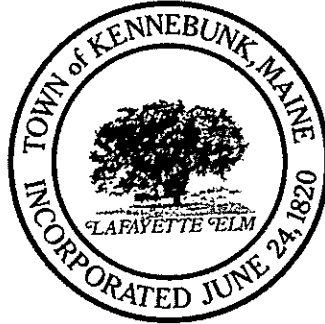


Town of Kennebunk, Maine



Planning Board

MEETING MINUTES

May 8, 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], Janice Vance [Member], Edward Trainer [Member], and Daniel Kiley [Alternate];

Absent: Richard Smith [Vice Chair] and Robert Metcalf [Member];

Also Attending: Brittany Howard [Town Planner].

1. Call to Order: Chair and presiding officer C. MacClinchy called the meeting to order at 7:00pm on May 8, 2023. The meeting was held in person at Town Hall. C. MacClinchy elevated D. Kiley to voting status for the purpose of this meeting. The number of voting members was, therefore, four: MacClinchy, Vance, Trainer and Kiley. The Chair also explained the procedural sequence of the meeting, then proceeded to address Agenda items.

2. Agenda Items

a. Public Hearing — Wetland Crossing — Jeffreys Way — Map 24 Lot 56
Review of this application was rescheduled to June 12, 2023.

b. Public Hearing — Map Correction, Shoreland Zoning Map — 262 Emmons Road — Map 30 Lot 139

B. Howard reminded the Board that this application had previously come before it on April 10, 2023. The applicants, Donnie and Melissa Ouellette, sought to correct the Town's Shoreland Zoning Map. They specifically asked to have the rear portion of their property removed from the Resource Protection [RP] district as their piece was not, after all, in a flood zone. In support of their request, the applicants had submitted a

Letter of Map Amendment [LOMA] from the Federal Emergency Management Agency [FEMA] which confirmed the correct location of that zone. The Board, Howard added, had conducted a site walk on April 15, 2023.

Applicant Donnie Ouellette briefly re-iterated the same facts for the benefit of the listening audience. He said that FEMA had removed his piece of property from the flood zone. He also stated that the Board's site walk confirmed that the property in question had no wetlands and high elevation. The property's lowest elevation, Mr. Ouellette stated, was 16.9 feet. "The site walk showed clearly," C. MacClinchy added, "...that the land was high and dry."

C. MacClinchy then opened a Public Hearing and invited public comments and questions. As there were none, the officer closed the Public Hearing.

Board members had no questions. The Board proceeded to consider the following motion.

Motion: **Move to approve the request to make a correction of the Shoreland Zoning Map with regards to a portion of Map 30 Lot 139, 262 Emmons Road based on FEMA's Letter of Map Amendment flood zone correction.**

Moved: J. Vance

Second: E. Trainer

Vote: **Show of hands vote, 4 votes in favor, none opposed; the motion carried.**

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

B. Howard re-introduced the application of Daniel Whiting for an amendment to an already approved subdivision plan to change the location of its lot lines. The applicant, Howard said, had supplied a new map showing the original and proposed property lines.

Howard reminded the Board of the reason for this application. The McNeil Family Subdivision had been approved on December 13, 2013. During construction at 2 Gathering Way [Lot #1 on the map], it was determined that the structure was within the side setback. The owners therefore sought a minor change of the property lines. The Planning Board, Howard said, had a preliminary review of the application on April 24, 2023.

Applicant D. Whiting addressed the Board next, briefly re-iterating the same facts. He stated that his new house was found to be 33 feet from the property line instead of the required 35 feet. The applicant sought a minor change of the property line to remedy the setback discrepancy.

C. MacClinchy formally opened a Public Hearing and invited public comments or questions. There were none. MacClinchy therefore closed the Public Hearing. Board members likewise had no additional questions. They proceeded to formulate the Findings of Fact.

Town of Kennebunk Planning Board

FINDINGS OF FACT AND CONDITIONS OF APPROVAL

FINAL SUBDIVISION PLAN OF: McNeil Family Subdivision Amendment
Subdivision Name

1. Property Owners: Daniel and Brianna Whiting & Leonard and Suzanne McNeil
2. Site Location: McNeil Family Subdivision – 2 & 4 Gathering Lane
3. Project Description: Subdivision Amendment – property line correction between 2 & 4 Gathering Lane to ensure structure meets zoning district setbacks (Plan - Book 364 Page 27)
4. Zoning District (s): Branch Brook Aquifer Protection District Zone B (BBB) and Shoreland Overlay
5. Assessor's Map 63 Lots 43 & 44
6. Applicant: Daniel Whiting has shown legal interest in the property by deed.
7. INFORMATION REVIEWED BY PLANNING BOARD:
 - Preliminary Review: 4/24/2023
 - Public Hearing: 5/8/2023

CONDITIONS/WAIVERS:

APPROVED BY: _____ DATE: _____

8. The Kennebunk Planning Board has reviewed the above noted development utilizing the Kennebunk Standards for Reviewing Land Subdivisions and the Kennebunk Zoning Ordinance. Based upon the application and materials submitted in support of the application, together with the evidence submitted at the public hearing on the application, the Planning Board makes the following findings with respect to the standards of Title 30-A § 4404 and Article 11, Section 8 of the Zoning Ordinance Guidelines listed below:

A. M.R.S.A. 30-A §4404

1. **Pollution.** Will not result in undue water or air pollution. In making this determination it shall at least consider: The elevation of land above the sea level and its relation to the floodplains, the nature of soils and sub-soils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable state and local health and water resources regulations.

Standard is met X , not met , N/A , met with following conditions and or waivers
The amended subdivision plan complies with the previous approval and there are no changes to this criteria
Rationale for negative determination: _____

2. **Sufficient water.** Has sufficient water available for the reasonably foreseeable needs of the subdivision.

Standard is met X , not met , N/A , met with following conditions and or waivers
The amended subdivision plan complies with the previous approval and there are no changes to this criteria
Rationale for negative determination: _____

3. **Municipal water supply.** Will not cause an unreasonable burden on an existing water supply, if one is to be utilized.

Standard is met X , not met , N/A , met with following conditions and or waivers
The amended subdivision plan complies with the previous approval and there are no changes to this criteria
Rationale for negative determination: _____

4. **Erosion.** Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

Standard is met X , not met , N/A , met with following conditions and or waivers:
The amended subdivision plan complies with the previous approval and there are no changes to this criteria
Rationale for negative determination: _____

5. **Traffic.** Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed, and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of the Town, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section.

Standard is met X , not met , N/A , met with following conditions and or waivers:
The amended subdivision plan complies with the previous approval and there are no changes to this criteria

criteria

Rationale for negative determination: _____

6. **Sewage disposal.** Will provide for adequate sewage waste disposal and will not cause an unreasonable burden on Town services if they are utilized.

Standard is met X , not met ____, N/A____, met with following conditions and or waivers:

The amended subdivision plan complies with the previous approval and there are no changes to this criteria

Rationale for negative determination: _____

7. **Municipal solid waste disposal.** Will not cause unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized.

Standard is met X , not met ____, N/A____, met with following conditions and or waivers:

The amended subdivision plan complies with the previous approval and there are no changes to this criteria

Rationale for negative determination: _____

8. **Aesthetic, cultural and natural values.** Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

Standard is met X , not met ____, N/A____, met with following conditions and or waivers:

The amended subdivision plan complies with the previous approval and there are no changes to this criteria

Rationale for negative determination: _____

9. **Conformity with local ordinances and plans.** Is in conformance with the duly adopted subdivision regulation, comprehensive plan, and zoning ordinance of the Town of Kennebunk.

Standard is met X , not met ____, N/A____, met with following conditions and or waivers:

The new lot lines conform in all regards to the zoning performance standards for the underlying zoning district

Rationale for negative determination: _____

10. **Financial and technical capacity.** The subdivider has adequate financial and technical capacity to meet the standards of these regulations.

Standard is met X , not met ____, N/A____, met with following conditions and or waivers:

The amended subdivision plan complies with the previous approval and there are no changes to this criteria

Rationale for negative determination: _____

11. **Surface waters; outstanding river segments.** Whenever situated, in whole or in part, within 250 feet of any pond, lake, river or tidal waters, will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

Standard is met X , not met ____, N/A____, met with following conditions and or waivers:

The amended subdivision plan complies with the previous approval and there are no changes to this criteria

Rationale for negative determination: _____

12. **Ground water.** Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

Standard is met X , not met , N/A , met with following conditions and or waivers:
The amended subdivision plan complies with the previous approval and there are no changes to this criteria

Rationale for negative determination: _____

13. **Flood areas.** The sub divider will determine, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area the subdivider will determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan shall include a condition of plat approval requiring that principal structures in the subdivision shall be constructed with their lowest floor, including the basement, at least two feet above the 100-year flood elevation.

Standard is met X , not met , N/A , met with following conditions and or waivers:
The amended subdivision plan complies with the previous approval and there are no changes to this criteria

Rationale for negative determination: _____

14. **Stormwater.** The proposed subdivision will provide for adequate storm water management.

Standard is met X , not met , N/A , met with following conditions and or waivers:
The amended subdivision plan complies with the previous approval and there are no changes to this criteria

Rationale for negative determination: _____

15. **River, stream or brook.** Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9.

Standard is met X , not met , N/A , met with following conditions and or waivers:
The amended subdivision plan complies with the previous approval and there are no changes to this criteria

Rationale for negative determination: _____

16. **Freshwater wetlands.** All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands.

Standard is met X , not met , N/A , met with following conditions and or waivers:
The amended subdivision plan complies with the previous approval and there are no changes to this criteria

Rationale for negative determination: _____

17. **Spaghetti-lots prohibited.** If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of these lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.

Standard is met X , not met , N/A , met with following conditions and or waivers
The amended subdivision plan complies with the previous approval and there are no changes to this criteria

Rationale for negative determination: _____

18. **Lake phosphorous concentration.** The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.

Standard is met X , not met , N/A , met with following conditions and/or waivers
The amended subdivision plan complies with the previous approval and there are no changes to this criteria

Rationale for negative determination: _____

19. **Impact on adjoining municipalities.** For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

Standard is met X , not met , N/A , met with following conditions and or waivers
The amended subdivision plan complies with the previous approval and there are no changes to this criteria

Rationale for negative determination: _____

20. **Lands subject to liquidation harvesting.** Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, Section 8869, Subsection 14.

Standard is met X , not met , N/A , met with following conditions and or waivers
The amended subdivision plan complies with the previous approval and there are no changes to this criteria

Rationale for negative determination: _____

- B. **Article 11, Section 8** (As applicable for multi-family and non-residential subdivisions): N/A – this is for previously approved single-family subdivision amendment

*** Based on the above noted findings, the Kennebunk Planning Board votes to
 X approve, (4-0)
 approve with the conditions noted on first page or above, or
 deny
the Final Plan Application of

McNeil Family Subdivision Amendment
Subdivision Name

Motion: **Move to approve the Findings of Fact, conditions of approval, and the plan for the McNeil Family Subdivision amendment, 2 & 4 Gathering Way, Map 63 Lots 43 and 44 to remedy the setback**
Moved: J. Vance
Second: E. Trainer
Vote: **Show of hands vote, 4 votes in favor, none opposed; the motion carried.**

3. Prior Meeting Minutes

C. MacClinchy next led the Board in a page-by-page review of the minutes of its meeting of April 24, 2023. One error was found and corrected.

Motion: **Move that the Town of Kennebunk Planning Board approve the Minutes of its meeting of April 24, 2023 as amended.**
Moved: J. Vance
Second: E. Trainer
Vote: **Show of hands vote, 4 in favor, none opposed; the motion carried.**

4. Other Business

B. Howard informed the Board of the meeting schedule ahead and asked members to sign documents related to the approved applications.

5. Adjournment:

There being no further business, the Chair adjourned the meeting at 7:22pm.

Motion: **Move that the Planning Board of the Town of Kennebunk adjourn this meeting.**
Moved: J. Vance
Second: E. Trainer
Vote: **Show-of-hands vote, 4 votes in favor, none opposed; the motion carried.**

Respectfully submitted by
J. Schlagheck, Clerk

Adopted by the Planning Board in its Meeting of May 22, 2023

Signed by:



PLANNING BOARD