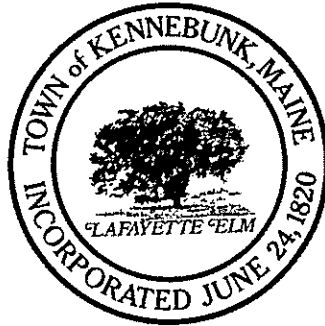


Town of Kennebunk, Maine



Planning Board

MEETING MINUTES

April 24, 2023

In Person Meeting, Town Hall, Room 301, 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], Robert Metcalf [Member], Janice Vance [Member], Edward Trainer [Member], and Daniel Kiley [Alternate];
- Absent: Richard Smith [Vice Chair];
- Also Attending: Brittany Howard [Town Planner], Connor Ritter [Walsh Engineering], and Christopher Coppi [Coppi Environmental, LLC]

1. **Call to Order:** Chair and presiding officer C. MacClinchy called the meeting to order at 7:00pm on April 24, 2023. The meeting was held in person at Town Hall. There were initially four voting members in attendance: MacClinchy, Vance, Metcalf and Trainer. C. MacClinchy explained the procedural sequence of the meeting, then proceeded to begin application reviews.

2. Agenda Items

a. Continued Public Hearing – 61 York Street – Multifamily – Map 59 Lot 5

B. Howard reminded the Board that it had continued its March 27, 2023 hearing of this application. Applicants Daniel and Lois Bennett sought to build 12 residential units (3 affordable) at 61 York Street. At the prior meeting, the Board called on the applicants to reconsider a number of project details, to include lighting, fencing, and landscaping. Howard reported that the Fire Department had since communicated that it was satisfied with the project's proposed driveway.

Connor Ritter of Walsh Engineering addressed the Board next on behalf of the applicants. He reiterated that three of the 12 units would be affordable and that the entrance

to all units would be via York Street. Ritter proceeded to comment on each of the concerns cited by abutters at the last meeting. His overall message was that the applicants had amended their plan to address each abutter concern.

Ritter first called the Board's and public's attention to an aerial diagram [Exhibit "E"] contained in the submission materials which showed the property in question and neighboring lots. The applicants, he said, had responded to primary concerns about landscaping and abutter privacy by deciding to plant Eastern red cedars and other large vegetation for a more robust vegetation screen. C. Ritter also noted that greenery beds would be added in front of the units. The applicants were also expanding the fence nearest Waterford Greene Unit #2 as the abutters had requested.

Ritter went on to remark that the development's walkway had been enlarged in the revised plan, and the lighting plan had likewise been updated to show illumination levels throughout the site. The latter ensured that lighting trespass would not be an issue for abutters.

The engineer additionally explained the merits of the project's drainage plan and the outcome of a recent drainage analysis. They did an analysis of probable drainage and infiltration rates based on "worst case", 50-year and 100-year storm events. That study concluded that the drainage maintenance system proposed for the development was more than adequate to "keep most run-off from abutting properties."

D. Kiley, R. Metcalf, J Vance, and E. Trainer thanked C. Ritter and the applicants for these changes. Vance noted that the revised plan calls for drainage inspections every six [6] months. She asked how these and other maintenance inspections would actually be carried out. C Ritter responded that a property management company would be retained to make periodic inspections and necessary repairs.

E. Trainer posed questions about affordable housing, and B. Howard explained the Towns attorney was reviewing the submittal.

C. MacClinchy then formally opened a Public Hearing and invited public comments and remarks. Margaret Sanders, an abutter, expressed concern about the ability of fire trucks to manoeuver in the development when its parking lot was full. C. Ritter affirmed that the Fire Department's approval had been predicated on the assumption that the lot would, indeed, be full. The Fire Department, he said, believed there was adequate space for fire trucks to maneuver.

Katherine Toth, one of the owners of nearby Kennebunk Gallery Motel and Cottages, asked if there would be egress at the back of the buildings, and C. Ritter responded in the negative. Ms. Toth also asked if the eventual decision of this Board could be appealed, and R. Metcalf confirmed that an appeal was possible. He also explained the time frame for making such appeals.

B. Howard then read an email from Marie St. Onge, the president of the Waterford Greene Homeowners' Association, requesting that the final approval documents contain some formal proviso that there could be no parking on Waterford Greene Drive as it is private.

There being no other public comment or question, C. MacClinchy formally closed the Public Hearing. R. Metcalf then summarized the several notations to be added to the plan (which he and other Board members sometimes referred to as "conditions of approval"). These notations were:

- (1) Acknowledgement that parking was not allowed on Waterford Greene Drive;
- (2) Representation that present and future owners of the development were obligated to maintain the "a hardy buffer vegetation screen in perpetuity";
- (3) Final water and sewer approval;
- (4) Review of the restrictive covenants for affordable housing by the Town Attorney;
- (5) A note added to the plan that when snow storage areas are at capacity snow will need to be removed from the site.
- (6) The fire truck turnaround is to be kept open at all times.
- (7) The evergreen tree that will be remaining at the entrance may need to be trimmed to maintain site distance.
- (8) A licensed surveyor shall layout the building (unit 1 and 2) and supply this to the Code Enforcement Officer as part a pre-pour footing inspection. (per Engineer memo dated March 22)

R. Metcalf acknowledged that there were traffic issues. In his view, however, speed enforcement on York Street was a matter for the Town to deal with, not this developer. Metcalf also deemed the revised landscaping plan to be "a marked improvement", but posed questions and expressed concern about the height of the fence to be created near Waterford Greene's Unit #2. He opined that the landscaping plan and the height of the vegetation there might have to be modified to ensure that Unit #2 had adequate privacy.

J. Vance recommended that the applicants post "no parking" signs on Waterford Greene Drive during project construction, but C. Ritter countered that such sign already existed.

E. Trainer said that, even with the improvements that had been made, the plan's reduced buffer near Unit #2 was still a matter of concern. "Controls should be written into the plan," he said, to ensure that the vegetation shield is high and permanent.

C. MacClinchy posed questions about the applicants' drainage analysis. C Ritter explained the seven to eight [7-8] inches of cubic drainage were projected to occur in the worst-case scenarios of 50-year and 100-year storm events. Ritter showed that there would be run-off to the south and west. However, he reiterated that the development's stormwater management systems should adequately contain most of it. "The modeling was conservative," Ritter asserted, and there should be no significant run-off onto abutting properties.

C. MacClinchy also asked about the siding to be used, and C Ritter responded that the siding would be vinyl and similar to that used on other rental buildings on Route One. MacClinchy then led the Board in a review of the applicants' three waiver requests. He elevated D. Kiley, an alternate member, to voting status for the remainder of the meeting. The number of voting members became five [5].

(1) **Waiver of the 50-ft. perimeter buffer otherwise required by Article 10, Section 10.D.3.**

C. Ritter explained that this waiver was necessary to achieve the 12 units with a density bonus. The property, he said, is narrow, making a 50-ft. buffer impossible. The applicants propose a 20-ft. buffer instead. To make up for the difference, Ritter said, the reduced buffer would have "more, higher, and more durable" vegetation to afford an adequate privacy shield.

R. Metcalf reiterated that the final plan or conditions of approval should cite the requirement "in perpetuity" for the maintenance of the buffer in good order and height.

Motion: **Move that the Planning Board approve the request for a waiver of Article 10, Section 10.D.3 and 50-foot buffer with the caveat that it [the buffer] be planted heavily and maintained in perpetuity.**

Moved: J. Vance

Second: R. Metcalf

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

(2) **Waiver of the 100-ft. separation between the proposed driveway and the intersection of York Street and Waterford Greene Drive as otherwise required by Article 11, Section 8.6.C.**

C. Ritter explained that this waiver was primarily sought to avoid having to cut down a large tree that existed on the property. He showed photos of the tree. The applicants, he said, propose to maintain an 86-ft separation instead. The reduction, he added, would have no impact on street traffic per a recent traffic study [Attachment "F"]. However, D. Kiley and R. Metcalf noted that there was a utility pole close by, and urged the applicants to coordinate with Kennebunk Light to determine whether a relocation of the pole or lines might be required.

Motion: **Move that the Planning Board grant the applicants' request for a waiver of Article 10, Section 8.6.3 to achieve a reduction from 100 ft. to 86 ft. for the purpose of maintaining the tree.**

Moved: J. Vance
Second: R. Metcalf
Vote: **Show of hands vote, 5 votes in favor, none opposed; the motion carried.**

(3) **Waiver of the 2-ft. wide planting strip between the on-site walkway and the parking area as otherwise required by Article 11, Section 8.8.b.**

C. Ritter explained this request as one meant to benefit tenants and avoid having people trample on vegetation when alighting from their cars. The walkway, Ritter said, had been enlarged as an offset. Board members observed that several developers had sought similar waivers, as well.

Motion: **Move to grant the applicants' request for a waiver of Article 11, Section 8.8.b to eliminate the 2-ft. planting strip in recognition of the fact that the walkway has been enlarged.**

Moved: J. Vance
Second: R. Metcalf
Vote: **Show of hands vote, 5 votes in favor, none opposed; the motion carried.**

Board members then considered the overall status of the preliminary plan.

Motion: **Move to approve the preliminary plan for 61 York Street with the conditions that the items discussed tonight and notations identified above must be presented for final review.**

Moved: J. Vance
Second: R. Metcalf
Vote: **Show of hands vote, 5 votes in favor, none opposed; the motion carried.**

After the vote, R. Metcalf said the applicants should return with a final plan with the sundry points raised at this meeting. The next meeting, he said, would not be a Public Hearing.

b. Preliminary Meeting — McNeil Family Subdivision Revision — 2 & 4 Gathering Way — Map 63 Lots 43 & 44

B. Howard next introduced the application of Daniel Whiting for an amendment to an already approved subdivision plan to change the location of the lot lines. The applicant, Howard said, had supplied a new map showing the existing or original and proposed property lines. Howard referred to the proposal as "a minor modification."

Dan Whiting, the applicant, addressed the Board, explaining that his structure did not comply with a side setback. To correct that, he sought to slightly move his property line. Two property deeds, he said, would need to be modified — one gaining two feet and one losing two feet.

There were no Board questions. Members informally agreed that no site walk would be necessary. They set a Public Hearing for May 8, 2023

Motion: **Move to grant preliminary approval for the McNeil Family subdivision amendment to correct a minor error as proposed.**

Moved: J. Vance

Second: R. Metcalf

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

c. Preliminary Meeting — Map Correction, Shoreland Zoning Map — 24 Forest Hill Lane — Map 91 Lot 55

B. Howard then introduced the application of Craig and Denise Collins of 24 Forest Hill Lane to correct the Town's Shoreland Zoning Map. The Map showed the majority of their property as being in the Resource Protection [RP] zone due to its proximity to a Priority One wetland.

Howard reported that the applicants had retained Coppi Environmental, LLC to determine the true extent of the wetland. That group found the Shoreland Zoning Map to be faulty in its recognition of the wetland's boundaries.

B. Howard acknowledged that the Shoreland Zoning Map sometimes has inaccuracies. For that reason, Kennebunk's Ordinance permits landowners to request a correction.

C. Coppi, representing the applicants, addressed the Board next and identified himself as a "wetland scientist." He showed an aerial photo illustrating the boundaries of existing lots in the area as well as of the marshland (the Priority I wetland) according to the Town's Shoreland Zoning Map. He then showed a second map depicting the wetland in a quite different location based on the Coppi's first-hand reconnaissance.

The issue, C. Coppi stated, is that the marshland or Priority One wetland is actually far removed from the applicants' property. But the Town's Shoreland Zoning Map shows a considerable part of the property being in marshland, limiting the ability of the owners to build.

E. Trainer, J. Vance, and R. Metcalf said they looked forward to a site walk to better understand the wetland's location. Metcalf thought the Shoreland Zoning Map might have already been modified for a different property-owner in the same area. B. Howard agreed to further investigate that possibility.

Board members and C. Coppi agreed to a site walk on Thursday, May 4th at 6:00pm. The Board also agreed to hold a Public Hearing on the application on May 22, 2023.

d. **Preliminary Meeting — Map Correction, Shoreland Zoning Map — 258 Emmons Road — Map 33 Lot 10**

B. Howard then introduced the application of Richard and Sandra Perkins to likewise correct the Shoreland Zoning Map. The Map shows a portion of 258 Emmons Road as also being in the Resource Protection [RP] district as the property was supposedly located in a flood zone.

According to Howard, Corner Post Land Surveying, Inc. had recently investigated the property and had applied to the Federal Emergency Management Agency [FEMA] for a Letter of Map Amendment [LOMA]. The applicants had submitted said Letter, an elevation form, and other materials for this Board's consideration. Howard again remarked that Kennebunk's Shoreland Zoning Map and FEMA's Flood Zone Maps are sometimes inaccurate. Consequently, residents are entitled to request a map correction if inaccuracies are found.

B. Howard handed out a revised map as the original contained an error. She showed where Chipmunk Trail ran across the property.

Richard Perkins, the property owner and applicant, said that FEMA originally showed most of his being in the flood zone. In FEMA's revised map, however, there was substantially less flood zone on the property. The property could be developed, he said, but there might be need to cross some amount of wetland in order to reach a suitable building site. The immediate issue, Board members agreed, was the accurate location of the flood zone. The issue of having to cross any wetland was not a matter before the Board at this time.

Mr. Perkins therefore sought the Planning Board's approval to amend the Town's Flood Zone Map, which is a layer of the Shoreland Zoning Map.

Discussion ensued about the proposed "flood zone" delineation vis-à-vis the topographical elevation, FEMA's revised map, and a neighboring property. Members and the applicant agreed to a site walk on Thursday, May 11, 2023 at 6:00pm. The Board set May 22, 2023 as the date for a Public Hearing. C. MacClinchy asked the applicant to provide B. Howard with "property clarification" by May 8th, 2023 so his materials could be shared with Board members and the public in time for the May 22nd Public Hearing.

3. Prior Meeting Minutes

C. MacClinchy next led the Board in a page-by-page review of the minutes of its meeting of April 10, 2023.

Motion: **Move that the Town of Kennebunk Planning Board approve the Minutes of its meeting of April 10, 2023.**

Moved: J. Vance

Second: R. Metcalf

Vote: **Show of hands vote, 4 in favor [MacClinchy, Vance, Kiley, and Trainer], none opposed, 1 abstention [Metcalf had not attended the 4/10/2023 meeting]; the motion carried.**

4. Other Business

B. Howard had documents for the Planning Board to sign. R. Metcalf observed that a number of other applicants had sought the waiver of Article 11, Section 8.8.b requiring a two-foot planting strip. Metcalf suggested that the Board spend time discussing policy and possibly identify other Ordinance changes for eventual Select Board and voter consideration. Other Board members agreed.

C. MacClinchy also informed the Board that the Select Board had eliminated the "40%" alternative from the Planning Board's proposed language defining the maximum size of an Accessory Dwelling Unit or "ADU" as "1,000 sq. ft or 40% of the size of the primary dwelling". The Select Board is using 1,000 sq. feet as the maximum size exclusively.

B. Howard advised the Board that the principal who brought the Jeffreys Way application had requested a postponement until June 12, 2023.

5. **Adjournment:** There being no further business, the Chair adjourned the meeting at 9:07pm.

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 May 8, 2023

Signed by:  , Chair 5/8/2023

PLANNING BOARD