, "and he has no objection."

E. Trainer asked whether the changes could be accomplished *without* a contract zone. He urged applicants to provide a synopsis of their rationale for a contract zone and better articulate why it was essential.

K. Raymond responded that only a contract zone would permit the setbacks and spacing for improved parking, improved egress, improved bus maneuverability, and better marina use.

J. Vance observed that the lot is within the flood zone. Had, she asked, the owners taken that prospect into consideration? K. Raymond responded that the new restaurant will be elevated 4 feet, above ground and also have ramp accessibility for the disabled. In response to further questions from J. Vance, K. Raymond affirmed that 7 parking spaces will be reserved for marina parking. The number of parking spaces, K. Raymond reiterated, is the same as had been originally approved by the Site Plan Review Board in 2016.

Several Board members posed questions about the boat's relocation, and K. Raymond explained that it will be lifted by a specialized crane and lowered into an on-land steel cradle. An ADA-compliant ramp, N. Raymond said, will go up to the boat's main entrance.

C. MacClinchy inquired whether the dry-docked boat was likely to obstruct water views. N. Raymond responded that relocating the boat would actually open water views. She added that "the dry-docked boat will make a visual statement about the Town's ship-building heritage".

J. Vance, R. Metcalf, and C. MacClinchy called for more detail about drainage and the expected benefit of the proposed catch basin. C. MacClinchy likewise asked for detail in the plan on egress, the location of the service entrance, and "a list of the public benefits to be had via the proposed contract zone". K. Raymond reiterated the public benefits as she saw them: (1) public bathrooms; (2) a catch basin and better drainage; (3) easier parking to help Lower Village commerce, (4) safer egress and exit, and (5) better accommodation for buses.

C. MacClinchy reiterated the same question posed by E. Trainer, asking why the applicants could not achieve these same improvements with current zoning. K. Raymond responded that (1) the restaurant's current location and setbacks are problematic; (2) moving closer to the river is essential, but cannot be done with current zoning; and (3) dry-docking the boat also has setback issues under existing zoning.

C. MacClinchy concluded that the Planning Board required plans with more engineering information and more general detail before it convenes a public hearing. R. Metcalf summarized the sundry kinds of detail sought:

- Grades;
- Water flows;
- Details on the locations of the new restaurant and boat;
- A "step-above" schematic plan;
- Location of the building and boat's entries, ramps, and stairs;
- Details about drainage, storm-water management, and how this project might mitigate run-off into the river.
- Details on egress on Route 9 and side road;
- Location of the service entrance, dumpsters, and metal storage container; and,

- A synopsis of applicant's rationale for the need for a contract zone and statement of the public benefits to be gained from such a zoning change.

K. Raymond voiced interest in getting on the Town's June warrant, and asked if that would be possible time-wise. B. Howard responded that a Planning Board public hearing would be required on or by April 11th, making the turnaround "tight".

K. Raymond inquired whether a site walk would be helpful to facilitate the Board's review, and Board members and the owners agreed to a site walk on Saturday, March 5th at 8:00am. R. Metcalf urged applicants to have their consultants on site at the walk to facilitate dialogue on technical specifics. K. Raymond agreed to contact those specialists, but professed that the likelihood of their appearance on short notice was slim.

C. MacClinchy concluded that the Planning Board could not guarantee that it could convene a public hearing in sufficient time for the June warrant, but would try. R. Metcalf observed that the Board could also explore the possibility of holding a "joint" public hearing with the Select Board to streamline the process. That may not be feasible, Metcalf said, but he asked B. Howard to discuss the possibility with the Town Manager and Town Engineer.

3. Approval of Meeting Minutes

C. MacClinchy then led the Board in a page-by-page review of the minutes of its February 14, 2022 meeting.

Motion: Move that the Planning Board of the Town of Kennebunk approve the Minutes of February 14, 2022 meeting as presented.

Moved: R. Metcalf

Second: R. Smith

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

4. Other Business

B. Howard advised the Board of two additional business matters. She first noted that Cedarwood Farms, a previous petitioner, sought a 90-day extension until June 8th in order to obtain the required DEP permit from the State of Maine. The permit, Howard said, is in the works but backlogged. R. Smith recommended granting a longer, 6-month extension "just in case".

Motion: **Move that the Planning Board of the Town of Kennebunk grant a six [6] month extension to Cedarwood Farms to obtain a DEP permit.**

Moved: R. Metcalf

Second: R. Smith

Vote: **Roll call vote, 5 votes in favor, none opposed; the motion carried.**

B. Howard then broached the topic of Zoom versus in-person meetings. She asked if the Board wanted to return to in-person meetings in one month's time. R. Metcalf and J. Vance expressed concern about the still-high COVID positivity rate in York County. All Board members informally agreed to continue holding Zoom meetings for the time being.

5. Adjournment: There being no further business, the Chair adjourned the meeting at 9:05pm.

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

Moved: E. Trainer

Second: J. Vance

Vote: **Voice vote, 5 votes in favor, none opposed; the motion passed.**

Respectfully submitted,
J. Schlagheck

Adopted by the Planning Board in its Meeting
Of March 14, 2022

Signed by:



PLANNING BOARD

